

ADMINISTRATIVE REGISTER OF KENTUCKY



LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

VOLUME 44, NUMBER 4
SUNDAY, OCTOBER 1, 2017

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, September 15, 2017.

ARRS – OCTOBER 10, 2017 TENTATIVE AGENDA	719
REGULATION REVIEW PROCEDURE	724

EMERGENCIES

Personnel Cabinet	725
Board of Nursing	727

AS AMENDED

Auditor of Public Accounts	729
Board of Registration for Professional Geologists	729
Department of Corrections	730
Department of Alcoholic Beverage Control	731
Department of Insurance	733

AMENDED AFTER COMMENTS

Board of Medical Licensure	736
Board of Nursing	740
Department of Insurance	744
Medical Review Panels	763

PROPOSED AMENDMENTS

Personnel Cabinet	769
Department of Revenue	770
Board of Licensed Professional Counselors	787
Department of Fish and Wildlife Resources	794
Division of Air	797
Department for Juvenile Justice	809
Department of Housing, Buildings and Construction	810
Department for Community Based Services	826

NEW ADMINISTRATIVE REGULATIONS

Department of Revenue	833
Office of the Controller	839
Board of Nursing	840
Board of Licensed Professional Counselors	842
Department of Fish and Wildlife Resources	844
Department of Agriculture	845
Department of Education	849
Department of Housing, Buildings and Construction	857
Office of Health Benefit Exchange	858
Department for Community Based Services	859

ARRS MINUTES	865
OTHER COMMITTEE REPORTS	867

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates	D - 2
KRS Index	D - 10
Technical Amendments	D - 17
Subject Index	D - 18

MEETING NOTICE: ARRS

The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet October 10, 2017, at 1:00 p.m. in room 149 Capitol Annex. See **tentative agenda** on pages **719-724** of this Administrative Register.

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 2017 Edition of **KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE**.

HOW TO CITE: Cite all material in the **ADMINISTRATIVE REGISTER OF KENTUCKY** by Volume number and Page number. Example: Volume 44, Kentucky Register, page 318 (short form: 44 Ky.R. 318).

KENTUCKY ADMINISTRATIVE REGULATIONS are codified according to the following system and are to be cited by Title, Chapter and Regulation number, as follows:

Title		Chapter	Regulation
806	KAR	50:	155
Cabinet, Department, Board, or Agency		Office, Division, Board, or Major Function	Specific Regulation

ADMINISTRATIVE REGISTER OF KENTUCKY

(ISSN 0096-1493)

© 2017 Legislative Research Commission, All Rights Reserved

The Administrative Register of Kentucky is published monthly by the Legislative Research Commission, 700 Capitol Avenue, Room 300, Frankfort, Kentucky 40601. Subscription rate, postpaid in the United States: \$120 (plus 6% Kentucky sales tax) per year for 12 issues, beginning in July and ending with the June issue of the subsequent year. Periodical postage paid at Frankfort, Kentucky.

POSTMASTER: Send address changes to Administrative Register of Kentucky, 700 Capitol Avenue, Room 64, State Capitol, Frankfort, Kentucky 40601.

KENTUCKY LEGISLATIVE RESEARCH COMMISSION

Chairmen

Senator Robert Stivers
Senate President

Representative Jeff Hoover
House Speaker

Senate and House Members

Senator Jimmy Higdon
President Pro Tempore

Representative David W. Osborne
Speaker Pro Tempore

Senator Damon Thayer
Majority Floor Leader

Representative Jonathan Shell
Majority Floor Leader

Senator Ray S. Jones II
Minority Floor Leader

Representative Rocky Adkins
Minority Floor Leader

Senator Dan "Malano" Seum
Majority Caucus Chair

Representative David R. Meade
Majority Caucus Chair

Senator Dorsey Ridley
Minority Caucus Chair

Representative Dennis Keene
Minority Caucus Chair

Senator Mike Wilson
Majority Whip

Representative Kevin Bratcher
Majority Whip

Senator Dennis Parrett
Minority Whip

Representative Wilson Stone
Minority Whip

David Byerman, Director
Joe Cox, Printing and Publications Officer

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Members

Senator Ernie Harris, Co-Chair
Representative Ken Upchurch, Co-Chair
Senator Julie Raque Adams
Senator Perry B. Clark
Senator Alice Kerr
Representative Mary Lou Marzian
Representative Jason Petrie
Representative Tommy Turner

Staff

Sarah Amburgey
Stacy Auterson
Emily Caudill
Betsy Cupp
Ange Darnell
Emily Harkenrider
Karen Howard
Carrie Klaber

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA, OCTOBER 10, 2017, at 1:00 p.m., Room 149 Capitol Annex

COUNCIL ON POSTSECONDARY EDUCATION

Public Educational Institutions

13 KAR 2:120. Comprehensive funding model for the allocation of state general fund appropriations to public universities. (Not Amended After Comments)

13 KAR 2:130. Comprehensive funding model for the allocation of general fund appropriations to the Kentucky Community and Technical College System institutions. (Not Amended After Comments)

Adult Education and Literacy

13 KAR 3:050. GED® eligibility requirements. (Deferred from September)

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Education Professional Standards Board

Board

16 KAR 1:015. Standards for certified teacher leader.

OFFICE OF THE GOVERNOR

Department of Veterans' Affairs

State Veterans' Nursing Homes

17 KAR 3:020 & E. Charges for room and board, goods and services at state veterans nursing homes. ("E" expires 1-28-2018)

DEPARTMENT OF STATE

Registry of Election Finance

Reports and Forms

32 KAR 1:020 & E. Statement of spending intent and appointment of campaign treasurer. ("E" expires 2-11-2018)

FINANCE AND ADMINISTRATION CABINET

Teachers' Retirement System

Board of Trustees

102 KAR 1:070. Application for retirement. (Deferred from September)

DEPARTMENT OF MILITARY AFFAIRS

Division of Administrative Services

Military Assistance Trust Funds

106 KAR 2:040. Survivor benefits for death of a National Guard or Reserve Component member. (Not Amended After Comments) (Deferred from September)

GENERAL GOVERNMENT CABINET

Board of Pharmacy

Board

201 KAR 2:390 & E. Third-party logistics provider. ("E" expires 2-11-2018)

201 KAR 2:400 & E. Outsourcing facility. ("E" expires 2-11-2018)

Board of Medical Licensure

Board

201 KAR 9:260. Professional standards for prescribing and dispensing controlled substances. (Amended After Comments)

Department of Professional Licensing

Board of Ophthalmic Dispensers

Board

201 KAR 13:040. Licensing; application, examination, experience, renewal, and inactive status.

201 KAR 13:060. Military service; reciprocity.

Board of Embalmers and Funeral Directors

Board

201 KAR 15:030. Fees. (Deferred from August)

201 KAR 15:050. Apprenticeship and supervision requirements. (Deferred from August)

201 KAR 15:110. Funeral establishment criteria. (Not Amended After Comments)

Board of Nursing

Board

201 KAR 20:057. Scope and standards of practice of advanced practice registered nurses. (Amended After Comments)

Board of Physical Therapy

Board

201 KAR 22:020. Eligibility and credentialing procedure.

201 KAR 22:040. Procedure for renewal or reinstatement of a credential for a physical therapist or physical therapist assistant.

201 KAR 22:070. Requirements for foreign-educated physical therapists.

Board of Licensed Professional Counselors

Board

201 KAR 36:065. Licensed professional clinical counselor supervisor. (Deferred from September)

201 KAR 36:070. Application, education, and examination requirements. (Not Amended After Comments)

Board of Licensed Diabetes Educators

Board

201 KAR 45:071. Repeal of 201 KAR 45:070.

201 KAR 45:110. Supervision and work experience.

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

201 KAR 45:120. Renewal, reinstatement, and inactive status.
201 KAR 45:170. Application procedures.

**TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources**

Fish

301 KAR 1:130. Live bait for personal use.
301 KAR 1:155. Commercial fishing requirements.
301 KAR 1:410. Taking of fish by nontraditional fishing methods.

**ENERGY AND ENVIRONMENT CABINET
Department for Natural Resources
Division of Forestry**

Forestry

402 KAR 3:010. Timber sales.
402 KAR 3:030. Best management practices for timber harvesting operations.

Division of Mine Permits

General Provisions

405 KAR 7:001. Definitions for 405 KAR Chapter 7.
405 KAR 7:095. Assessment of civil penalties.

Permits

405 KAR 8:001. Definitions for 405 KAR Chapter 8.
405 KAR 8:010. General provisions for permits.
405 KAR 8:040. Underground coal mining permits.
405 KAR 8:050. Permits for special categories of mining.

Bond and Insurance Requirements

405 KAR 10:001. Definitions for 405 KAR Chapter 10.

Inspection and Enforcement

405 KAR 12:001. Definitions for 405 KAR Chapter 12.

Performance Standards for Surface Mining Activities

405 KAR 16:001. Definitions for 405 KAR Chapter 16.
405 KAR 16:110. Surface and groundwater monitoring.

Performance Standards for Underground Mining Activities

405 KAR 18:001. Definitions for 405 KAR Chapter 18.
405 KAR 18:010. General provisions.
405 KAR 18:040. Casing and sealing of underground openings.
405 KAR 18:060. General hydrologic requirements.
405 KAR 18:110. Surface and groundwater monitoring.
405 KAR 18:260. Other facilities.

Special Performance Standards

405 KAR 20:001. Definitions for 405 KAR Chapter 20.
405 KAR 20:080. In situ processing.
405 KAR 20:090. Underground only permits.

**JUSTICE AND PUBLIC SAFETY CABINET
Office of the Secretary**

Breath Analysis Operators

500 KAR 8:010. Certification of breath alcohol analysis instrument operators.
500 KAR 8:030. Administration of breath alcohol tests and chemical analysis tests.

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections**

Office of the Secretary

501 KAR 6:110. Roederer Correctional Complex. (Not Amended After Comments)

**TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Driver Licensing**

Administration

601 KAR 2:030 & E. Ignition interlock. ("E" Expires 11-21-2017) (Not Amended After Comments) (Deferred from September)

Department of Aviation

Airport Development

602 KAR 15:030. Fees for services and facilities of the Capitol City Airport.

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Board of Education
Department of Education**

School Terms, Attendance and Operation

702 KAR 7:065. Designation of agent to manage middle and high school interscholastic athletics.

**KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM
Governor's Commission on Fire Protection Personnel Standards**

Commission on Fire Protection Personnel Standards and Education

739 KAR 2:050. Volunteer fire department aid.

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Board of Education
Department of Education**

Personnel System for Certified and Equivalent Employees

780 KAR 3:072. Attendance, compensatory time, and leave for certified and equivalent service.
780 KAR 3:080. Extent and duration of school term, use of school day and extended employment.

**Department of Workplace Development
Office of Employment and Training**

Unemployment Insurance

787 KAR 1:070. Reasonable time for protesting claim. (Not Amended After Comments) (Deferred from January)

**LABOR CABINET
Department of Workplace Standards
Division of Wages and Hours**

Labor Standards; Wages and Hours

803 KAR 1:100. Child labor.
803 KAR 1:121. Repeal of 803 KAR 1:030 and 803 KAR 1:040.

Kentucky Labor Management Matching Grant Program

803 KAR 6:011. Repeal of 803 KAR 6:010.

Department of Alcoholic Beverage Control

Conduct of Business; Employees

804 KAR 5:070. Minors.

Alcoholic Beverage Control Board

804 KAR 6:020. Advisory opinions.

**PUBLIC PROTECTION CABINET
Department of Insurance**

Authorization of Insurers and General Requirements

806 KAR 3:011. Repeal of 806 KAR 3:010, 806 KAR 3:020, and 806 KAR 3:220. (Deferred from September)
806 KAR 3:210. Privacy of consumer financial and health information. (Amended After Comments)

**CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary
Medical Review Panel Branch**

Medical Review Panels

900 KAR 11:010 & E. Medical review panels. ("E" Expires 12-26-2017) (Comments Received; SOC due 9-15-2017)

Radon

902 KAR 95:040. Radon Contractor Certification Program. (Amended After Comments) (Deferred from September)

**Department for Medicaid Services
Division of Policy and Operations**

Medicaid Services

907 KAR 1:102. Advanced practice registered nurse services. (Deferred from September)
907 KAR 1:104. Reimbursement for advanced practice registered nurse services. (Deferred from September)

REMOVED FROM OCTOBER'S AGENDA

**GENERAL GOVERNMENT CABINET
Board of Pharmacy**

Board

201 KAR 2:380. Board authorized protocols. (Deferred from September)(SOC ext. due 10-13-2017)

Board of Licensure for Occupational Therapy

Board

201 KAR 28:200. Continuing competence. (Deferred from August)
201 KAR 28:235. Telehealth occupational therapy services. (Not Amended After Comments)

Board of Licensure for Dietitians and Nutritionists

Board

201 KAR 33:015. Application, approved programs. (Withdrawn, 9-27-2017)

**ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division of Waste Management**

Identification and Listing of Hazardous Waste

401 KAR 31:002. Repeal of 401 KAR 31:005, 401 KAR 31:010, 401 KAR 31:020, 401 KAR 31:030, 401 KAR 31:035, 401 KAR 31:040, 401 KAR 31:050, 401 KAR 31:070, 401 KAR 31:100, 401 KAR 31:110, 401 KAR 31:160, and 401 KAR 31:170. (Comments Received; SOC ext. due 10-13-2017)

Standards Applicable to Generators of Hazardous Waste

401 KAR 32:002. Repeal of 401 KAR 32:005, 401 KAR 32:010, 401 KAR 32:020, 401 KAR 32:030, 401 KAR 32:040, 401 KAR 32:050, 401 KAR 32:060, 401 KAR 32:065, and 401 KAR 32:100. (Comments Received; SOC ext. due 10-13-2017)

Standards Applicable to Transporters of Hazardous Waste

401 KAR 33:002. Repeal of 401 KAR 33:005, 401 KAR 33:010, 401 KAR 33:020, and 401 KAR 33:030.
(Comments Received; SOC ext. due 10-13-2017)

Standards for Owners and Operators of Hazardous Waste Storage, Treatment and Disposal Facilities

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

[401 KAR 34:002](#). Repeal of 401 KAR 34:005, 401 KAR 34:010, 401 KAR 34:020, 401 KAR 34:030, 401 KAR 34:040, 401 KAR 34:050, 401 KAR 34:060, 401 KAR 34:070, 401 KAR 34:080, 401 KAR 34:090, 401 KAR 34:100, 401 KAR 34:110, 401 KAR 34:120, 401 KAR 34:130, 401 KAR 34:180, 401 KAR 34:190, 401 KAR 34:200, 401 KAR 34:210, 401 KAR 34:220, 401 KAR 34:230, 401 KAR 34:240, 401 KAR 34:245, 401 KAR 34:250, 401 KAR 34:275, 401 KAR 34:280, 401 KAR 34:281, 401 KAR 34:285, 401 KAR 34:287, 401 KAR 34:290, 401 KAR 34:320, 401 KAR 34:330, 401 KAR 34:340, 401 KAR 34:350, 401 KAR 34:360, and 401 KAR 34:370. (Comments Received; SOC ext. due 10-13-2017)

Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities

[401 KAR 35:002](#). Repeal of 401 KAR 35:005, 401 KAR 35:010, 401 KAR 35:020, 401 KAR 35:030, 401 KAR 35:040, 401 KAR 35:050, 401 KAR 35:060, 401 KAR 35:070, 401 KAR 35:080, 401 KAR 35:090, 401 KAR 35:100, 401 KAR 35:110, 401 KAR 35:120, 401 KAR 35:130, 401 KAR 35:180, 401 KAR 35:190, 401 KAR 35:200, 401 KAR 35:210, 401 KAR 35:220, 401 KAR 35:230, 401 KAR 35:240, 401 KAR 35:245, 401 KAR 35:250, 401 KAR 35:260, 401 KAR 35:270, 401 KAR 35:275, 401 KAR 35:280, 401 KAR 35:281, 401 KAR 35:285, 401 KAR 35:290, 401 KAR 35:310, 401 KAR 35:320, 401 KAR 35:330, 401 KAR 35:340, and 401 KAR 35:350. (Comments Received; SOC ext. due 10-13-2017)

Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste

[401 KAR 36:002](#). Repeal of 401 KAR 36:005, 401 KAR 36:020, 401 KAR 36:025, 401 KAR 36:030, 401 KAR 36:060, 401 KAR 36:070, 401 KAR 36:080, and 401 KAR 36:090. (Comments Received; SOC ext. due 10-13-2017)

Land Disposal Restrictions

[401 KAR 37:002](#). Repeal of 401 KAR 37:005, 401 KAR 37:010, 401 KAR 37:020, 401 KAR 37:030, 401 KAR 37:040, 401 KAR 37:050, 401 KAR 37:060, and 401 KAR 37:110. (Comments Received; SOC ext. due 10-13-2017)

Hazardous Waste Permitting Process

[401 KAR 38:002](#). Repeal of 401 KAR 38:005, 401 KAR 38:010, 401 KAR 38:020, 401 KAR 38:025, 401 KAR 38:030, 401 KAR 38:040, 401 KAR 38:050, 401 KAR 38:060, 401 KAR 38:070, 401 KAR 38:080, 401 KAR 38:090, 401 KAR 38:150, 401 KAR 38:160, 401 KAR 38:170, 401 KAR 38:180, 401 KAR 38:190, 401 KAR 38:200, 401 KAR 38:210, 401 KAR 38:230, 401 KAR 38:240, 401 KAR 38:250, 401 KAR 38:260, 401 KAR 38:270, 401 KAR 38:290, 401 KAR 38:300, 401 KAR 38:310, 401 KAR 38:320, 401 KAR 38:330, and 401 KAR 38:500. (Comments Received; SOC ext. due 10-13-2017)

Hazardous Waste Fees

- [401 KAR 39:005](#). Definitions for 401 KAR Chapter 39. (Comments Received; SOC ext. due 10-13-2017)
- [401 KAR 39:011](#). Repeal of 401 KAR 39:100 and 401 KAR 39:110. (Comments Received; SOC ext. due 10-13-2017)
- [401 KAR 39:060](#). General requirements. (Comments Received; SOC ext. due 10-13-2017)
- [401 KAR 39:080](#). Hazardous waste handlers. (Comments Received; SOC ext. due 10-13-2017)
- [401 KAR 39:090](#). Hazardous waste permit program. (Comments Received; SOC ext. due 10-13-2017)
- [401 KAR 39:120](#). Permit review, determination timetables, and fees. (Comments Received; SOC ext. due 10-13-2017)

Standards for Special Collection System Wastes

[401 KAR 43:002](#). Repeal of 401 KAR 43:005, 401 KAR 43:010, 401 KAR 43:020, 401 KAR 43:030, 401 KAR 43:040, 401 KAR 43:050, 401 KAR 43:060, and 401 KAR 43:070. (Comments Received; SOC ext. due 10-13-2017)

Standards for the Management of Used Oil

[401 KAR 44:002](#). Repeal of 401 KAR 44:005, 401 KAR 44:010, 401 KAR 44:020, 401 KAR 44:030, 401 KAR 44:040, 401 KAR 44:050, 401 KAR 44:060, 401 KAR 44:070, and 401 KAR 44:080. (Comments Received; SOC ext. due 10-13-2017)

Special Waste

- [401 KAR 45:060](#). Special waste permit-by-rule. (Comments Received; SOC due 9-15-2017)

Standards for Solid Waste Facilities

[401 KAR 48:005](#). Definitions related to 401 KAR Chapter 48. (Comments Received; SOC ext. due 10-13-2017) (Comments Received; SOC due 9-15-2017)

- [401 KAR 48:090](#). Operating requirements for contained landfills. (Comments Received; SOC ext. due 10-13-2017)

Department for Environmental Protection

Division of Waste Management

Certificates of Environmental Safety and Public Necessity

- [410 KAR 1:002](#). Repeal of 410 KAR 1:010 and 410 KAR 1:020. (Comments Received; SOC due 9-15-2017)

ENERGY AND ENVIRONMENT CABINET

Department for Natural Resources

Division of Oil and Gas

Division

- [805 KAR 1:060](#). Plugging wells. (Comments Received, SOC ext. due 10-13-2017)
- [805 KAR 1:071](#). Repeal of 805 KAR 1:070. (Comments Received, SOC ext. due 10-13-2017)

Division of Mine Safety

Miner Training, Education and Certification

- [805 KAR 7:020](#). Training and certification of inexperienced miners. (Comments Received; SOC due 10-13-2017)
- [805 KAR 7:030](#). Annual retraining. (Comments Received; SOC due 10-13-2017)
- [805 KAR 7:040](#). Training of newly employed miners. (Comments Received; SOC due 10-13-2017)
- [805 KAR 7:050](#). Training of miners for new work assignments. (Comments Received; SOC due 10-13-2017)
- [805 KAR 7:060](#). Program approval. (Comments Received; SOC due 10-13-2017)

Sanctions and Penalties

- [805 KAR 8:030](#). Criteria for the imposition and enforcement of sanctions against certified miners. (Comments Received; SOC due 10-13-2017)
- [805 KAR 8:040](#). Criteria for the imposition and enforcement of sanctions against owners and part-owners of licensed premises. (Comments Received; SOC due 10-13-2017)
- [805 KAR 8:050](#). Criteria for the imposition and enforcement of sanctions against noncertified personnel. (Comments Received; SOC due 10-13-2017)

Division of Oil and Gas

Coal Bed Methane

- [805 KAR 9:041](#). Repeal of 805 KAR 9:040. (Comments Received; SOC ext. due 10-13-2017)

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

**CABINET FOR HEALTH AND FAMILY SERVICES
Office of Health Policy**

State Health Plan

900 KAR 5:020. State Health Plan for facilities and services. (Comments Received; SOC ext. due 10-13-2017)

Division of Audits and Investigations

Controlled Substances

902 KAR 55:110. Monitoring system for prescription controlled substances. (Comments Received; SOC ext. due 10-13-2017)

Department for Public Health

Radiology

902 KAR 100:180. Technologically enhanced naturally occurring radioactive material related to oil and gas development. (Comments Received; SOC ext., due 10-13-2017)

Department for Medicaid Services

Division of Policy and Operations

Medicaid Services

907 KAR 1:045. Reimbursement provisions and requirements regarding community mental health center services. (Comments Received; SOC ext., due 10-13-2017)

907 KAR 1:047. Community mental health center primary care services. (Comments Received; SOC ext., due 10-13-2017)

907 KAR 1:479. Durable medical equipment covered benefits and reimbursement. (Comments Received; SOC ext., due 10-13-2017)

Payment and Services

907 KAR 3:005. Coverage of physicians' services. (Comments Received; SOC ext., due 10-13-2017)

907 KAR 3:010. Reimbursement for physicians' services. (Comments Received; SOC ext., due 10-13-2017)

Department for Community Based Services

Division of Protection and Permanency

Child Welfare

922 KAR 1:140 & E. Foster care and adoption permanency services. ("E" Expires 1-24-2018) (Comments Received; SOC ext., due 10-13-2017)

922 KAR 1:320. Service appeals. (Comments Received; SOC ext., due 10-13-2017)

922 KAR 1:330. Child protective services. (Comments Received; SOC ext., due 10-13-2017)

922 KAR 1:421. Repeal of 922 KAR 1:420. (Deferred from September)

922 KAR 1:430. Child protective services in-home case planning and service delivery. (Comments Received; SOC ext., due 10-13-2017)

922 KAR 1:470. Central registry. (Comments Received; SOC ext., due 10-13-2017)

922 KAR 1:480. Appeal of child abuse and neglect investigative findings. (Comments Received; SOC ext., due 10-13-2017)

922 KAR 1:490 & E. Background checks for foster and adoptive parents, caretaker relatives, kinship caregivers, fictive kin, and reporting requirements. ("E" Expires 1-26-2017) (Comments Received; SOC ext., due 9-15-2017)

922 KAR 1:550 & E. Operator's license for children in the custody of the cabinet. ("E" Expires 12/26/2017) (Comments Received; SOC ext., due 10-13-2017)

ADMINISTRATIVE REGULATION REVIEW PROCEDURE - OVERVIEW
(See KRS Chapter 13A for specific provisions)

Filing and Publication

Administrative bodies shall file with the Regulations Compiler all proposed administrative regulations, public hearing and comment period information, regulatory impact analysis and tiering statement, fiscal note, federal mandate comparison, and incorporated material information. Those administrative regulations received by the deadline established in KRS 13A.050 shall be published in the Administrative Register.

Public Hearing and Public Comment Period

The administrative body shall schedule a public hearing on proposed administrative regulations, which shall not be held before the 21st day or later than the last workday of the month of publication. Written comments shall also be accepted until the end of the calendar month in which the administrative regulation was published.

The administrative regulation shall include: the place, time, and date of the hearing; the manner in which persons may submit notification to attend the hearing and written comments; that notification to attend the hearing shall be sent no later than 5 workdays prior to the hearing date; the deadline for submitting written comments; and the name, position, mailing address, e-mail address, and telephone and fax numbers of the person to whom notification and written comments shall be sent.

The administrative body shall notify the Compiler, by letter, whether the hearing was held or cancelled and whether written comments were received. If the hearing was held or written comments were received, the administrative body shall file a statement of consideration with the Compiler by the fifteenth day of the calendar month following the month of publication.

A transcript of the hearing is not required unless a written request for a transcript is made, and the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript.

Review Procedure

After the public hearing and public comment period processes are completed, the administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee at its next meeting. After review by the Subcommittee, the administrative regulation shall be referred by the Legislative Research Commission to an appropriate jurisdictional committee for a second review. The administrative regulation shall be considered as adopted and in effect as of adjournment on the day the appropriate jurisdictional committee meets or 30 days after being referred by LRC, whichever occurs first.

EMERGENCY ADMINISTRATIVE REGULATIONS

STATEMENT OF EMERGENCY
101 KAR 2:210E

This emergency administrative regulation incorporates by reference the 2018 plan year handbook for the self-insured plan offered through the Public Employee Health Insurance Program, commonly known as the Kentucky Employees' Health Plan. KRS 18A.2254(1) requires the Personnel Cabinet to promulgate an administrative regulation that incorporates the plan year handbook by reference and to file the administrative regulation by September 15 of each year. This emergency administrative regulation is necessary to meet the filing deadline established by state law at KRS 18A.2254(1)(a)3. KRS 18A.2254(1)(a) requires the secretary of the Personnel Cabinet to annually promulgate an administrative regulation to incorporate by reference the plan year handbook. The handbook must contain, at a minimum, the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan provided to public employees covered under the self-insured plan. The 2018 plan year handbook, or Benefits Selection Guide, contains the required and necessary information for public employees to make health insurance coverage decisions during open enrollment in October 2017. This administrative regulation incorporates by reference the 2018 Benefits Selection Guide that will be distributed by the Personnel Cabinet's Department of Employee Insurance to public employees covered under the self-insured plan. An ordinary administrative regulation is not sufficient due to the statutory filing deadlines and handbook distribution requirements. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is not identical to this emergency administrative regulation. This emergency administrative regulation will be in effect for part of the current 2017 plan year. The existing language in the Benefits Selection Guide for the 2017 plan year should remain until such time as the ordinary administrative regulation incorporating the Benefits Selection Guide for plan year 2018 replaces this emergency administrative regulation.

MATTHEW G. BEVIN, Governor
THOMAS B. STEPHENS, Secretary

PERSONNEL CABINET
Office of the Secretary
(Emergency Amendment)

101 KAR 2:210E. 2017 and 2018 Plan Year Handbooks [Handbook] for the Public Employee Health Insurance Program.

RELATES TO: KRS 18A.030, 18A.225, 18A.2254
STATUTORY AUTHORITY: KRS 18A.030(2)(b), 18A.2254(1)(a)
EFFECTIVE: September 15, 2017
NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.2254(1)(a)1 requires the secretary of the Personnel Cabinet to promulgate an administrative regulation to incorporate by reference the plan year handbook distributed by the Department of Employee Insurance to public employees covered under the self-insured plan and establishes the minimum requirements for the information included in the handbook. This administrative regulation incorporates by reference the plan year Benefits Selection Guide, which is the handbook distributed by the department to public employees for the 2017 and 2018 Plan Years[Year] as required by KRS 18A.2254(1)(a)1.

Section 1. The Department of Employee Insurance shall distribute or make available to the public employees covered under the self-insured plan the 2017 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide, which shall include the premiums, employee contributions, employer contributions, and a summary of benefits, copays, coinsurance, and deductibles for

each plan provided to the public employees covered under the self-insured plan.

Section 2. (1) The Department of Employee Insurance shall distribute or make available to the public employees covered under the self-insured plan the 2018 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide, which shall include the premiums, employee contributions, employer contributions, and a summary of benefits, copays, coinsurance, and deductibles for each plan provided to the public employees covered under the self-insured plan.

(2) The 2018 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide shall govern the health plan benefits for public employees covered under the self-insured plan beginning January 1, 2018.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "2017 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide", 2017 edition; and
- (b) "2018 Plan Year Kentucky Employees' Health Plan Benefits Selection Guide", 2018 edition[is incorporated by reference].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

THOMAS B. STEPHENS, Secretary
APPROVED BY AGENCY: September 7, 2017
FILED WITH LRC: September 15, 2017 at 11 a.m.
CONTACT PERSON: Sharron Burton, Deputy Executive Director, Office of Legal Services, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email Sharron.Burton@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Sharron Burton
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation incorporates by reference the 2018 plan year handbook containing information about the self-insured health insurance plans offered through the Public Employee Health Insurance Program. The handbook, commonly referred to as the Benefits Selection Guide, is distributed to all plan holders participating in the self-insured program. The Benefits Selection Guide contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees through the self-insured program in 2018.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the statutory mandate of KRS 18A.2254. More specifically, KRS 18A.2254(1)(a) requires the Personnel Cabinet to promulgate an administrative regulation that incorporates by reference the 2018 plan year handbook that will be distributed to the public employees covered by the Public Employee Health Insurance Program. The handbook must be filed with the Legislative Research Commission on or before September 15 each year.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 18A.2254(1), the statute that establishes the self-insured plan and mandates the promulgation of the administrative regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation aids in the effectuation of the statute, KRS 18A.2254, by incorporating by reference the 2018 plan year handbook for the Public Employee Health Insurance Program in an administrative regulation. Further, this administrative regulation is the method by which the Personnel Cabinet will comply with KRS

18A.2254.

(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 is an amendment. The existing administrative regulation incorporates by reference the 2017 plan year handbook which constitutes a compilation of the premium rates and contributions, benefit options, eligibility rules, and enrollment information for participants of the Public Employee Health Insurance Program for plan year 2017. The amendment adds and incorporates by reference the 2018 plan year handbook which contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees for plan year 2018.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to give notice regarding the premiums, employee contributions, employer contributions, benefits, co-pays, coinsurance, and deductibles for each plan available to public employees under the Public Employee Health Insurance Program for plan year 2018. This amendment is also necessary to comply with the statutory mandate in KRS 18A.2254 to annually update the regulation incorporating the plan year handbook.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 18A.2254, the statute authorizing the self-insured plan under the Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2018 plan year handbook by reference in accordance with KRS 18A.2254.

(d) How the amendment will assist in the effective administration of the statutes: This amendment conforms to the requirements of KRS 18A.2254, the statute authorizing the self-insured plan under the Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2018 plan year handbook by reference in accordance with KRS 18A.2254.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects employees of state and select county and local government entities, including employees of the local school boards and districts. This administrative regulation also affects certain retirees as specified by KRS 18A.225. More specifically, and as defined by KRS 18A.225(1)(a), this administrative regulation affects approximately 182,729 employees and retirees eligible to participate in the Public Employee Health Insurance Program. In total, this administrative regulation affects 293,380 members in the self-insured plan including employees and retirees, qualifying beneficiaries, and dependents.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: Affected entities will not be required to take any additional action to comply with this administrative regulation that incorporates the 2018 plan year handbook. The 2018 Benefits Selection Guide will provide information to the public employees covered under the Public Employee Health Insurance Program about the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for the 2018 plan year.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation provides employer and employee premium contribution information for health plans available under the Public Employee Health Insurance Program for

plan year 2018. There is no direct cost impact to employers participating in the Public Employee Health Insurance Program as a result of incorporating the 2018 plan year handbook into the administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): For plan year 2018, participating employers (entities) and participating employees and retirees and their beneficiaries and dependents covered under the Public Employee Health Insurance Program will have access to comprehensive health insurance benefits under all plans offered through the self-insured program. For plan year 2018, adjustments to employer and employee premium contributions are necessary due to health care inflation. As permitted in the 2016-2018 biennium budget, there is an overall increase of 1% in employer premium contributions for coverage through the Public Employee Health Insurance Program. Employee premium contributions will increase by 3% for all plans, except premium for the lowest cost, single coverage health plan will increase from \$13.10 per month to \$26.20 per month.

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

(a) Initially: Costs of implementing this administrative regulation initially are believed to be minimal.

(b) On a continuing basis: Costs of implementing this administrative regulation on a continuing basis are believed to be minimal.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding to be used for the implementation of this administrative regulation will be the Public Employee Health Insurance Trust Fund.

(7) 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: This is an amendment. This administrative regulation will not require an increase in funding or fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No, tiering is not applied because this administrative regulation applies equally to all participants in the Public Employee Health Insurance Program.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect all employees of state and select county and local government entities, including employees of the local school boards and districts that participate in the Public Employee Health Insurance Program. As employers, this administrative regulation will affect state and select county and local government entities as well as local school boards and districts. This administrative regulation also affects certain retirees eligible to participate in the Program.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.225, 18A.2253, 18A.2254, 18A.2255, 18A.2259, 18A.226, 18A.227, 18A.2271, 18A.228, 18A.2286, 18A.2287; 26 U.S.C. 21, 105, 106, 125, 129, 152, and 213 (Internal Revenue Code); Prop. Treas. Reg. 1.125-1 through 7; the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (2010); and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, school boards or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities,

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

counties, fire departments, school boards or school districts) for the first year? The administrative regulation will not generate any revenues.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The administrative regulation will not generate any revenues.

(c) How much will it cost to administer this program for the first year? Costs of implementing this program are believed to be similar to previous plan years.

(d) How much will it cost to administer this program for subsequent years? Costs of implementing this program on a continuing basis are believed to be consistent with previous plan years. By law, an amended administrative regulation will be promulgated in 2017 and each subsequent plan year.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

- Revenues (+/-):
Expenditures (+/-)
Other:

STATEMENT OF EMERGENCY
201 KAR 20:505E

The enhanced Nurse Licensure Compact was passed by the 2017 General Assembly and is found at KRS 314.475. It provided that the new Compact would become effective on December 31, 2018 or when it was passed by 26 states. On July 20, 2017, the twenty-sixth state passed the new Compact. Article I(c)(2)(i) states that when the Interstate Commission of Nurse Licensure Compact Administrators (Commission) adopts a rule pursuant to the new Compact, the Board of Nursing shall "review the rule for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation, following the requirements of KRS Chapter 13A." On August 15, 2017, the Commission adopted an emergency rule pursuant to Article VIII of the Compact pertaining to the implementation date of the new Compact. This emergency administrative regulation is being filed in accordance with the provisions of Article I(c)(2)(i) of the new Compact. An ordinary administrative regulation will not be filed with this emergency administrative regulation. Rather, an ordinary administrative regulation will be filed when the Commission adopts rules in the regular course of business. An ordinary administrative regulation will not be filed with the Regulations Compiler for the reasons stated above.

MATTHEW G. BEVIN, Governor
PAULA S. SCHENK, Executive Director

GENERAL GOVERNMENT CABINET
Board of Nursing
(New Emergency Administrative Regulation)

201 KAR 20:505E. Enhanced Nurse Licensure Compact.

RELATES TO: KRS 314.475
STATUTORY AUTHORITY: KRS 314.131
EFFECTIVE: September 12, 2017
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.475 requires the board to promulgate this emergency administrative regulation. This administrative regulation adopts a rule adopted by the Interstate Commission of Nurse Licensure Compact Administrators.

Section 1. Implementation of the multi-state licensure process and issuance of licenses under KRS 314.475 shall begin on January 19, 2018.

LEWIS PERKINS, President

APPROVED BY AGENCY: September 11, 2017
FILED WITH LRC: September 12, 2017 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 23, 2017 at 10:00 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing 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 end of day (11:59 p.m.) October 31, 2017. 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 Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-3309, fax (502) 564-4251, email nathan.goldman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nathan Goldman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes an implementation date for the enhanced Nurse Licensure Compact, KRS 314.475.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because of KRS 314.475.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 314.475 which requires the Board to promulgate an emergency administrative regulation when the Interstate Commission of Nurse Licensure Compact Administrators adopts a rule.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by following the requirements of KRS 314.475 and KRS Chapter 13A.

(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: N/A.

(b) The necessity of the amendment to this administrative regulation: N/A.

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

(d) How the amendment will assist in the effective administration of the statutes: N/A.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: nurses and employers of nurses, number unknown.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: They will have to take no action. Implementation is an internal process for the Board.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost imposed by the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with

the regulation.

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

(a) Initially: There is no additional cost.

(b) On a continuing basis: There is no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds.

(7) 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 is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: It does not.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131, KRS 314.475.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

AUDITOR OF PUBLIC ACCOUNTS
(As Amended at ARRS, September 11, 2017)

45 KAR 1:050. Audits of fiscal courts.

RELATES TO: KRS 43.070, 43.075, 64.810, 31 U.S.C. 7501-7507, 68.210, ~~31 U.S.C. 7501-7507~~

STATUTORY AUTHORITY: KRS 43.075

NECESSITY, FUNCTION, AND CONFORMITY: KRS 43.075 requires the Auditor of Public Accounts to promulgate administrative regulations developing uniform standards and procedures for conducting, and uniform formats for reporting, audits of the funds contained in county~~[counties]~~ budgets (fiscal courts). This administrative regulation establishes the auditing standards, procedures, and formats for fiscal court audits.

Section 1. Definition. "Generally accepted government auditing standards" means the "Government Auditing Standards" issued by the Comptroller General of the United States.

Section 2. Auditing Standards, Procedures and Formats. The financial and compliance audit of the funds contained in each county's budget shall be conducted in accordance with:

(1) Auditing standards generally accepted in the United States of America, referenced in 201 KAR 1:300, Section 5(1)(a);

(2) Generally accepted government auditing standards, referenced in 201 KAR 1:300, Section 5(1)(b); and

(3) "Audit Program[Guide] for Fiscal Courts[Court Audits]," issued by the Auditor of Public Accounts, July 1, 2017~~[September 15, 2004]~~.

Section 3. Auditor's Independent Judgement. The requirements of this administrative regulation shall not be interpreted in a manner that restricts the independent judgment of a certified public accountant or the Auditor of Public Accounts.

Section 4. Audit Objective. (1) The primary objective of an audit of a fiscal court shall be an audit report that provides an opinion on whether the financial statements of a fiscal court are presented~~[present]~~ fairly, in all material respects, in accordance with a basis of accounting prescribed or permitted by the Department for Local Government, which is the regulatory basis of accounting or Generally Accepted Accounting Principles (GAAP).~~[the:~~

(a) ~~Financial position of the governmental activities, business type activities, aggregate discretely presented component units, each major fund and the aggregate remaining fund information; and~~

(b) ~~Changes in financial position and cash flows.]~~

(2) Any audit report of a fiscal court that is required to comply with the requirements of the Single Audit Act Amendments of 1996 and 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)~~[Single Audit Act of 1984, the Single Audit Act Amendments of 1996, and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations,"]~~ shall include a statement concerning whether:

(a) The Schedule of Expenditure of Federal Awards is fairly stated, in all material respects, in relation to the financial statements taken as a whole;~~;~~] and

(b) The fiscal court has complied, in all material respects, with the requirements applicable to each of its major federal programs.

(3) An auditor shall make tests sufficient to determine whether:

(a) The fiscal court has complied with the requirements of the uniform system of accounts adopted under KRS 68.210;

(b) Receipts have been accurately recorded by source;

(c) Expenditures have been accurately recorded by payee; and

(d) The county has complied with all other legal requirements relating to the management of public funds.

Section 5. Allowance of Audit Fees; Acceptance of Report. (1) Fees for county fiscal court audits shall be allowable as reasonable and necessary expenses of a county if the independent accountant's examination has been performed and reported in compliance with the standards, procedures, and formats promulgated by this administrative regulation.

(2) A county shall obtain written approval of an audit report from the Auditor of Public Accounts prior to the:

(a) Release of an audit report; and

(b) Payment of fees for a fiscal court audit.

(3) Failure by an independent certified public accountant to comply with the "Audit Program[Guide] for Fiscal Courts[Court Audits]" and this administrative regulation shall disqualify him from conducting fiscal court audits.

Section 6. Incorporation by Reference. (1) The "Audit Program[Guide] for Fiscal Courts[Court Audits]", Auditor of Public Accounts, July 1, 2017~~[September 15, 2006,]~~ is incorporated by reference.

(2) This document may be inspected, copied, or obtained, subject to applicable copyright law, at the office of the Auditor of Public Accounts, 209 Saint Clair Street~~[405 Sea Hero Road Suite 2]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5:00 p.m.~~[4:30 p.m.]~~

MIKE HARMON, Auditor of Public Accounts

APPROVED BY AGENCY: July 11, 2017

FILED WITH LRC: July 11, 2017 at noon

CONTACT PERSON: L. Christopher Hunt, General Counsel, Auditor of Public Accounts, 209 St. Clair Street, Frankfort, Kentucky 40601, phone 502-209-2863, fax 502-564-2912, email LChris.Hunt@ky.gov.

PUBLIC PROTECTION CABINET
Office of Occupations and Professions
Board of Registration for Professional Geologists
(As Amended at ARRS, September 11, 2017)

201 KAR 31:010. Fees.

RELATES TO: KRS 322A.050, 322A.060, 322A.070

STATUTORY AUTHORITY: KRS 322A.030(5), 322A.050, 322A.060(1), 322A.070(1), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322A.040, 322A.050, and 322A.060 authorize the board to establish application, registration, renewal, and examination fees. KRS 322A.070(3) authorizes the board to replace registrations if needed~~[322A.050 requires the board to establish the application and examination fees. KRS 322A.060 requires the board to establish renewal fees. KRS 322A.070(3) requires the board to establish the replacement fee]~~. This administrative regulation establishes~~[sets forth]~~ the fees charged by the board to apply for registration or certification, sit for the examination, and renew and reinstate a registration.

Section 1. Application Fee. The application fee for registration as a professional geologist or certification as a geologist-in-training shall be non-refundable pursuant to KRS 322A.050 and shall be paid with the filing of the application. (1) The application fee for registration as a professional geologist or certification as a geologist-in-training for each application filed from January 1 to September 30 of each odd numbered year shall be fifty (50) dollars.

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

(2) The application fee for registration as a professional geologist or certification as a geologist-in-training for each application filed from October 1 of each odd numbered year to December 31 of each even numbered year shall be \$100.

Section 2. Examination Fees. The following fees established in subsections (1) and (2) of this section shall be paid with the filing of the registration or certification application in connection with the licensure examinations required by the board. (1) The fee for the Fundamentals of Geology (FG) portion of the examination shall be the prevailing fee charged by the National Association of State Boards of Geology for that test plus a twenty-five (25) dollar processing fee for each initial and subsequent administration.

(2) The fee for the Practice of Geology (PG) portion of the examination shall be the prevailing fee charged by the National Association of State Boards of Geology for that test plus a twenty-five (25) dollar processing fee for each initial and subsequent administration.

Section 3. Biennial Renewal Fees and Penalties. The following fees established in subsections (1) through (3) of this section shall be paid in connection with licensure and certification renewals and late renewal penalties. (1) The biennial renewal fee for registration as a professional geologist or certification as a geologist-in-training shall be \$100.

(2) The late biennial renewal fee as a professional geologist or certification as a geologist-in-training, including penalty, for late renewal during the ninety (90) day grace period shall be \$150 and

(3) The reinstatement fee for registration as a professional geologist or certification as a geologist-in-training renewal after the end of the ninety (90) day grace period and before the registration or certification is revoked pursuant to KRS 322A.060(3) shall be \$200.

Section 4. Duplicate Registration or Certification Fees. The fee for a duplicate of the original registration or certification certificate shall be ten (10) dollars.

LARRY RHODES, Chair
SHAN DUTTA, Counsel

APPROVED BY AGENCY: June 6, 2017

FILED WITH LRC: June 6, 2017 at 1 p.m.

CONTACT PERSON: Tammy K. Sharp, Board Administrator for the Kentucky Board of Licensure for Professional Geologists, P.O. Box 1360, Frankfort, Kentucky 40602, fax 502-696-5230, email tammyk.sharp@ky.gov, phone 502-782-8808.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, September 11, 2017)

501 KAR 6:230. Little Sandy Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Little Sandy Correctional Complex.

Section 1. Incorporation by Reference. (1) "Little Sandy Correctional Complex Policies and Procedures," September 11, 2017, are incorporated by

reference. Little Sandy Correctional Complex Policies and Procedures include:
LSCC 01-12-01 Public Information and Media Communication (Amended 9/11/17)
LSCC 02-01-03 Fiscal Management Agency Funds (Amended 9/11/17)
LSCC 06-01-01 Offender Records (Amended 6/28/17)
LSCC 08-01-01 Occupational Exposure to Serious and Infectious Diseases (Amended 6/28/17)
LSCC 10-01-01 Restrictive Housing (Special Management) Unit (Amended 9/11/17)
LSCC 11-02-01 Food Service Security (Amended 6/28/17)
LSCC 11-03-01 Dining Room Rules (Added 6/28/17)
LSCC 11-06-01 Health Requirement of Food Handlers (Amended 6/28/17)
LSCC 11-07-01 Food Service: Inspections and Sanitation (Amended 6/28/17)
LSCC 12-01-01 Clothing, Bedding, Hygiene Supplies and Barber Shop (Amended 6/28/17)
LSCC 12-02-04 Sanitation Inspections (Amended 9/11/17)
LSCC 12-03-04 Vermin and Insect Control (Amended 9/11/17)
LSCC 13-02-01 Sick Call, Clinic, and Pill Call (Added 9/11/17)
LSCC 13-02-02 Medical Services Co-payment (Added 6/28/17)
LSCC 13-02-03 Continuity of Care: Health Evaluations, Intra-System Transfer, Individual Treatment Plans (Amended 9/11/17)
LSCC 13-03-01 Use of Pharmaceutical Products (Amended 9/11/17)
LSCC 13-04-01 Health Records (Added 9/11/17)
LSCC 13-04-02 Psychological and Psychiatric Reports (Added 9/11/17)
LSCC 13-05-01 Management of Serious and Infectious Diseases (Added 9/11/17)
LSCC 13-08-01 Eye Care (Added 9/11/17)
LSCC 13-09-01 Dental Care (Added 6/28/17)
LSCC 13-10-01 Transfers and Medical Profiles (Added 6/28/17)
LSCC 13-11-01 Informed Consent (Added 6/28/17)
LSCC 13-12-01 Medical Annex (Added 9/11/17)
LSCC 13-13-01 Inmate Self-Administration of Medication (Amended 6/28/17)
LSCC 13-15-01 Health Education Program and Detoxification (Added 6/28/17)
LSCC 14-02-01 Legal Services Program (Amended 6/28/17)
LSCC 15-01-01 Drug Abuse Testing (Amended 6/28/17)
LSCC 16-01-01 Inmate Visiting (Amended 9/11/17)
LSCC 16-02-02 Inmate Correspondence and Privileged Mail (Amended 6/28/17)
LSCC 16-03-01 Inmate Telephone Communications (Amended 6/28/17)
LSCC 17-01-01 LSCC Inmate Property Control (Amended 6/28/17)
LSCC 18-01-01 Inmate Classification (Amended 6/28/17)
LSCC 18-02-01 Meritorious Housing (Amended 6/28/17)
LSCC 19-01-01 Inmate Work Program (Amended 6/28/17)
LSCC 20-01-01 Educational Programs (Amended 6/28/17)
LSCC 22-02-01 Inmate Clubs and Organizations (Amended 6/28/17)
LSCC 24-01-01 Social Services and Counseling Program (Added 6/28/17)
LSCC 25-01-04 Pre-Release Program (Amended 7/11/12)
LSCC 25-01-02 Inmate Release Process (Amended 6/28/17)

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

LSCC 26-01-01 Citizen Involvement and Volunteer Services Programs (Amended 6/28/17[Added 2/15/08])

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m.

JAMES ERWIN, Acting Commissioner

APPROVED BY AGENCY: June 13, 2017

FILED WITH LRC: June 28, 2017 at 2 p.m.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, September 11, 2017)

501 KAR 6:270. Probation and parole policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.3104, 439.3105, 439.3107, 439.345, 439.470, 439.551

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.3105, 439.3107, 439.345, 439.470, and 439.551 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any of its divisions. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Department of Corrections Division of Probation and Parole.

Section 1. Incorporation by Reference. (1) "Probation and Parole Policies and Procedures[,]", September 11[June, 28], 2017 [August 11, 2015], are incorporated by reference. Probation and Parole Policies and Procedures include:

- 27-06-02 Access to Services (Amended 6/4/15)
27-07-01 Cooperation with Law Enforcement Agencies (Amended 6/4/15)
27-08-01 Critical Incident Planning and Reporting and Use of Force (Amended 8/11/15)
27-09-01 Community Resources (Amended 6/4/15)
27-10-01 Pretrial Diversion (Amended 6/4/15)
27-10-02 Mandatory Re-Entry Supervision (Amended 6/4/15)
27-10-03 Post-incarceration Supervision (Amended 6/4/15)
27-11-01 Citizen Complaints (Amended 6/4/15)
27-11-02 Employee-Offender Interaction (Amended 6/4/15)
27-12-01 Case Classification (Amended 8/11/15)
27-12-03 Initial Interview and Intake of New Case (Amended 8/11/15)
27-12-04 Conditions of Supervision Document and Request for Modification (Amended 6/4/15)
27-12-05 Releasee's Report Document (Amended 6/4/15)
27-12-06 Grievance Procedures for Offenders (Amended 6/4/15)
27-12-07 Administrative Caseloads (Amended 6/4/15)
27-12-11 Guidelines for Monitoring Financial Obligations (Amended 6/4/15)
27-12-13 Community Service Work (Amended 8/11/15)
27-12-14 Offender Travel (Amended 6/4/15)
27-13-01 Drug and Alcohol Testing, Assessment, and Referral of Offenders (Amended 6/4/15)
27-14-01 Interstate Compact (Amended 6/4/15)
27-15-01 Investigating and Reporting Violations and Unusual Incidents (Amended 6/4/15)
27-15-02 Home Incarceration, Curfew, and Electronic Monitoring for Community Offenders (Added 6/4/15)
27-15-03 Graduated Sanctions and Discretionary Detention

- (Amended 9/11/17[6/28/17][6/4/15])
27-16-01 Search, Seizure, and Processing of Evidence (Amended 8/11/15)
27-17-01 Absconder Procedure (Amended 7/11/12)
27-18-01 Probation and Parole Issuance of Detainer or Warrant (Amended 7/11/12)
27-19-01 Preliminary Revocation Hearing (Amended 6/4/15)
27-20-03 Parole Compliance Credit (Amended 9/11/17[6/28/17][3/12/12])
27-21-01 Apprehension of Probation and Parole Violators (Amended 12/16/11)
27-23-01 In-state Transfer (Amended 7/11/12)
27-24-01 Releasing Offender from Active Supervision (Amended 12/16/11)
27-24-02 Reinstatement of Offenders to Active Supervision (Amended 7/11/12)
27-26-01 Assistance to Former Offenders and Dischargees (Amended 7/11/12)
27-30-01 Sex Offender Registration (Amended 12/16/11)
27-30-02 Sex Offender Supervision (Amended 7/11/12)
28-01-01 Probation and Parole Investigation Reports, Confidentiality, Timing, and General Comments (Amended 12/16/11)
28-01-02 Probation and Parole Investigation Documents (Administrative Responsibilities) (Amended 12/16/11)
28-01-03 Presentence, Post-sentence, and Other Investigative Reports (Amended 3/12/12)
28-01-08 Calculation of Custody Time Credit (Amended 9/11/12)
28-03-01 Parole Plan Investigation, Half-way Houses, and Sponsorship (Amended 3/12/12)
28-03-02 Release on Parole (Amended 12/16/11)
28-04-01 Furlough Verifications (Amended 7/11/12)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m.

JAMES ERWIN, Acting Commissioner

APPROVED BY AGENCY: June 13, 2017

FILED WITH LRC: June 28, 2017 at 2 p.m.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

PUBLIC PROTECTION CABINET
Department of Alcoholic Beverage Control
(As Amended at ARRS, September 11, 2017)

804 KAR 4:400. Applications[ABC basic application and renewal form] incorporated by reference.

RELATES TO: KRS[164.772,] 241.060(1), 243.090, 243.380, 243.390, 243.630

STATUTORY AUTHORITY: KRS 241.060(1), 243.380, 243.390, 243.630

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the board to promulgate[reasonable] administrative regulations regarding matters over which the board has jurisdiction, including[governing procedures relative to the] applications for[and revocation of] licenses. KRS 243.380(2) and 243.390 require the board to promulgate an administrative regulation to establish the license applications[application form]. KRS 243.630(5) and (6) require licensees to apply in writing for department approval of the transfer of a license or a licensed business to a different premises or for the transfer of ten (10) percent or more ownership interest to a new person or entity. This administrative regulation prescribes the license applications utilized by the department[forms to be used to apply for and renew an alcoholic beverage license].

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

Section 1. Online[Initial] Application for Alcoholic Beverage License. (1) **Except as established in Section 3 of this administrative regulation.** An applicant for an alcoholic beverage license shall complete the online application process and submit it electronically at the Online eServices Portal: <https://dppweb.ky.gov/eservices/>.

(2) To renew a license pursuant to KRS 243.090 and 804 KAR 4:390, a licensee shall complete the online renewal application process and submit it electronically at the Online License Renewal Portal-KYBOS:

<http://abc.ky.gov/Licensing/Pages/default.aspx> [complete and submit to the department the Basic Application for Alcoholic Beverage License, with the exception of an applicant for:

(1) A special agent/solicitor license, out-of-state producer/supplier of distilled spirits/wine license, out-of-state producer/supplier of malt beverage license, or a transporter license; or

(2) A temporary license].

Section 2. Transfer of Ownership Interest Application. (1) A buyer seeking to acquire, or a licensee seeking to transfer ten (10) percent or more ownership interest in a licensed business shall complete and submit the Transfer of Ownership Interest Application for ownership interest transfers between legally recognized entities, where the licensee will remain the same.

(2) Although a licensee is not required to file an application for ownership interest transfers of less than ten (10) percent, a licensee shall notify the department in writing of all ownership interest transfers of less than ten (10) percent of the licensed business [Application for License Renewal. A licensee seeking to renew a license pursuant to KRS 243.090 shall complete and submit to the department the Application for License Renewal].

Section 3. Written Application for Alcoholic Beverage License. If unable to complete an online application, an applicant shall complete and submit the appropriate application for the license type listed in subsections (1) to (8) in this section:

- (1) Basic License Application;
- (2) License Renewal Application;
- (3) Transporter's License Application;
- (4) Out-of-State Supplier License Application;
- (5) Special Agent's or Solicitor's License Application;
- (6) Special Temporary License Application;
- (7) Additional License(s) Application; or
- (8) Transfer of Ownership Interest Application.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Basic[Application for Alcoholic Beverage] License Application", June 2017 [September 2016]; [and]

(b) "[Application for] License Renewal Application", June 2017 [May 2016-];

(c) "Transporter's License Application", June 2017;

(d) "Out-of-State Supplier License Application", June 2017;

(e) "Special Agent's or Solicitor's License Application", June 2017;

(f) "Special Temporary License Application", June 2017;

(g) "Additional License(s) Application", June 2017;

(h) "Transfer of Ownership Interest Application", June 2017;

(i) "Online eServices Portal", June 2017; and

(j) "Online License Renewal Portal-KYBOS", June 2017.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site, <http://www.abc.ky.gov/>.

CHRISTINE TROUT, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: July 7, 2017

FILED WITH LRC: July 10, 2017 at 10 a.m.

CONTACT PERSON: Heather Mercadante, Executive Advisor,

Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, phone (502) 564-4850, fax (502) 564-7479, email Heather.Mercadante@ky.gov.

PUBLIC PROTECTION CABINET Department of Alcoholic Beverage Control (As Amended at ARRS, September 11, 2017)

804 KAR 4:410. Product registration and forms[Special applications and registration forms incorporated by reference].

RELATES TO: KRS 13A.110, 241.060(1), 243.380, 243.390
STATUTORY AUTHORITY: KRS 241.060(1), 243.380, 243.390, 244.440, 244.585

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the board to promulgate[reasonable] administrative regulations regarding matters over which the board has jurisdiction. KRS 244.440 and KRS 244.585 require producers and importers to register product brands and flavors before offered for sale in the state. KRS 13A.110 provides that the board shall include, in regulation, all forms which the department requires to be completed and filed[governing procedures relative to the applications for licensing]. This administrative regulation prescribes product registrations and forms utilized by the department[incorporates by reference additional application forms for specific licenses and required registration forms].

Section 1. Product Registration. Licensees required to register product brands and flavors shall use the Online Product Registration Portal to complete the online registration process at:[Additional Application Forms. An applicant applying for an alcoholic beverage license not included in 804 KAR 4:400 shall complete and submit to the Department of Alcoholic Beverage Control the applicable additional application form for the specific license type for which the application is made. The additional application forms are listed below:

- (1) Transporter/Solicitor/Out-Of-State Application;
- (2) Special Temporary License Application;
- (3) Supplemental License Application; or
- (4) Rectifier's License: Change of License Application.

Section 2. Registration Forms. If applicable, a licensee shall complete and submit the Product Registration Online form. The form shall be completed electronically at] <https://www.productregistrationonline.com/GetStarted/Ky#selectPermit>.

Section 2[3]. [Additional] Forms. A person [An applicable licensee] shall complete and submit the following additional forms as needed or requested by the department:

- (1) Dormancy Request Form;
- (2) Non-Transfer Affidavit Form;
- (3) Credit/Debit Payment Form;
- (4) Refund Request Form;
- (5) Law Book Order Form;
- (6) Speaker Request Form;
- (7) Minors on Premises Request Form; and
- (8) Private Event Request Form [for Quota Retail Licenses;
- (2) Amendment to Application Authorization Form;
- (3) ABC Retailer Sampling Notification;
- (4) Request for Minors on Premises;
- (5) Affidavit of Ownership;
- (6) Affidavit of Non-Transfer;
- (7) Notice of Surrender of License(s);
- (8) Request to Participate in the Master File Licensing Process;
- (9) Application Request for Approval of Partial Transfer of Ownership to my Original License Application;
- (10) Remittance Form;
- (11) Order Form; or
- (12) Presentation/Speaker Request Form].

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

Section 3[4]. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Online Product Registration Portal", June 2017;
- (b) "Dormancy Request Form", June 2017;
- (c) "Non-Transfer Affidavit Form", June 2017;
- (d) "Credit/Debit Payment Form", June 2017;
- (e) "Refund Request Form", June 2017;
- (f) "Law Book Order Form", June 2017;
- (g) "Speaker Request Form", June 2017;
- (h) "Minors on Premises Request Form", June 2017; and
- (i) "Private Event Request Form", June 2017
- "Transporter/Solicitor/Out-Of-State Application", July 2016;
- (b) "Special Temporary License Application", September 2016;
- (c) "Supplemental License Application", September 2016;
- (d) "Presentation/Speaker Request Form", March 2016;
- (e) "Product Registration Online", September 2014;
- (f) "Rectifier's License: Change of License Application", June 2016;
- (g) "Dormancy Request for Quota Retail Licenses", June 2013;
- (h) "Amendment to Application Authorization Form", May 2016;
- (i) "ABC Retailer Sampling Notification", September 2016;
- (j) "Request for Minors on Premises", June 2013;
- (k) "Affidavit of Ownership", June 2013;
- (l) "Affidavit of Non-Transfer", June 2013;
- (m) "Notice of Surrender of License(s)", June 2013;
- (n) "Request to Participate in the Master File Licensing Process", June 2013;
- (o) "Application Request for Approval of Partial Transfer of Ownership to my Original License Application", June 2013;
- (p) "Remittance Form", February 2016; and
- (q) "Order Form", 2015].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Alcoholic Beverage Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the department's Web site: <http://www.abc.ky.gov>.

CHRISTINE TROUT, Commissioner
 DAVID A. DICKERSON, Secretary
 APPROVED BY AGENCY: June 29, 2017
 FILED WITH LRC: June 29, 2017 at 3 p.m.
 CONTACT PERSON: Heather Mercadante, Executive Advisor,
 Department of Alcoholic Beverage Control, 1003 Twilight Trail,
 Frankfort, Kentucky 40601, phone (502) 564-4850, fax (502) 564-7479, email Heather.Mercadante@ky.gov.

PUBLIC PROTECTION CABINET
Department of Insurance
Commissioner's Office
(As Amended at ARRS, September 11, 2017)

806 KAR 7:011. Repeal of 806 KAR 7:010.

RELATES TO: KRS 304.7-340
 STATUTORY AUTHORITY: KRS 13A.310, 304.2-110
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the Commissioner of the Department of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Insurance Code. KRS 13A.310 requires that an administrative regulation, once adopted, cannot be withdrawn, but shall be repealed if it is desired that it no longer be effective. This administrative regulation repeals 806 KAR 7:010, Loans to relatives, prohibited investments, because the statutory authority for this regulation, KRS 304.7-340, has been repealed. Additionally, such loans are governed more appropriately by KRS 304.7-363, 304.7-365, and responsible corporate officer and fiduciary duty laws with the emphasis on whether the officer or director receives a benefit or has a financial interest for determining if there is a prohibited investment.

Section 1. 806 KAR 7:010, Loans to relatives; prohibited

investments, is hereby repealed.

NANCY G. ATKINS, Commissioner
 DAVID A. DICKERSON, Secretary
 APPROVED BY AGENCY: July 14, 2017
 FILED WITH LRC: July 14, 2017 at 11 a.m.
 CONTACT PERSON: Patrick D. O'Connor II, Kentucky
 Department of Insurance, 215 W. Main Street, Frankfort, Kentucky
 40601, phone (502) 564-6026, fax (502) 564-2669, email
 Patrick.oconnor@ky.gov.

PUBLIC PROTECTION CABINET
Department of Insurance
Commissioner's Office
(As Amended at ARRS, September 11, 2017)

806 KAR 9:051. Repeal of 806 KAR 9:050 and 806 KAR 9:300.

RELATES TO: KRS 304.9-390, 304-9
 STATUTORY AUTHORITY: KRS 13A.310, 304.2-110
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the Commissioner of the Department of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Insurance Code. KRS 13A.310 requires that an administrative regulation, once adopted, cannot be withdrawn, but shall be repealed if it is desired that it no longer be effective. This administrative regulation repeals 806 KAR 9:050, Agent's records, which is in conflict with the statutory requirements of KRS 304.9-390. KRS 304.9-390 states the specific record requirements and what records shall be kept by the agency. 806 KAR 9:050 attempts to simplify the record requirements by allowing the agency to include only a daily report. Daily report is not defined by administrative regulation or statute, is obsolete, and it is unclear whether the daily report includes information mandated by KRS 304.9-390(3), creating a conflict. To cure the conflict, an agent shall be required to meet the statutory mandate in 304.9-390. This administrative regulations also repeals 806 KAR 9:300, Current agent licenses in good standing to receive equivalent, which is obsolete and outdated because its only discrete and limited purpose has been accomplished.

Section 1. The following administrative regulations are hereby repealed:

- (1) 806 KAR 9:050, Agent's records; and
- (2) 806 KAR 9:300, Current agent licensees in good standing to receive equivalent license.

NANCY G. ATKINS, Commissioner
 DAVID A. DICKERSON, Secretary
 APPROVED BY AGENCY: July 14, 2017
 FILED WITH LRC: July 14, 2017 at 11 a.m.
 CONTACT PERSON: Patrick D. O'Connor II, Kentucky
 Department of Insurance, 215 W. Main Street, Frankfort, Kentucky
 40601, phone (502) 564-6026, fax (502) 564-266, email
 Patrick.oconnor@ky.gov

PUBLIC PROTECTION CABINET
Kentucky Department of Insurance
Health and Life Division
(As Amended at ARRS, September 11, 2017)

806 KAR 17:575. Pharmacy benefit managers.

RELATES TO: KRS 304.1-050, 304.2-160, 304.2-165, 304.9-020, 304.17A.161, 304.17A-162
 STATUTORY AUTHORITY: KRS 304.2-110, 304.2-160, 304.2-165, 304.9-020, 304.17A-161, 304.17A-162
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) provides that the commissioner may make reasonable

administrative regulations necessary for, or as an aid to, the effectuation of any provision of the Kentucky Insurance Code. KRS 304.17A-162 requires the department to promulgate administrative regulations establishing the manner in which a pharmacy benefit manager shall respond to an appeal regarding maximum allowable cost pricing, the manner in which a pharmacy benefit manager makes available to contracted pharmacies information regarding sources for drug price data, a comprehensive list of drugs subject to maximum allowable cost and the actual maximum allowable cost for each drug, and weekly updates to the list. KRS 304.2-160, 304.2-165, 304.9-020, 304.17A-161, ~~and~~ 304.17A-162 together ~~provide~~~~provider~~ authority for the department's regulation of pharmacy benefit managers and the specific maximum allowable cost pricing and appeal process ~~set forth~~ ~~considered~~ in this administrative regulation. This administrative regulation establishes the ~~process~~~~requirements~~ for a pharmacy benefit manager's maximum allowable cost appeals process, the process for the ~~department's~~~~Department's~~ review of a complaint associated with a maximum allowable cost appeal, and the requirements for the cost listings made available by a pharmacy benefit manager.

Section 1. Definitions. **(1) "Contracted pharmacy" or "pharmacy" is defined by KRS 304.17A-161(1).**

~~(2)~~~~(1)~~ "Department" is defined by KRS 304.1-050(2).

~~(3)~~~~(2)~~ "Maximum Allowable Cost" is defined by KRS 304.17A-161(3).

~~(4)~~~~(3)~~ "Pharmacy Benefit Manager" is defined by **KRS 304.17A-161(4)**~~[KRS 304.9-020(15)]~~.

Section 2. Maximum Allowable Cost Pricing Appeal Process.

(1) A pharmacy benefit manager shall establish a maximum allowable cost pricing appeal process where a contracted pharmacy or the pharmacy's designee may appeal if:

(a) The maximum allowable cost established for a drug reimbursement is below the cost at which the drug is available for purchase by pharmacists and pharmacies in Kentucky from national or regional wholesalers licensed in Kentucky by the Kentucky Board of Pharmacy; or

(b) The pharmacy benefit manager has placed a drug on the maximum allowable cost list in violation of KRS 304.17A-162(8).

(2) The pharmacy benefit manager's appeal process shall include the following:

(a) The pharmacy benefit manager shall accept an appeal by a contracted pharmacy ~~on or before~~~~within~~ sixty (60) days of the initial claim;

(b) Notification ~~to the appealing party that the appeal has been received, and~~~~of~~ the names, addresses, email addresses, and telephone numbers of the pharmacy benefit manager's contact persons for questions regarding the maximum allowable cost appeal process; and

(c) A provision allowing a contracted pharmacy, pharmacy service administration organization or group purchasing organization, to initiate the appeal process, regardless if an appeal has previously been ~~submitted~~~~received~~ by a pharmacy or the pharmacy's designee outside of Kentucky, by contacting the pharmacy benefit manager's designated contact person electronically, by mail, or telephone. If the appeal process is initiated by telephone, the appealing party shall follow up with a written request within three (3) days.

(3) The pharmacy benefit manager's maximum allowable cost pricing appeal process shall be readily accessible to contracted pharmacies electronically through publication on the pharmacy benefit manager's website, and in either the contracted pharmacy's contract with the pharmacy benefit manager or through a pharmacy provider manual distributed to contracted pharmacies, pharmacy service administration organizations, and group purchasing organizations.

(4) For an appeal received from a pharmacy services administration organization or a group purchasing organization related to a dispute regarding maximum allowable cost pricing, a pharmacy benefit manager may request documentation that the pharmacy services administration organization or group purchasing organization is acting on behalf of a contracted pharmacy before

responding to the appeal.

(5) The pharmacy benefit manager shall investigate, resolve, and respond ~~to~~ the appeal within ten (10) calendar days of receipt of the appeal. Upon resolution, the pharmacy benefit ~~manager~~~~manager's~~ **shall issue a** written response to the appealing party ~~that~~ shall include the following:

(a) The date of the decision;

(b) The name, phone number, mailing address, email address, and title of the person making the decision; and

(c) A statement setting forth the specific reason for the decision, **including**:

1. If the appeal is granted:

(i) The amount of the adjustment to be paid retroactive to the ~~initial~~ date of ~~service~~~~the initial claim~~ to the appealing pharmacy; ~~[(b) The date such payment will occur;]~~

~~(ii)~~~~(c)~~ The ~~drug name~~, national drug code, and prescription number of the appealed drug; and

~~(iii)~~~~(d)~~ The appeal number assigned by the pharmacy benefit manager, if applicable; or

2. If the appeal is denied:

(i) The national drug code or **the national drug code of a therapeutically equivalent drug as defined in KRS 304.17A-162(9) [an alternative national drug code]** of the same dosage, **dosage form, and**~~[,]~~ strength~~[,]~~ ~~and quantity~~ of the appealed drug; ~~and~~

(ii) The Kentucky licensed wholesaler offering the drug at or below maximum allowable cost on the date of fill~~[,]~~ ~~and~~

~~(e) The price offered by the Kentucky licensed wholesaler on the date of fill.]~~

(6) When a pharmacy benefit manager grants an appeal for which a price update is warranted in accordance with KRS 304.17A-162(2), the pharmacy benefit manager shall individually notify contracted pharmacies of the ~~date of the~~ granted appeal, the appealed drug, **initial date of service, national drug code, generic code number, applicable information to identify the health benefit plan,** and retroactive price update by the time of release of the next scheduled maximum allowable cost update following the appeal decision by:

(a) **Mail Courier [United States mail]**;

(b) Electronic mail;

(c) Facsimile; or

(d) Web portal posting for sixty (60) days ~~and~~~~with~~ corresponding electronic communication to a contracted pharmacy **with hyperlink to the portal for the granted**~~[alerting that an appeal~~~~has been granted]~~. **A pharmacy benefit manager shall include in the beginning and upon renewal of the contract with a pharmacy or the pharmacy's representative, notice, and instructions for how to access and use the web portal.**

(7) All contracted pharmacies permitted to reverse and resubmit claims following a granted appeal pursuant to KRS 304.17A-162(2) shall submit claims to the pharmacy benefit manager within sixty (60) days of **notification that**~~[the date]~~ the appeal was granted.

(8) A pharmacy benefit manager shall submit the maximum allowable cost pricing appeal process and a template response satisfying the requirements of subsection (5) of this section to the department for review and approval.

Section 3. Department Review of Maximum Allowable Cost Pricing Appeal. (1) A contracted pharmacy or the pharmacy's designee may file a complaint following a final decision of the pharmacy benefit manager to the department in accordance with KRS 304.2-160 and 304.2-165.

(2) A complaint shall be submitted to the department no later than thirty (30) calendar days from the date of the pharmacy benefit manager's final decision.

(3) The department shall be entitled to request additional information necessary to resolve a complaint from any party in accordance with KRS 304.2-165 and 304.17A-162(5).

Section 4. Maximum allowable cost list availability and format.

(1) The pharmacy benefit manager shall make available to the contracted pharmacy a comprehensive list of drugs subject to

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

maximum allowable cost pricing.

(2) The comprehensive maximum allowable cost pricing list shall:

(a) Be a complete listing by drug in an electronically accessible format, unless, upon a pharmacy's written request the list be provided in a paper or other agreed format within **two (2) business days [twenty-four (24) hours] upon receiving the necessary information required for each list requested[of receipt of the request]**;

(b) Identify the applicable **health** plan for which the pricing is applicable;

(c) Be electronically searchable and sortable by individual drug name, national drug code, and **generic code number[drug classification]**;

(d) Contain data elements including the drug name, national drug code, **[package size]**, per unit price, and strength of drug;

(e) List a specific maximum allowable cost for each drug that will be reimbursed by the pharmacy benefit manager;

(f) Provide the effective date for that maximum allowable cost price; and

(g) Provide the date the maximum allowable cost list was updated.

(3) The pharmacy benefit manager shall retain in accordance with subsection (2)(a) of this section historical pricing data for a minimum of **120[sixty (60)]** days.

Section 5. Weekly Updates to Maximum Allowable Cost Price List. (1) Pharmacy benefit managers shall **send[make available]** to all contracted pharmacies **one (1) weekly update to the maximum allowable cost price list[updates to the list of drugs subject to maximum allowable cost and the actual maximum allowable cost for each drug]**.

(2) The weekly **update[updates]** shall **include the information below for all drugs added, removed, or changed in price since the last weekly update:**

(a) Be in an electronically accessible format, unless, upon written request by the pharmacy the update be provided in paper or other agreed format **within two (2) business days[twenty-four (24) hours] of receipt of the request from the contracted pharmacy;**

(b) Identify the basis for each drug's inclusion on the update;

(c) If a drug is added to the maximum allowable cost list, the maximum allowable cost price shall be indicated;

(d) Identify all drugs removed from the maximum allowable cost list;

(e) If a change in the maximum allowable cost price is made, include the old price, **and** new price[, **and percentage difference**]; **[and]**

(f) **Identify the drug name, national drug code, generic code number, and the applicable health benefit plan information; and**

(g) Identify the effective date of the change. **[(3) If a pharmacy benefit manager updates the manager's comprehensive list required under Section 4 of this administrative regulation on a weekly basis, and includes all of the elements set forth in subsection (2) of this section, then a pharmacy benefit manager is not required to publish a separate weekly update.]**

Section 6. Data Source Availability. Each pharmacy benefit manager shall identify electronically or within contracts to all contracted pharmacies the national drug pricing compendia or sources used to obtain drug price data for those drugs subject to maximum allowable cost provisions. If any changes are made to the data sources following the execution of a contract, the pharmacy benefit manager shall individually notify the contracted pharmacies of the changes either through correspondence submitted electronically, facsimile, or **mail courier[US mail]**.

Section 7. Annual report. All pharmacy benefit managers licensed to do business in Kentucky shall transmit at least annually by March 31 to the department a Pharmacy Benefit Manager Annual Report.

Section 8. Incorporation by reference. (1) "Pharmacy Benefit Manager Annual Report," **June 2017[April 2017]**, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

NANCY G. ATKINS, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: July 14, 2017

FILED WITH LRC: July 14, 2017 at 11 a.m.

CONTACT PERSON: Patrick D. O'Connor II, Executive Advisor, Kentucky Department of Insurance, 215 W. Main Street, Frankfort, Kentucky 40601, phone (502) 564-6026, fax (502) 564-2669, email Patrick.OConnor@ky.gov.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(Amended After Comments)

201 KAR 9:260. Professional standards for prescribing and dispensing controlled substances.

RELATES TO: KRS 218A.205, 311.530-311.620, 311.990
STATUTORY AUTHORITY: KRS 218A.205(3)(a), 311.565(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.565(1)(a) authorizes the board to promulgate administrative regulations to regulate the conduct of its licenses. KRS 218A.205(3)(a) requires the board to establish mandatory prescribing and dispensing standards related to controlled substances. This administrative regulation establishes the professional standards for prescribing and dispensing controlled substances.

Section 1. Applicability. (1) A physician who is authorized to prescribe or dispense a controlled substance shall comply with the standards of acceptable and prevailing medical practice for prescribing and dispensing a controlled substance established in this administrative regulation.

(2) The professional standards established in this administrative regulation shall not apply to a physician prescribing or dispensing a controlled substance:

(a) To a patient as part of the patient's hospice or end-of-life treatment;

(b) To a patient admitted to a licensed hospital as an inpatient, outpatient, or observation patient, during and as part of a normal and expected part of the patient's course of care at that hospital;

(c) To a patient for the treatment of pain associated with cancer or with the treatment of cancer;

(d) To a patient who is a registered resident of a long-term-care facility as defined in KRS 216.510;

(e) During the effective period of any period of disaster or mass casualties which has a direct impact upon the physician's practice;

(f) In a single dose [~~prescribed or dispensed~~] to relieve the anxiety, pain, or discomfort experienced by that patient submitting to a diagnostic test or procedure; ~~or~~

(g) That has been classified as a Schedule V controlled substance;

(h) That is a Schedule II controlled substance as part of a narcotic treatment program licensed by the Cabinet for Health and Family Services; or

(i) That is a Schedule II controlled substance immediately prior to, during, or within the fourteen (14) days following a major surgery, being any operative or invasive procedure or a delivery, or significant trauma, being any acute blunt, blast or penetrating bodily injury that has a risk of death or physical disability or impairment, [being any operative or invasive procedure or a delivery], and the usage does not extend beyond fourteen (14) days.

Section 2. Professional Standards for Documentation of Patient Assessment, Education, Treatment Agreement and Informed Consent, Action Plans, Outcomes and Monitoring. (1) Each physician prescribing or dispensing a controlled substance shall obtain and document all relevant information in a patient's medical record in a legible manner and in sufficient detail to enable the board to determine whether the physician is conforming to professional standards for prescribing or dispensing controlled substances and other relevant professional standards.

(2) If a physician is unable to conform to professional standards for prescribing or dispensing controlled substances due to circumstances beyond the physician's control, or the physician makes a professional determination that it is not appropriate to comply with a specific standard, based upon the individual facts applicable to a specific patient's diagnosis and treatment, the

physician shall document those circumstances in the patient's record and only prescribe or dispense a controlled substance to the patient if the patient record appropriately justifies the prescribing or dispensing of a controlled substance under the circumstances.

Section 3. Professional Standards for the Prescribing or Dispensing of Controlled Substances for the Treatment of Pain and Related Symptoms Associated with a Primary Medical Complaint. Prior to the initial prescribing or dispensing of any controlled substance for pain or other symptoms associated with the same primary medical complaint, the first physician prescribing or dispensing a controlled substance shall:

(1) Obtain an appropriate medical history relevant to the medical complaint, including a history of present illness, and:

(a) If the complaint does not relate to a psychiatric condition, conduct a physical examination of the patient relevant to the medical complaint and related symptoms and document the information in the patient's medical record; or

(b) If the complaint relates to a psychiatric condition, perform, or have performed by a psychiatrist or other designated mental health provider, an evaluation appropriate to the presenting complaint and document the relevant findings;

(2) Obtain and review a KASPER report for that patient for the twelve (12) month period immediately preceding the patient encounter, and appropriately utilize that information in the evaluation and treatment of the patient;

(3) After examining the benefits and risks of prescribing or dispensing a controlled substance to the patient, including nontreatment or other treatment, make a deliberate decision that it is medically appropriate to prescribe or dispense the controlled substance in the amount specified;

(4) Only prescribe Schedule II controlled substances in accordance with the standards established in Section 9 of this administrative regulation;

(5) ~~Not~~ prescribe or dispense a long-acting or controlled-release opioid (e.g. OxyContin, fentanyl patches, or methadone) for acute pain that is not directly related to and close in time to a specific surgical procedure;

(6) ~~(5)~~ Explain to the patient that a controlled substance used to treat an acute medical complaint is for time-limited use, and that the patient should discontinue the use of the controlled substance when the condition requiring the controlled substance use has resolved; and

(7) ~~(6)~~ Explain to the patient how to safely use and properly dispose of any unused controlled substance.

Section 4. Professional Standards for Commencing Long Term Use of Prescribing or Dispensing of Controlled Substances for the Treatment of Pain and Related Symptoms Associated with a Primary Medical Complaint. (1) Before a physician commences to prescribe or dispense any controlled substance to a patient sixteen (16) years or older for pain or other symptoms associated with the same primary medical complaint for a total period of longer than three (3) months, the physician shall comply with the mandatory professional standards established in subsection (2) of this section. These standards may be accomplished by different licensed practitioners in a single group practice at the direction of or on behalf of the prescribing physician if:

(a) Each practitioner involved has lawful access to the patient's medical record;

(b) There is compliance with all applicable standards; and

(c) Each practitioner performing an action to meet the required standards is acting within the practitioner's legal scope of practice.

(2)(a) The physician shall obtain the following information from the patient and record all relevant information in the patient's medical record:

1. History of present illness;

2. Past medical history;

3. History of substance use and any prior treatment for that use

by the patient, and history of substance abuse by first degree relatives of the patient;

4. Past family history of relevant illnesses and treatment; and
5. Psychosocial history.

(b) The physician shall conduct an appropriate physical examination of the patient sufficient to support the medical indications for prescribing or dispensing a controlled substance on a long-term basis.

(c) The physician shall perform appropriate baseline assessments to establish beginning values to assist in establishing and periodically evaluating the functional goals of any treatment plan.

(d) If a specific or specialized evaluation is necessary for the formulation of a working diagnosis or treatment plan, the physician shall only continue the use of a controlled substance after determining that continued use of the controlled substance is safe and medically appropriate in the absence of that information.

(e) If the physician determines that the patient has previously received medical treatment for the presenting medical complaint or related symptoms and that review of the prior treatment records is necessary to justify long-term prescribing of a controlled substance, the physician shall obtain those prior medical records and incorporate the information therein into the evaluation and treatment of the patient.

(f)1. Based upon consideration of all information available, the physician shall promptly formulate and document a working diagnosis of the source of the patient's medical complaint and related symptoms without simply describing or listing the related symptoms.

2. If the physician is unable, despite best efforts, to formulate a working diagnosis, the physician shall consider the usefulness of additional information, such as a specialized evaluation or assessment, referral to an appropriate specialist, and the usefulness of further observation and evaluation, before attempting again to formulate a working diagnosis.

3. If the physician is unable to formulate a working diagnosis, despite the use of an appropriate specialized evaluation or assessment, the physician shall only prescribe long term use of a controlled substance after establishing that its use at a specific level is medically indicated and appropriate.

(g)1. To the extent that functional improvement is medically expected based upon the patient's condition, the physician shall formulate an appropriate treatment plan.

2. The treatment plan shall include specific and verifiable goals of treatment, with a schedule for periodic evaluations.

(h)1. The physician shall utilize appropriate screening tools to screen each patient to determine if the patient:

- a. Is presently suffering from another medical condition which may impact the prescribing or dispensing of a controlled substance; or
- b. Presents a significant risk for illegal diversion of a controlled substance.

2. If, after screening, the physician determines that there is a reasonable likelihood that the patient suffers from substance abuse or dependence, or a psychiatric or psychological condition, the physician shall take the necessary actions to facilitate a referral to an appropriate treatment program or provider. The physician shall appropriately incorporate the information from the treatment program or provider into the evaluation and treatment of the patient.

3. If, after screening, the physician determines that there is a risk that the patient may illegally divert a controlled substance, but determines to continue long term prescribing of the controlled substance, the physician shall use a prescribing agreement that meets professional standards. The prescribing agreement and informed consent document may be combined into one (1) document.

4. The physician shall obtain and document a baseline drug screen.

5. If, after screening, the physician determines that the controlled substance prescribed to the patient will be used or is likely to be used other than medicinally or other than for an accepted therapeutic purpose, the physician shall not prescribe

any controlled substance to that patient.

(i) After explaining the risks and benefits of long-term use of a controlled substance, the physician shall obtain the written informed consent of the patient in a manner that meets professional standards.

(j) The physician shall initially attempt, to the extent possible, or establish and document a previous attempt by another physician, of a trial of noncontrolled modalities and lower doses of a controlled substance in increasing order to treat the pain and related symptoms associated with the primary medical complaint, before continuing with long term prescribing of a controlled substance at a given level.

Section 5. Professional Standards for Continuing Long Term Prescribing or Dispensing of Controlled Substances for the Treatment of Pain and Related Symptoms Associated with a Primary Medical Complaint. (1) If a physician continues to prescribe or dispense a controlled substance beyond three (3) months to a patient sixteen (16) years or older for pain and related symptoms associated with the primary medical complaint, the physician shall comply with the professional standards established in subsection (2) of this section and, if a Schedule II controlled substance, Section 9 of this administrative regulation. These standards may be accomplished by different licensed practitioners in a single group practice at the direction of or on behalf of the prescribing physician as established in Section 4(1) of this administrative regulation.

(2)(a)1. The physician shall ensure that the patient is seen at least once a month initially for evaluation and review of progress. The physician may determine that the patient is to be evaluated less frequently, on a schedule determined by the physician's professional judgment after the physician has determined:

- a. The controlled substance prescribed or dispensed has been titrated to the level appropriate and necessary to treat the medical complaint and related symptoms;
- b. The controlled substance prescribed or dispensed is not causing unacceptable side effects; and
- c. There is sufficient monitoring in place to minimize the likelihood that the patient will use the controlled substance in an improper or inappropriate manner or divert it for an improper or inappropriate use.

(b) At appropriate intervals, the physician shall:

1. Ensure that a current history is obtained from the patient;
2. Ensure that a focused physical examination is considered, and performed, if appropriate; and
3. Perform appropriate measurable examinations as indicated in the treatment plan.

(c) At appropriate intervals, the physician shall evaluate the working diagnosis and treatment plan based upon the information gained to determine whether there has been functional improvement or any change in baseline measures. The physician shall modify the diagnosis, treatment plan, or controlled substance therapy, as appropriate.

(d) If the physician determines that the patient presents a significant risk of diversion or improper use of a controlled substance, the physician shall discontinue the use of the controlled substance or justify its continued use in the patient record.

(e) If the medical complaint and related symptoms continue with no significant improvement in function despite treatment with a controlled substance, and if improvement is medically expected, the physician shall obtain appropriate consultative assistance to determine whether there are undiagnosed conditions to be addressed in order to resolve the medical complaint.

(f) For a patient exhibiting symptoms suggestive of a mood, anxiety, or psychotic disorder, the physician shall obtain a psychiatric or psychological consultation for intervention if appropriate.

(g) If a patient reports experiencing episodes of breakthrough pain, the physician shall:

1. Attempt to identify the trigger or triggers for each episode;
2. Determine whether the breakthrough pain may be adequately treated through noncontrolled treatment; and
3. If the physician determines that the nonmedication

treatments do not adequately address the triggers, and after considering the risks and benefits, determines to add an as-needed controlled substance to the regimen, take appropriate steps to minimize the improper or illegal use of the additional controlled substance.

(h) At least once a year, the physician shall perform or shall ensure that the patient's primary treating physician performs a preventive health screening and physical examination appropriate to the patient's gender, age, and medical condition.

(i)1. At least once every three (3) months, the physician shall obtain and review a current KASPER report, for the twelve (12) month period immediately preceding the request, and appropriately use that information in the evaluation and treatment of the patient.

2. If the physician obtains or receives specific information that the patient is not taking the controlled substance as directed, is diverting a controlled substance, or is engaged in any improper or illegal use of a controlled substance, the physician shall immediately obtain and review a KASPER report and appropriately use the information in the evaluation and treatment of the patient.

3. If a KASPER report discloses that the patient is obtaining a controlled substance from another practitioner without the physician's knowledge and approval, in a manner that raises suspicion of illegal diversion, the physician shall promptly notify the other practitioner of the relevant information from the KASPER review.

4. The physician shall obtain consultative assistance from a specialist if appropriate.

(j) If appropriate, the physician shall conduct random pill counts and appropriately use that information in the evaluation and treatment of the patient.

(k)1. During the course of long-term prescribing or dispensing of a controlled substance, the physician shall utilize drug screens, appropriate to the controlled substance and the patient's condition, in a random and unannounced manner at appropriate times. If the drug screen or other information available to the physician indicates that the patient is noncompliant, the physician shall:

a. Do a controlled taper, consistent with subparagraph 3 of this paragraph;

b. Stop prescribing or dispensing the controlled substance immediately; or

c. Refer the patient to an addiction specialist, mental health professional, pain management specialist, or drug treatment program, depending upon the circumstances.

2. The physician shall discontinue controlled substance treatment or refer the patient to addiction management if:

a. There has been no improvement in function and response to the medical complaint and related symptoms, if improvement is medically expected;

b. Controlled substance therapy has produced significant adverse effects, including but not limited to overdose or events leading to hospitalization or disability;~~or~~

c. The patient exhibits inappropriate drug-seeking behavior or diversion; or

d. The patient is taking high-risk regimen, including but not limited to dosages \geq fifty (50) MME/day or opioids with benzodiazepines, without evidence of benefit.

3. The physician shall taper controlled substances in a manner slow enough to minimize symptoms and signs of opioid withdrawal and shall collaborate with other specialists as needed to optimize nonopioid pain management and psychosocial support for anxiety related to the taper.

4. A physician shall stop prescribing or dispensing any controlled substance diverted by or from the patient or taken less frequently than once a day.

Section 6. Professional Standards for the Prescribing and Dispensing of Controlled Substances in an Emergency Department. In addition to complying with the standards for the initial prescribing or dispensing of a controlled substance as established in Sections 3 and 7 of this administrative regulation, a physician prescribing or dispensing a controlled substance for a specific medical complaint and related symptoms to a patient in an emergency department shall not routinely:

(1) Administer an intravenous controlled substance for the relief of acute exacerbations of chronic pain, unless intravenous administration is the only medically appropriate means of delivery;

(2) Provide a replacement prescription for a controlled substance that was lost, destroyed, or stolen;

(3) Provide a replacement dose of methadone, suboxone, or subutex for a patient in a treatment program;

(4) Prescribe a long-acting or controlled-release controlled substance, such as OxyContin, fentanyl patches, or methadone or a replacement dose of that medication;

(5) Administer Meperidine to the patient; or

(6) Prescribe or dispense more than the minimum amount medically necessary to treat the patient's medical condition until the patient can be seen by the primary treating physician or another physician, with no refills. If the controlled substance prescription exceeds seven (7) days in length (or exceeds three (3) days if a Schedule II controlled substance), the patient record shall justify the amount of the controlled substance prescribed.

Section 7. Professional Standards for the Prescribing and Dispensing of Controlled Substances for the Treatment of Other Conditions. (1) Before initially prescribing or dispensing a controlled substance to a patient for a condition other than pain, the physician shall:

(a) Obtain an appropriate medical history relevant to the medical complaint, including a history of present illness, and:

1. If the complaint does not relate to a psychiatric condition, conduct a physical examination of the patient relevant to the medical complaint and related symptoms and document the information in the patient's medical record; or

2. If the complaint relates to a psychiatric condition, perform, or have performed by a psychiatrist or other designated mental health provider, an evaluation appropriate to the presenting complaint and document the relevant findings;

(b) Obtain and review a KASPER report for that patient, for the twelve (12) month period immediately preceding the patient encounter, and appropriately utilize that information in the evaluation and treatment of the patient;

(c) After examining the benefits and risks of prescribing or dispensing a controlled substance to the patient, including nontreatment or other treatment, make a deliberate decision that it is medically appropriate to prescribe or dispense the controlled substance in the amount specified;

(d) Avoid providing more controlled substances than necessary by prescribing or dispensing only the amount of a controlled substance needed to treat the specific medical complaint;

(e) Explain to the patient that a controlled substance used to treat an acute medical complaint is for time-limited use, and that the patient should discontinue the use of a controlled substance when the condition requiring the controlled substance use has resolved; and

(f) Explain to the patient how to safely use and properly dispose of any unused controlled substance.

(2) If the physician continues to prescribe or dispense a controlled substance to a patient for the same medical complaint and related symptoms, the physician shall fully conform to the standards of acceptable and prevailing practice for treatment of that medical complaint and for the use of the controlled substance.

(3) If a physician receives a request from an established patient to prescribe or dispense a limited amount of a controlled substance to assist the patient in responding to the anxiety or depression resulting from a nonrecurring single episode or event, the physician shall:

(a) Obtain and review a KASPER report for that patient for the twelve (12) month period immediately preceding the patient request and appropriately utilize the information obtained in the evaluation and treatment of the patient;

(b) Make a deliberate decision that it is medically appropriate to prescribe or dispense the controlled substance in the amount specified, with or without requiring a personal encounter with the patient to obtain a more detailed history or to conduct a physical examination; and

(c) If the decision is made that it is medically appropriate to

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

prescribe or dispense the controlled substance, prescribe or dispense the minimum amount of the controlled substance to appropriately treat the situational anxiety or depression.

Section 8. Responsibility to Educate Patients Regarding the Dangers of Controlled Substance Use. (1) A physician prescribing or dispensing a controlled substance shall take appropriate steps to educate a patient receiving a controlled substance.

(2) Educational materials relating to these subjects may be found on the board's Web site, www.kbml.ky.gov.

Section 9. Additional Standards for Prescribing or Dispensing Schedule II Controlled Substances~~[or Schedule III Controlled Substances Containing Hydrocodone]~~. (1) In addition to the other standards established in this administrative regulation, prior to the initial prescribing or dispensing of a Schedule II controlled substance~~[or a Schedule III controlled substance containing hydrocodone]~~ to a human patient, a physician shall:

(a) Obtain a medical history and conduct a physical or mental health examination of the patient, as appropriate to the patient's medical complaint, and document the information in the patient's medical record;

(b) Query KASPER for all available data on the patient for the twelve (12) month period immediately preceding the patient encounter and appropriately utilize that data in the evaluation and treatment of the patient;

(c) Make a written plan stating the objectives of the treatment and further diagnostic examinations required;

(d) Discuss the risks and benefits of the use of controlled substances with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence; and

(e) Obtain written consent for the treatment.

(2) In addition to the other standards established in this administrative regulation, for purposes of treating pain as or related to an acute medical condition, a physician shall not prescribe more than a three (3) day supply of a Schedule II controlled substance, unless the physician determines that more than a three (3) day supply is medically necessary and the physician documents the acute medical condition and lack of alternative medical treatment options to justify the amount of the controlled substance prescribed.

(3)(a) In addition to the other standards established in this administrative regulation, a physician prescribing or dispensing additional amounts of a Schedule II controlled substance~~[or a Schedule III controlled substance containing hydrocodone]~~ for the same medical complaint and related symptoms shall:

1. Review, at reasonable intervals based on the patient's individual circumstances and course of treatment, the plan of care;

2. Provide to the patient any new information about the treatment; and

3. Modify or terminate the treatment as appropriate.

(b) If the course of treatment extends beyond three (3) months, the physician shall:

1. Query KASPER no less than once every three (3) months for all available data on the patient for the twelve (12) month period immediately preceding the query; and

2. Review that data before issuing any new prescription or refills for the patient for any Schedule II controlled substance~~[or a Schedule III controlled substance containing hydrocodone]~~.

(4)~~(3)~~ To the extent not already required by the standards established in this administrative regulation, for each patient for whom a physician prescribes or dispenses a Schedule II controlled substance~~[or a Schedule III controlled substance containing hydrocodone]~~, the physician shall keep accurate, readily accessible, and complete medical records which include, as appropriate:

(a) Medical history and physical or mental health examination;

(b) Diagnostic, therapeutic, and laboratory results;

(c) Evaluations and consultations;

(d) Treatment objectives;

(e) Discussion of risk, benefits, and limitations of treatments;

(f) Treatments;

(g) Medications, including date, type, dosage, and quantity prescribed or dispensed;

(h) Instructions and agreements, and

(i) Periodic reviews of the patient's file.

~~(5)~~~~(4)~~ The additional standards for prescribing or dispensing a Schedule II controlled substance~~[or a Schedule III controlled substance containing hydrocodone]~~ established in this section shall not apply to:

(a) A physician prescribing or administering that controlled substance immediately prior to, during, or within the fourteen (14) days following a major surgery, being any operative or invasive procedure or a delivery, or significant trauma, being any acute blunt, blast or penetrating bodily injury that has a risk of death or physical disability or impairment, [being any operative or invasive procedure or a delivery], if the prescribing or administering is medically related to the operative or invasive procedure or delivery and the medication usage does not extend beyond the fourteen (14) days; or

(b) A physician prescribing or dispensing that controlled substance:

1. For administration in a hospital or long-term-care facility if the hospital or long-term-care facility with an institutional account, or a physician in those hospitals or facilities if no institutional account exists, queries KASPER for all available data on the patient or resident for the twelve (12) month period immediately preceding the query, within twelve (12) hours of the patient's or resident's admission, and places a copy of the query in the patient's or resident's medical records for use during the duration of the patient's stay at the facility;

2. As part of a narcotic treatment program licensed by the Cabinet for Health and Family Services;

3. As part of the patient's hospice or end-of-life treatment;

4.~~3.~~ For the treatment of pain associated with cancer or with the treatment of cancer;

5.~~4.~~ In a single dose to relieve the anxiety, pain, or discomfort experienced by a patient submitting to a diagnostic test or procedure;

6.~~5.~~ Within seven (7) days of an initial prescribing or dispensing under subsection (1) of this section if the prescribing or dispensing:

a. Is done as a substitute for the initial prescribing or dispensing;

b. Cancels any refills for the initial prescription; and

c. Requires the patient to dispose of any remaining unconsumed medication;

7.~~6.~~ Within ninety (90) days of an initial prescribing or dispensing under subsection (1) of this section if the prescribing or dispensing is done by another physician in the same practice or in an existing coverage arrangement, if done for the same patient for the same medical condition; or

8.~~7.~~ To a research subject enrolled in a research protocol approved by an institutional review board that has an active federalwide assurance number from the United States Department for Health and Human Services, Office for Human Research Protections if the research involves single, double, or triple blind drug administration or is additionally covered by a certificate of confidentiality from the National Institutes of Health.

Section 10. Violations. (1) Any violation of the professional standards established in this administrative regulation shall constitute a violation of KRS 311.595(12) and (9), which may result in the imposition of disciplinary sanctions by the board, pursuant to KRS 311.595.

(2) Each violation of the professional standards established in this administrative regulation shall be established by expert testimony by one (1) or more physicians retained by the board, following a review of the licensee's patient records and other available information including KASPER reports.

RANDEL C. GIBSON, D.O., President

APPROVED BY AGENCY: September 5, 2017

FILED WITH LRC: September 6, 2017

CONTACT PERSON: Leanne K. Diakov, General Counsel, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, phone (502) 429-7150, fax (502) 429-7118, email Leanne.Diakov@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Leanne K. Diakov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes professional standards for prescribing and dispensing controlled substances in the Commonwealth of Kentucky.

(b) The necessity of this administrative regulation: It is necessary to promulgate this regulation to establish professional standards for prescribing and dispensing controlled substances the Commonwealth of Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation acts specifically to establish the professional standards for prescribing and dispensing controlled substances in the Commonwealth of Kentucky.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation acts specifically to establish the professional standards for prescribing and dispensing controlled substances in the Commonwealth of Kentucky.

(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 administrative regulation amendment clarifies the professional standard for titration of controlled substances consistent with the 2016 Centers for Disease Control and Prevention Guideline for the Prescribing of Opioids for Chronic Pain and establishes the professional standard of a 3-day prescribing limit on Schedule II controlled substances for acute pain in conformity with the 2017 General Assembly's enactment of HB 333.

(b) The necessity of the amendment to this administrative regulation: It was necessary to amend the regulation in order to clarify the professional standard for titration of controlled substances consistent with the 2016 Centers for Disease Control and Prevention Guideline for the Prescribing of Opioids for Chronic Pain and to establish the professional standard of a 3-day prescribing limit on Schedule II controlled substances for acute pain in conformity with the 2017 General Assembly's enactment of HB 333.

(c) How the amendment conforms to the content of the authorizing statutes: This amended regulation acts specifically to further clarify the professional standards for prescribing and dispensing controlled substances in the Commonwealth of Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: This amended regulation acts specifically to further clarify the professional standards for prescribing and dispensing controlled substances in the Commonwealth of Kentucky.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will affect all physicians licensed in the Commonwealth of Kentucky who prescribe or dispense controlled substances.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: Physicians will be required to follow the professional standards for prescribing and dispensing controlled substances in the Commonwealth of Kentucky.

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

question (3): There is no cost associated with the requirements of this administrative regulation known to the Board.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits to the physician including having professional standards for prescribing or dispensing controlled substances which will help curb the prescription drug epidemic in the Commonwealth of Kentucky.

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

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: None.

(7) 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 of fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all individuals regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Medical Licensure will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 311.565(1)(a) and KRS 218A.205(3)

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET
Board of Nursing
(Amended After Comments)

201 KAR 20:057. Scope and standards of practice of advanced practice registered nurses.

RELATES TO: KRS 218A.205(3)(a), 314.011(7), 314.011(8), 314.042, 314.193(2), 314.196

STATUTORY AUTHORITY: KRS 218A.205(3)(a), 314.131(1), 314.193(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS

218A.205(3)(a) requires the Board of Nursing to establish by administrative regulation mandatory prescribing and dispensing standards for licensees authorized to prescribe or dispense controlled substances. KRS 314.131(1) authorizes the board to promulgate administrative regulations necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.193(2) authorizes the board to promulgate administrative regulations establishing standards for the performance of advanced practice registered nursing to safeguard the public health and welfare. This administrative regulation establishes the scope and standards of practice for an advanced practice registered nurse.

Section 1. Definitions. (1) "Collaboration" means the relationship between the advanced practice registered nurse and a physician in the provision of prescription medication, including both autonomous and cooperative decision-making, with the advanced practice registered nurse and the physician contributing their respective expertise.

(2) "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances" or "CAPA-CS" means the written document pursuant to KRS 314.042(10).

(3) "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Nonscheduled Legend Drugs" or "CAPA-NS" means the written document pursuant to KRS 314.042(8).

(4) "KASPER" means the Kentucky All Schedule Prescription Electronic Reporting system established in KRS 218A.202.

Section 2. (1) The practice of the advanced practice registered nurse shall be in accordance with the standards and functions defined in scope and standards of practice statements adopted by the board in subsection (2) of this section.

(2) The following scope and standards of practice statements shall be adopted:

(a) AACN Scope and Standards for Acute Care Nurse Practitioner Practice;

(b) AACN Scope and Standards for Acute Care Clinical Nurse Specialist Practice;

(c) Neonatal Nursing: Scope and Standards of Practice;

(d) Nursing: Scope and Standards of Practice;

(e) Pediatric Nursing: Scope and Standards of Practice;

(f) Psychiatric-Mental Health Nursing 2nd Edition: Scope and Standards of Practice;

(g) Scope of Practice for Nurse Practitioners;

(h) Standards of Practice for Nurse Practitioners;

(i) Scope of Nurse Anesthesia Practice;

(j) Standards for Nurse Anesthesia Practice;

(k) Standards for Office Based Anesthesia Practice;

(l) Standards for the Practice of Midwifery;

(m) Statement on the Scope and Standards of Oncology Nursing Practice: Generalist and Advanced Practice; and

(n) The Women's Health Nurse Practitioner: Guidelines for Practice and Education.

Section 3. In the performance of advanced practice registered nursing, the advanced practice registered nurse shall seek consultation or referral in those situations outside the advanced practice registered nurse's scope of practice.

Section 4. Advanced practice registered nursing shall include prescribing medications and ordering treatments, devices, and diagnostic tests which are consistent with the scope and standard of practice of the advanced practice registered nurse.

Section 5. Advanced practice registered nursing shall not preclude the practice by the advanced practice registered nurse of registered nursing practice as defined in KRS 314.011(6).

Section 6. (1)(a) A CAPA-NS and a CAPA-CS shall include the name, address, phone number, and license number of both the advanced practice registered nurse and each physician who is a

party to the agreement. It shall also include the specialty area of practice of the advanced practice registered nurse.

(b) Pursuant to KRS 314.196(2), an advanced practice registered nurse shall use the Common CAPA-NS Form.

(2)(a) To notify the board of the existence of a CAPA-NS pursuant to KRS 314.042(8)(b), the APRN shall file with the board the Notification of a Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Nonscheduled Legend Drugs (CAPA-NS).

(b) To notify the board that the requirements of KRS 314.042(9) have been met and that the APRN will be prescribing nonscheduled legend drugs without a CAPA-NS, the APRN shall file the Notification to Discontinue the CAPA-NS After Four Years.

(c) To notify the board of the existence of a CAPA-CS pursuant to KRS 314.042(10)(b), the APRN shall file with the board the Notification of a Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances (CAPA-CS).

(3) For purposes of the CAPA-NS and the CAPA-CS, in determining whether the APRN and the collaborating physician are qualified in the same or a similar specialty, the board shall be guided by the facts of each particular situation and the scope of the APRN's and the physician's actual practice.

(4)(a) An APRN with a CAPA-CS shall report all of his or her United States Drug Enforcement Agency (DEA) Controlled Substance Registration Certificate numbers to the board when issued to the APRN by mailing a copy of each registration certificate to the board within thirty (30) days of issuance.

(b) Any change in the status of a DEA Controlled Substance Registration Certificate shall be reported in writing to the board within thirty (30) days.

Section 7. Prescribing medications without a CAPA-NS or a CAPA-CS shall constitute a violation of KRS 314.091(1), except when a CAPA-NS has been discontinued pursuant to KRS 314.042(9) or the provisions of KRS 314.196(4)(b) apply.

Section 8. The board may make an unannounced monitoring visit to an advanced practice registered nurse to determine if the advanced practice registered nurse's practice is consistent with the requirements established by KRS Chapter 314 and 201 KAR Chapter 20, and patient and prescribing records shall be made available for immediate inspection.

Section 9. Prescribing Standards for Controlled Substances. (1)(a) This section shall apply to an APRN with a CAPA-CS if prescribing a controlled substance. It also applies to the utilization of KASPER.

(b) The APRN shall practice according to the applicable scope and standards of practice for the APRN's role and population focus. This section does not alter the prescribing limits set out in KRS 314.011(8).

(2) Prior to the initial prescribing of a controlled substance to a patient, the APRN shall:

(a) Obtain the patient's medical history and conduct an examination of the patient and document the information in the patient's medical record. An APRN certified in psychiatric/mental health shall obtain a medical and psychiatric history, perform a mental health assessment, and document the information in the patient's medical record;

(b) Query KASPER for all available data on the patient and maintain all KASPER report identification numbers and the date of issuance of each KASPER report in the patient's record;

(c) Make a written treatment plan stating the objectives of the treatment and further diagnostic examinations required; and

(d) Discuss with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate:

1. The risks and benefits of the use of controlled substances, including the risk of tolerance and drug dependence;

2. That the controlled substance shall be discontinued when

the condition requiring its use has resolved; and

3. Document that the discussion occurred and obtain written consent for the treatment.

(3) The treatment plan shall include an exit strategy, if appropriate, including potential discontinuation of the use of controlled substances.

(4) For subsequent or continuing long-term prescriptions of a controlled substance for the same medical complaint, the APRN shall:

(a) Update the patient's medical history and document the information in the patient's medical record;

(b) Modify the treatment plan as clinically appropriate; and

(c) Discuss the risks and benefits of any new controlled substances prescribed with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence.

(5) During the course of treatment, the APRN shall query KASPER no less than once every three (3) months for all available data on the patient before issuing a new prescription or a refill for a controlled substance. The APRN shall maintain all KASPER report identification numbers and the date of issuance of each KASPER report in the patient's record.

(6) These requirements may be satisfied by other licensed practitioners in a single group practice if:

(a) Each licensed practitioner involved has lawful access to the patient's medical record;

(b) Each licensed practitioner performing an action to meet these requirements is acting within the scope of practice of his or her profession; and

(c) There is adequate documentation in the patient's medical record reflecting the actions of each practitioner.

(7) If prescribing a controlled substance for the treatment of chronic, noncancer pain, the APRN, in addition to the requirements of this section, shall obtain a baseline drug screen or further random drug screens if the APRN:

(a) Finds a drug screen to be clinically appropriate; or

(b) Believes that it is appropriate to determine whether or not the controlled substance is being taken by the patient.

(8) If prescribing a controlled substance for the treatment of a mental health condition, the APRN shall meet the requirements of this section.

(9) Prior to prescribing a controlled substance for a patient in the emergency department of a hospital that is not an emergency situation, the APRN shall:

(a) Obtain the patient's medical history, conduct an examination of the patient and document the information in the patient's medical record. An APRN certified in psychiatric/mental health shall obtain a medical and psychiatric history, perform a mental health assessment, and document the information in the patient's medical record;

(b) Query KASPER for all available data on the patient;

(c) Make a written treatment plan stating the objectives of the treatment and further diagnostic examinations required; and

(d) Discuss the risks and benefits of the use of controlled substances with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence, and document that the discussion occurred and that the patient consented to the treatment.

(10) For each patient for whom an APRN prescribes a controlled substance, the APRN shall keep accurate, readily accessible, and complete medical records, which include:

(a) Medical history and physical or mental health examination;

(b) Diagnostic, therapeutic, and laboratory results;

(c) Evaluations and consultations;

(d) Treatment objectives;

(e) Discussion of risk, benefits, and limitations of treatments;

(f) Treatments;

(g) Medications, including date, type, dosage, and quantity prescribed;

(h) Instructions and agreements;

(i) Periodic reviews of the patient's file; and

(j) All KASPER report identification numbers and the date of issuance of each KASPER report.

(11) The requirement to query KASPER shall not apply to:

(a) An APRN prescribing or administering a controlled substance immediately prior to, during, or within the fourteen (14) days following an operative or invasive procedure or a delivery if the prescribing or administering is medically related to the operative or invasive procedure or the delivery and the medication usage does not extend beyond the fourteen (14) days;

(b) An APRN prescribing or administering a controlled substance necessary to treat a patient in an emergency situation; or

(c) An APRN prescribing a controlled substance:

1. For administration in a hospital or long-term-care facility with an institutional account, or an APRN in a hospital or facility without an institutional account, if the hospital, long-term-care facility, or licensee queries KASPER for all available data on the patient or resident for the twelve (12) month period immediately preceding the query within twelve (12) hours of the patient's or resident's admission and places a copy of the query in the patient's or resident's medical records during the duration of the patient's stay at the facility;

2. As part of the patient's hospice or end-of-life treatment;

3. For the treatment of pain associated with cancer or with the treatment of cancer;

4. To assist a patient when submitting to a diagnostic test or procedure;

5. Within seven (7) days of an initial prescription pursuant to subsection (1) of this section if the prescribing:

a. Is done as a substitute for the initial prescribing;

b. Cancels any refills for the initial prescription; and

c. Requires the patient to dispose of any remaining unconsumed medication;

6. Within ninety (90) days of an initial prescription pursuant to subsection (1) of this section if the prescribing is done by another licensee in the same practice or in an existing coverage arrangement, if done for the same patient for the same condition;

7. To a research subject enrolled in a research protocol approved by an institutional review board that has an active federal-wide assurance number from the United States Department of Health and Human Services, Office for Human Research Protections if the research involves single, double, or triple blind drug administration or is additionally covered by a certificate of confidentiality from the National Institutes of Health;

8. During the effective period of any disaster or situation with mass casualties that have a direct impact on the APRN's practice;

9. As part of the administering or ordering of controlled substances to prisoners in a state, county, or municipal correctional facility;

10. That is a Schedule IV controlled substance for no longer than three (3) days for an established patient to assist the patient in responding to the anxiety of a nonrecurring event; or

11. That is classified as a Schedule V controlled substance.

(12) Federal regulation 21 C.F.R. 1306.12(b) concerning the issuance of multiple prescriptions for Schedule II controlled substances shall not be utilized by APRNs in this state.

(13) An APRN may order a reverse KASPER report to review the APRN's prescribing practices and to verify the information contained in KASPER is correct.

(14) An APRN shall not issue a prescription for hydrocodone combination products[~~Schedule II controlled substances~~] for more than a three (3) day supply if the prescription is intended to treat pain as an acute medical condition, with the following exceptions:

(a) The APRN, in his or her professional judgment, believes that more than a three (3) day supply of hydrocodone combination products[~~the Schedule II controlled substance~~] is medically necessary to treat the patient's pain as an acute medical condition and the APRN adequately documents the acute medical condition and lack of alternative treatment options which justifies deviation from the three (3) day supply limit on the patient's medical records;

(b) The prescription for hydrocodone combination products

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

[the Schedule II controlled substance] is prescribed to treat chronic pain;

(c) The prescription for **hydrocodone combination products [the Schedule II controlled substance]** is prescribed to treat pain associated with a valid cancer diagnosis;

(d) The prescription for **hydrocodone combination products [the Schedule II controlled substance]** is prescribed to treat pain while the patient is receiving hospice or end-of-life treatment;

(e) The prescription for **hydrocodone combination products [the Schedule II controlled substance]** is prescribed as part of a narcotic treatment program licensed by the Cabinet for Health and Family Services;

(f) The prescription for **hydrocodone combination products [the Schedule II controlled substance]** is prescribed to treat pain following a major surgery, which is any operative or invasive procedure or a delivery, or the treatment of significant trauma; or

(g) **Hydrocodone combination products [The Schedule II controlled substance]** is administered directly to an ultimate user in an inpatient setting.

(15) Prescriptions written for hydrocodone combination products pursuant to subsection (14)(a) through (g) of this section shall not exceed thirty (30) days without any refill.

Section 10. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "AACN Scope and Standards for Acute Care Nurse Practitioner Practice", 2012 Edition, American Association of Critical-Care Nurses;

(b) "AACN Scope and Standards for Acute Care Clinical Nurse Specialist Practice", 2014 Edition, American Association of Critical-Care Nurses;

(c) "Neonatal Nursing: Scope and Standards of Practice", 2013 Edition, American Nurses Association/National Association of Neonatal Nurses;

(d) "Nursing: Scope and Standards of Practice", 2015 Edition, American Nurses Association;

(e) "Pediatric Nursing: Scope and Standards of Practice", 2015 Edition, American Nurses Association/Society of Pediatric Nursing/National Association of Pediatric Nurse Practitioners;

(f) "Psychiatric-Mental Health Nursing 2nd Edition: Scope and Standards of Practice", 2014, American Nurses Association/American Psychiatric Nursing Association;

(g) "Scope of Practice for Nurse Practitioners", 2013 Edition, American Association of Nurse Practitioners;

(h) "Standards of Practice for Nurse Practitioners", 2013 Edition, American Association of Nurse Practitioners;

(i) "Scope of Nurse Anesthesia Practice", 2013 Edition, American Association of Nurse Anesthetists;

(j) "Standards for Nurse Anesthesia Practice", 2013 Edition, American Association of Nurse Anesthetists;

(k) "Standards for Office Based Anesthesia Practice", 2015 Edition, American Association of Nurse Anesthetists;

(l) "Standards for the Practice of Midwifery"; 2011 Edition, American College of Nurse-Midwives;

(m) "Statement on the Scope and Standards of Oncology Nursing Practice: Generalist and Advanced Practice", 2013 Edition, Oncology Nursing Society;

(n) "The Women's Health Nurse Practitioner: Guidelines for Practice and Education", 2014 Edition, Association of Women's Health, Obstetric and Neonatal Nurses/Nurse Practitioners in Women's Health;

(o) "Notification of a Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances (CAPA-CS)", 12/2014, Kentucky Board of Nursing;

(p) "Notification of a Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Nonscheduled Legend Drugs (CAPA-NS)", 12/2014, Kentucky Board of Nursing;

(q) "Notification to Discontinue the CAPA-NS After Four Years", 8/2015, Kentucky Board of Nursing; and

(r) "Common CAPA-NS Form", 6/2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of

Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

LEWIS PERKINS, President

APPROVED BY AGENCY: July 5, 2017

FILED WITH LRC: September 12, 2017 at 4 p.m.

CONTACT PERSON: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-3309, fax (502) 429-1248, email nathan.goldman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nathan Goldman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the scope and standards of practice for Advanced Practice Registered Nurses (APRN).

(b) The necessity of this administrative regulation: This administrative regulation is necessary because of KRS 314.042.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 314.042 which requires the Board to establish these requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing APRN scope and standards of practice.

(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: Language is being added pursuant to HB 333 (2017 Regular Session) that limits prescriptions of Schedule II drugs to 72 hours with certain exceptions.

(b) The necessity of the amendment to this administrative regulation: The amendment is required by HB 333.

(c) How the amendment conforms to the content of the authorizing statutes: By adopting the required language.

(d) How the amendment will assist in the effective administration of the statutes: The Board will enforce the new requirements for Schedule II prescriptions by APRNs.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: currently licensed APRNs, approximately 2500.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: An APRN who writes a prescription for hydrocodone combination products that will exceed 72 hours must comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost imposed by the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no additional cost.

(b) On a continuing basis: There is no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds.

(7) 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 is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: It does not.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Nursing

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? No additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

PUBLIC PROTECTION CABINET
Department of Insurance
(Amended After Comments)

806 KAR 3:210. Privacy of consumer financial and health information.

RELATES TO: ~~KRS 304.2-105, [KRS 304.12-170,]~~ 15 U.S.C. 6801-6810, the Gramm-Leach-Bliley Act

STATUTORY AUTHORITY: KRS ~~304.2-105,~~ 304.2-110, 15 U.S.C. 6801(b), 6805, the Gramm-Leach-Bliley Act

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the ~~commissioner [Executive Director]~~ of the Department of Insurance may make reasonable rules and administrative regulations necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code. The Gramm-Leach-Bliley Act, 15 U.S.C. 6801(b) and 6805, ~~requires [require]~~ state insurance commissioners to establish standards for insurers, agencies, and agents to safeguard the security and confidentiality of consumer records and information. 15 U.S.C. 6801 to 6810 applies to financial institutions engaging in financial activities such as "insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and issuing annuities, and acting as principal, agent, or broker for the purpose of the foregoing, in any State." 12 U.S.C. 1843(k)(4)(B). This administrative regulation extends the application to protect individuals "who obtain or are claimants or beneficiaries of products or services primarily for personal, family, or household purposes from licensees," in harmony with the federal regulations ~~[of the federal functional regulators]~~. This stricter standard will hold all Kentucky licensees to the same standard, protect the privacy of Kentucky citizens, and promote uniformity of state insurance administrative regulations across state borders because [since] this administrative regulation is [was] based on a

~~national model adopted by the National Association of Insurance Commissioners, and all states are imposing similar standards by statute or regulation.] Although [The] federal law does not prohibit financial institutions from discriminating against individuals who have used their right to opt out or refused to grant authorization to disclose nonpublic personal financial information, this [This] administrative regulation [is stricter in that it] protects Kentucky citizens ~~[who choose to use their rights to opt-out of disclosure]~~ from discrimination. This administrative regulation establishes security requirements for an insurer's, agency's, or agent's use of consumers' financial and health information.~~

Section 1. Definitions. (1) "Affiliate" means a company that controls, is controlled by, or is under common control with another company.

(2) "Annually" means at least once in a period of twelve (12) consecutive months during which a customer relationship exists.

(3) "Clear and conspicuous" means that a notice that is reasonably understandable and designed to call attention to the nature and significance of information in the notice.

(4) "Collect" means to obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol, or other identifying particular assigned to the individual, irrespective of the source of the underlying information.

(5) "Commissioner" means the Commissioner of the Kentucky Department of Insurance.

(6) "Company" means a corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship, or similar organization.

(7) "Consumer" means:

(a) An individual who seeks to obtain, obtains, or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes, and about whom the licensee has nonpublic personal information; or that individual's legal representative.

(b) A "consumer" shall include:

1. An individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment, or economic advisory services relating to an insurance product or service, regardless of whether the licensee establishes an ongoing advisory relationship;

2. An applicant for insurance prior to the inception of insurance coverage;

3. An individual subject to disclosure by a licensee of nonpublic personal financial information to a nonaffiliated third party, other than as permitted under Sections 14, 15, and 16 of this administrative regulation, if:

a. The individual is a beneficiary of a life insurance policy underwritten by the licensee;

b. The individual is a claimant under an insurance policy issued by the licensee;

c. The individual is an insured or annuitant under an insurance policy or an annuity issued by the licensee; or

d. The individual is a mortgagor of a mortgage covered under a mortgage insurance policy.

(c) An individual shall not be a "consumer" solely on the basis that:

1. An individual is a consumer of another financial institution and the licensee is acting as agent for, or provides processing or other services to, that financial institution;

2. An individual is a beneficiary of a trust for which the licensee is a trustee;

3. An individual has designated the licensee as trustee for a trust; or

(d) An individual shall not be a "consumer" solely based on the status listed in subparagraph 2a through c of this paragraph, if:

1. The licensee provides the initial, annual, and revised notices under Sections 5, 6, and 9 of this administrative regulation to the plan sponsor, group, or blanket insurance policyholder, group annuity contract holder, or workers' compensation plan participant; and

2. The licensee does not disclose to a nonaffiliated third party

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

nonpublic personal financial information, other than as permitted under Sections 14, 15, and 16 of this administrative regulation, about an individual who is:

a. A participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer, or fiduciary;

b. Covered under a group or blanket life insurance policy or group annuity contract issued by the licensee; or

c. A beneficiary in a workers' compensation plan.

(e) The individuals described in paragraph (d)2a through c [(b)3a through c] of this subsection shall be consumers of a licensee if the licensee fails to meet all the conditions of paragraph (d)1 and 2 [(b)1 and 2] of this subsection.

(8) "Consumer reporting agency" is defined in 15 U.S.C. 1681a(f) of the federal Fair Credit Reporting Act.

(9) "Continuing relationship" means a relationship between a consumer and a licensee if:

(a) The consumer is a current policyholder of an insurance product issued by or through the licensee; or

(b) The consumer obtains financial, investment, or economic advisory services relating to an insurance product or service from the licensee for a fee.

(c) A consumer shall not be deemed to have a continuing relationship with the licensee if:

1. The consumer applies for insurance but does not purchase the insurance;

2. The licensee sells the consumer airline travel insurance in an isolated transaction;

3. The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

4. The consumer is a beneficiary or claimant under a policy and has submitted a claim under that policy choosing a settlement option involving an ongoing relationship with the licensee;

5. The consumer is a beneficiary or claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;

6. The customer's policy has lapsed, expired, or is otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive months, other than annual privacy notices, material required by law or administrative regulation, communication at the direction of a state or federal authority, or promotional materials;

7. The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

8. The individual's last known address according to the licensee's records is deemed invalid. An address of record shall be deemed invalid if mail sent to that address by the licensee is returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual are unsuccessful.

(10) "Control" means:

(a) Ownership, control, or power to vote twenty-five (25) percent or more of the outstanding shares of any class of voting security of the company, or acting through one (1) or more other persons;

(b) Control over the election of a majority of directors, trustees, or general partners, or individuals exercising similar functions of the company; or

(c) The power to exercise a controlling influence over the management or policies of the company.

(11) "Customer" means a consumer who has a customer relationship with a licensee.

(12) "Customer relationship" means a continuing relationship between a consumer and a licensee under which the licensee provides one (1) or more insurance products or services to the consumer that are to be used primarily for personal, family, or household purposes.

(13) "Designed to call attention" means that the notice:

(a) Uses a plain-language heading;

(b) Uses a typeface and type size that are easy to read;

(c) Provides wide margins and ample line spacing;

(d) Uses boldface or italics for key words; and

(e) Is in a form that combines the licensee's notice with other information and uses distinctive type size, style, and graphic devices, such as shading or sidebars.

(f) If a licensee provides a notice on an Internet Web page, "designed to call attention" means that the notice uses text or visual cues to encourage scrolling down the page to view the entire notice, if necessary, and ensures that other elements on the Web site do not distract attention from the notice, and the licensee either:

1. Places the notice on a screen that consumers frequently access, such as a page on which transactions are conducted; or

2. Places a link on a screen that consumers frequently access, such as a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature, and relevance of the notice.

(14) "Financial institution" means any institution engaging in activities that are financial in nature or incidental to financial activities as described in Section 4(k) of the Bank Holding Company Act of 1956 at 12 U.S.C. 1843(k).

(a) "Financial institution" shall not include:

1. Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under 7 U.S.C. 1 to 27f of the Commodity Exchange Act;

2. The federal Agricultural Mortgage Corporation or any entity chartered and operating under 12 U.S.C. 2001-2279cc of the Farm Credit Act of 1971; or

3. Institutions chartered by Congress specifically to engage in securitizations, secondary market sales, including sales of servicing rights, or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(15) "Financial product or service" means any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to a financial activity described in Section 4(k) of the Bank Holding Company Act of 1956 at 12 U.S.C. 1843(k).

(a) "Financial service" shall include a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

(16) "Former customer" means an individual with whom a licensee no longer has a continuing relationship.

(17) "Health care" means preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, services, procedures, tests, or counseling that:

(a) Relates to the physical, mental, or behavioral condition of an individual; or

(b) Affects the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs, or any other tissue; or

(c) Prescribing, dispensing, or furnishing to an individual drugs or biologicals, or medical devices or health care equipment and supplies.

(18) "Health care provider" is defined in KRS 304.17A-005(23).

(19) "Health information" means any information or data except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer that relates to:

(a) The past, present, or future physical, mental or behavioral health or condition of an individual;

(b) The provision of health care to an individual; or

(c) Payment for the provision of health care to an individual.

(20) "Insurance product or service" means any product or service that is offered by a licensee, pursuant to KRS Chapter 304.

(a) "Insurance service" shall include a licensee's evaluation, brokerage, or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

(21) "Joint agreement" means a written contract pursuant to which a licensee and one (1) or more financial institutions jointly

offer, endorse, or sponsor a financial product or service.

(22) "Licensee" means all insurers holding a certificate of authority, licensed producers, companies, or business entities licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to the Kentucky Insurance Code, KRS Chapter 304.

(a) A licensee shall not be subject to the notice and opt-out requirements for nonpublic personal financial information established in this administrative regulation if the licensee is an employee, agent, or other representative of another licensee, "the principal", and:

1. The principal otherwise complies with, and provides the notices required by, the provisions of this administrative regulation; and

2. The licensee does not disclose any nonpublic personal financial information to any person other than the principal or its affiliates in a manner permitted by this administrative regulation.

(b) Subject to paragraph (a) of this subsection, "licensee" shall also include an unauthorized insurer that accepts business placed through a licensed surplus broker in Kentucky, but only in regard to the surplus lines placements placed pursuant to KRS 304.10.

(c) A surplus lines broker or surplus lines insurer shall be in compliance with the notice and opt-out requirements for nonpublic personal financial information established in this administrative regulation if:

1. The broker or insurer does not disclose nonpublic personal information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under Section 14 of this administrative regulation, except as permitted by Section 15 or 16 of this administrative regulation; and

2. The broker or insurer delivers a notice to a consumer when a customer relationship is established on which the following is printed in sixteen (16) point type:

"PRIVACY NOTICE - NEITHER THE U.S. BROKERS THAT HANDLED THIS INSURANCE NOR THE INSURERS THAT HAVE UNDERWRITTEN THIS INSURANCE WILL DISCLOSE NONPUBLIC PERSONAL INFORMATION CONCERNING THE BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS EXCEPT AS PERMITTED BY LAW."

(d) A licensee shall not include registered service contract makers as defined in 806 KAR 5:060.

(23) "Necessary to effect, administer, or enforce a transaction" means that the disclosure is required or:

(a) Is one (1) of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(b) Is a usual, appropriate, or acceptable method:

1. To carry out the transaction, the product, or the service business of which the transaction is a part, and record, service, or maintain the consumer's account in the ordinary course of providing the insurance product or service;

2. To administer or service benefits or claims relating to the transaction, product, or service business of which it is a part;

3. To provide a confirmation, statement, or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer's agent or broker;

4. To accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party;

5. To underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance:

a. Account administration;

b. Reporting;

c. Investigating or preventing fraud or material misrepresentation;

d. Processing premium payments;

e. Processing insurance claims;

f. Administering insurance benefits, such as utilization review activities;

g. Participating in research projects; or

h. As otherwise required or specifically permitted by federal or state law; or

6. In connection with:

a. The authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited, or otherwise paid using a debit, credit, or other payment card, check or account number, or by other payment means;

b. The transfer of receivables, accounts, or interests; or

c. The audit of debit, credit, or other payment information.

(24) "Nonaffiliated third party" means any person who is not:

(a) A licensee's affiliate; or

(b) Employed jointly by a licensee and a company that is not the licensee's affiliate.

(c) "Nonaffiliated third party" shall include:

1. Any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in 12 U.S.C. 1843(k)(4)(H) and (I) of the federal Bank Holding Company Act; and

2. A company that is not the licensee's affiliate that jointly employs a person who is also employed by the licensee.

(25) "Nonpublic personal financial information" means:

(a) Personally-identifiable financial information; and

(b) Any list, description, or other grouping of consumers, and publicly-available information pertaining to them that is derived using personally-identifying financial information that is not publicly available.

(c) "Nonpublic personal financial information" shall include any list of individuals' names and street addresses that is derived in whole or in part using personally-identifiable financial information that is not publicly available, such as account numbers.

(d) "Nonpublic personal financial information" shall not include:

1. Health information subject to Section 18 of this administrative regulation;

2. Publicly-available information, except as included on a list described paragraph (b) or (c) of this subsection; or

3. Any list, description, or other grouping of consumers and publicly-available information pertaining to them that is derived without using any personally-identifiable financial information that is not:

a. Publicly available, including any list of individuals' names and addresses that contains only publicly-available information;

b. Derived in whole or in part using personally-identifiable financial information that is not publicly available; and

c. Disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

(26) "Nonpublic personal health information" means health information:

(a) That identifies an individual who is subject of the information; or

(b) With respect to which there is a reasonable basis to believe that the information may be used to identify an individual.

(27) "Opt out" means a direction by the consumer that the licensee not disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by Sections 14, 15, and 16 of this administrative regulation.

(28) "Personally-identifiable financial information" means information:

(a) That a consumer provides to a licensee to obtain an insurance product or service from the licensee;

(b) About a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer; or

(c) That the licensee otherwise obtains about a consumer in connection with providing an insurance product or service to a consumer.

(d) "Personally-identifiable financial information" shall include:

1. Information a consumer provides to a licensee on an application to obtain an insurance product or service;

2. Account balance information and payment history;

3. The fact that an individual is or has been one (1) of the licensee's customers or has obtained an insurance product or

service from the licensee:

4. Any information about the licensee's consumer if it is disclosed in a manner that indicates that the individual is or has been the licensee's consumer;

5. Any information that a consumer provides to a licensee or that the licensee or its agent otherwise obtains in connection with collecting on a loan or servicing a loan;

6. Any information the licensee collects through an Internet cookie, an information-collecting device from a Web server; and

7. Information from a consumer report.

(e) "Personally-identifiable financial information" shall not include:

1. Health information subject to Section 18 of this administrative regulation;

2. A list of names and addresses of customers of an entity that is not a financial institution; and

3. Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names, or addresses.

(29) "Publicly-available information" means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from:

(a) Federal, state, or local government records;

(b) Widely-distributed media; or

(c) Disclosures to the general public that are required to be made by federal, state, or local law.

(30) "Reasonable basis" to believe that information is lawfully made available to the general public means the licensee has taken steps to determine:

(a) That the information is the type that is available to the general public; and

(b) Whether an individual may direct that the information not be made available to the general public and, if so, that the licensee's consumer has not done so.

(31) "Reasonably understandable" means a notice:

(a) Presents the information in the notice in clear, concise sentences, paragraphs, and sections;

(b) Uses short explanatory sentences or bullet lists, if possible;

(c) Uses definite, concrete, everyday words and active voice, if possible;

(d) Avoids multiple negatives;

(e) Avoids legal and highly technical business terminology, if possible; and

(f) Avoids explanations that are imprecise and readily subject to different interpretations.

Section 2. Purpose and Scope. This administrative regulation governs the treatment of nonpublic personal health information and nonpublic personal financial information about individuals by all licensees. (1) This administrative regulation:

(a) Requires a licensee to provide notice to individuals about its privacy policies and practices;

(b) Describes the conditions under which a licensee may disclose nonpublic personal financial information and nonpublic personal health information about individuals to affiliates and nonaffiliated third parties; and

(c) Provides methods for individuals to prevent a licensee from disclosing that information.

(2) This administrative regulation applies to:

(a) Nonpublic personal financial information about individuals who obtain or are claimants or beneficiaries of products or services primarily for personal, family or household purposes from licensees. This administrative regulation shall not apply to information about companies or about individuals who obtain products or services for business, commercial or agricultural purposes; and

(b) All nonpublic personal health information.

Section 3. Compliance. A licensee domiciled in this state that is in compliance with this administrative regulation in a state that has not enacted laws or regulations that meet the requirements of Title V of the Gramm-Leach-Bliley Act (Pub.L. 102-106) may be deemed to be in compliance with Title V of the Gramm-Leach-

Bliley Act in such other state.

Section 4. Rules of Construction. (1) The examples, sample clauses, and Model Privacy Form in the material incorporated by reference are not exclusive. Compliance with an example, use of a sample clause, or Model Privacy Form, to the extent applicable, shall constitute compliance with this administrative regulation.

(2) Licensees may rely on use of the Model Privacy Form, consistent with the instructions, as a safe harbor compliance with the privacy notice content requirements of this administrative regulation.

(3) Sample Clauses and Examples, PVCY-01 (11/01 Edition). The Samples Clauses and Examples, incorporated by reference by this administrative regulation, contain sample clauses and examples for the following:

(a) Establishment of a customer relationship, referenced in Section 5;

(b) Exceptions to the required Initial Privacy Notices to Consumers, referenced in Section 5;

(c) The annual privacy notice to customers, referenced in Section 6;

(d) Customer terminations, referenced in Section 6;

(e) Obtaining privacy notices, referenced in Section 7;

(f) Samples clauses of the notice content required by Section 7; and

(g) Joint consumer opt outs, referenced in Section 8.

(4) Use of the Model Privacy Form is not required. Licensees may continue to use other types of privacy notices, including notices that contain examples and sample clauses in the material incorporated by reference, provided that such notices accurately describe the licensee's privacy practices and otherwise meet the notice content requirements of this administrative regulation. However, while licensees may continue to use privacy notices that contain examples or sample clauses, licensees may not rely on use of privacy notices with the sample clauses incorporated by reference as a safe harbor of compliance with the notice content requirements of this administrative regulation after July 1, 2019.

Section 5. Initial Privacy Notice to Consumers Required. (1) Initial notice requirement. A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to a:

(a) Customer. An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in subsection (5) of this section; and

(b) Consumer. A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by Sections 15 and 16 of this administrative regulation.

(2) When initial notice to a consumer is not required. A licensee shall not be required to provide an initial notice to a consumer under subsection (1)(b) of this section if:

(a) The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by Sections 15 and 16 of this administrative regulation, and the licensee does not have a customer relationship with the consumer; or

(b) A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee and the other institutions.

(3) When the licensee establishes a customer relationship.

(a) General rule. A licensee establishes a customer relationship when the licensee and the consumer enter into a continuing relationship.

(4) Existing customers. If an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, the licensee satisfies the initial notice requirements of subsection (1) of this section as follows:

(a) The licensee may provide a revised policy notice, under

Section 9 of this administrative regulation, that covers the customer's new insurance product or service; or

(b) If the initial, revised, or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee shall not be required to provide a new privacy notice under subsection (1) of this section.

(5) Exceptions to allow subsequent delivery of notice. A licensee may provide the initial notice required by subsection (1) of this section within a reasonable time after the licensee establishes a customer relationship if:

1. Establishing the customer relationship is not at the customer's election; or

2. Providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time.

(6) Delivery. When a licensee is required to deliver an initial privacy notice by this section, the licensee shall deliver it according to Section 10 of this administrative regulation. If the licensee uses a short-form initial notice for noncustomers according to Section 7(4) of this administrative regulation, the licensee may deliver its privacy notice according to Section 7(4)(c) of this administrative regulation.

Section 6. Annual Privacy Notice to Customers Required. (1) General rule. Except as provided in subsection (3) of this section, a licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. A licensee may define the twelve (12) consecutive month period, but the licensee shall apply it to the customer on a consistent basis.

(2) Termination of customer relationship. A licensee shall not be required to provide an annual notice to a former customer.

(3) Exception to annual privacy notice requirement.

(a) A licensee that provides nonpublic personal information to nonaffiliated third parties only in accordance with Sections 14, 15, or 16 of this administrative regulation and has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with this section or Section 5 shall not be required to provide an annual disclosure under this section.

(b) At any time a licensee fails to comply with any of the exception criteria described in subsection (3)(a), the licensee shall be required to provide the annual privacy notice required under subsection (1).

(4) Delivery. When a licensee is required by this section to deliver an annual privacy notice, the licensee shall deliver it according to Section 10 of this administrative regulation.

Section 7. Information to be Included in Privacy Notices. (1) General rule. The initial, annual and revised privacy notices that a licensee provides under Sections 5, 6, and 9 of this administrative regulation shall include each of the following items of information, in addition to any other information the licensee wishes to provide, that applies to the licensee and to the consumers to whom the licensee sends its privacy notice:

(a) The categories of nonpublic personal financial information that the licensee collects;

(b) The categories of nonpublic personal financial information that the licensee discloses;

(c) The categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under Sections 15 and 16 of this administrative regulation;

(d) The categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than

those parties to whom the licensee discloses information under Sections 15 and 16 of this administrative regulation;

(e) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under Section 14 of this administrative regulation, and no other exception in Sections 15 and 16 of this administrative regulation applies to that disclosure, a separate description of the categories of information the licensee discloses and the categories of third parties with whom the licensee has contracted;

(f) An explanation of the consumer's right under Section 11 of this administrative regulation to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time;

(g) Any disclosures that the licensee makes under 15 U.S.C. 1681a(d)(2)(A)(iii) of the federal Fair Credit Reporting Act (that is, notices regarding the ability to opt out of disclosures of information among affiliates);

(h) The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information; and

(i) Any disclosure that the licensee makes under subsection (2) of this section.

(2) Description of parties subject to exceptions. If a licensee discloses nonpublic personal financial information as authorized under Sections 15 and 16 of this administrative regulation, the licensee shall not be required to list those exceptions in the initial or annual privacy notices required by Sections 5 and 6 of this administrative regulation. If describing the categories of parties to whom disclosure is made, the licensee shall state only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable, as permitted by law.

(3) Examples.

(a) Categories of nonpublic personal financial information that the licensee collects. A licensee shall satisfy the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes it according to the source of the information, as applicable:

1. Information from the consumer;

2. Information about the consumer's transactions with the licensee or its affiliates;

3. Information about the consumer's transactions with nonaffiliated third parties; and

4. Information from a consumer reporting agency.

(b) Categories of nonpublic personal financial information a licensee discloses.

1. A licensee shall satisfy the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes the information according to source, as described in subparagraph 3 of this paragraph, as applicable, and provides a few examples to illustrate the types of information in each category. These may include:

a. Information from the consumer, including application information, such as assets and income and identifying information, such as name, address and Social Security number;

b. Transaction information, such as information about balances, payment history and parties to the transaction; and

c. Information from consumer reports, such as a consumer's creditworthiness and credit history.

2. A licensee shall not categorize the information that it discloses by using only general terms, such as transaction information about the consumer.

3. If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information that the licensee discloses.

(c) Categories of affiliates and nonaffiliated third parties to whom the licensee discloses.

1. A licensee shall satisfy the requirement to categorize the affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in

which they engage.

2. Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business. For example, a licensee may use the term "financial products or services" if it includes appropriate examples of significant lines of businesses, such as life insurer, automobile insurer, consumer banking or securities brokerage.

3. A licensee also may categorize the affiliates and nonaffiliated third parties to which it discloses nonpublic personal financial information about consumers using more detailed categories.

4. Disclosures under exception for service providers and joint marketers. If a licensee discloses nonpublic personal financial information under the exception in Section 14 of this administrative regulation to a nonaffiliated third party to market products or services that it offers alone or jointly with another financial institution, the licensee shall satisfy the disclosure requirement of subsection (1)(e) of this section if it:

a. Lists the categories of nonpublic personal financial information it discloses, using the same categories and examples the licensee used to meet the requirements of subsection (1)(b) of this section, as applicable; and

b. States whether the third party is a service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or a financial institution with whom the licensee has a joint marketing agreement.

5. Simplified notices. If a licensee does not disclose, and does not wish to reserve the right to disclose, nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under Sections 15 and 16 of this administrative regulation, the licensee may simply state that fact, in addition to the information it shall provide under subsections (1)(a), (h), (i), and (2) of this section.

6. Confidentiality and security. A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following:

a. Describes in general terms who is authorized to have access to the information; and

b. States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. The licensee shall not be required to describe technical information about the safeguards it uses.

(4) Short-form initial notice with opt-out notice for noncustomers.

(a) A licensee may satisfy the initial notice requirements in Sections 5(1)(b) and 8(3) of this administrative regulation for a consumer who is not a customer by providing a short-form initial notice at the same time as the licensee delivers an opt-out notice as required in Section 8 of this administrative regulation.

(b) A short-form initial notice shall:

1. Be clear and conspicuous;

2. State that the licensee's privacy notice is available upon request; and

3. Explain a reasonable means by which the consumer may obtain that notice.

(c) The licensee shall deliver its short-form initial notice according to Section 10 of this administrative regulation. The licensee is not required to deliver its privacy notice with its short-form initial notice. The licensee instead may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the licensee's privacy notice, the licensee shall deliver its privacy notice according to Section 10 of this administrative regulation.

(5) Future disclosures. The licensee's notice may include:

(a) Categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future, but does not currently disclose; and

(b) Categories of affiliates or nonaffiliated third parties to whom the licensee reserves the right in the future to disclose, but to whom the licensee does not currently disclose, nonpublic personal financial information.

Section 8. Form of Opt-out Notice to Consumers and Opt-out Methods. (1)(a) Form of opt-out notice. If a licensee is required to provide an opt-out notice under Section 11(1) of this administrative regulation, it shall provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under that section. The notice shall state:

1. That the licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party;

2. That the consumer has the right to opt out of that disclosure; and

3. A reasonable means by which the consumer may exercise the opt-out right.

(b)1. Adequate opt-out notice. A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee:

a. Identifies all of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, as described in Section 7(1)(b) and (c) of this administrative regulation, and states that the consumer may opt out of the disclosure of that information; and

b. Identifies the insurance products or services that the consumer obtains from the licensee, either singly or jointly, to which the opt-out direction would apply.

2. Reasonable opt-out means. A licensee provides a reasonable means to exercise an opt-out right if it:

a. Designates check-off boxes in a prominent position on the relevant forms with the opt-out notice;

b. Includes a reply form together with the opt-out notice;

c. Provides an electronic means to opt out, such as a form that can be sent via electronic mail or a process at the licensee's Web site, if the consumer agrees to the electronic delivery of information; or

d. Provides a toll-free telephone number that consumers may call to opt out.

3. Unreasonable opt-out means. A licensee does not provide a reasonable means of opting out if:

a. The only means of opting out is for the consumer to write his or her own letter to exercise that opt-out right; or

b. The only means of opting out as described in any notice subsequent to the initial notice is to use a check-off box that the licensee provided with the initial notice but did not include with the subsequent notice.

4. Specific opt-out means. A licensee may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

(2) Same form as initial notice permitted. A licensee may provide the opt-out notice together with or on the same written or electronic form as the initial notice the licensee provides in accordance with Section 5 of this administrative regulation.

(3) Initial notice required when opt-out notice delivered subsequent to initial notice. If a licensee provides the opt-out notice later than required for the initial notice in accordance with Section 5 of this administrative regulation, the licensee shall also include a copy of the initial notice with the opt-out notice in writing or, if the consumer agrees, electronically.

(4) Joint relationships.

(a) If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt-out notice. The licensee's opt-out notice shall explain how the licensee will treat an opt-out direction by a joint consumer.

(b) Any of the joint consumers may exercise the right to opt out. The licensee may either:

1. Treat an opt-out direction by a joint consumer as applying to all of the associated joint consumers; or

2. Permit each joint consumer to opt out separately.

(c) If a licensee permits each joint consumer to opt out separately, the licensee shall permit one (1) of the joint consumers to opt out on behalf of all of the joint consumers.

(d) A licensee may not require all joint consumers to opt out before it implements any opt-out direction.

(5) Time to comply with opt out. A licensee shall comply with a consumer's opt-out direction as soon as reasonably practicable after the licensee receives it.

(6) Continuing right to opt out. A consumer may exercise the right to opt out at any time.

(7) Duration of consumer's opt-out direction.

(a) A consumer's direction to opt out under this section is effective until the consumer revokes it in writing or, if the consumer agrees, electronically.

(b) When a customer relationship terminates, the customer's opt-out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the licensee, the opt-out direction that applied to the former relationship does not apply to the new relationship.

(8) Delivery. When a licensee is required to deliver an opt-out notice by this section, the licensee shall deliver it according to Section 10 of this administrative regulation.

Section 9. Revised Privacy Notices. (1) General rule. Except as otherwise authorized in this administrative regulation, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to that consumer under Section 5 of this administrative regulation, unless:

(a) The licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices;

(b) The licensee has provided to the consumer a new opt-out notice;

(c) The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

(d) The consumer does not opt out.

(2)(a) Except as otherwise permitted by Sections 14, 15, and 16 of this administrative regulation, a licensee shall provide a revised notice before it:

1. Discloses a new category of nonpublic personal financial information to any nonaffiliated third party;

2. Discloses nonpublic personal financial information to a new category of nonaffiliated third party; or

3. Discloses nonpublic personal financial information about a former customer to a nonaffiliated third party, if that former customer has not had the opportunity to exercise an opt-out right regarding that disclosure.

(b) A revised notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in its prior notice.

Section 10. Delivery. (1) How to provide notices. A licensee shall provide any notices that this administrative regulation requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

(2)(a) Illustrations of reasonable expectation of actual notice. A licensee may reasonably expect that a consumer will receive actual notice if the licensee:

1. Hand-delivers a printed copy of the notice to the consumer;

2. Mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing or other written communication;

3. For a consumer who conducts transactions electronically, post the notice on the electronic site and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service; or

4. For an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, post the notice and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular insurance product or service.

(b) Illustrations of unreasonable expectation of actual notice. A licensee shall not, however, reasonably expect that a consumer

will receive actual notice of its privacy policies and practices if it:

1. Only posts a sign in its office or generally publishes advertisements of its privacy policies and practices; or

2. Sends the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically.

(3) Annual notices only. A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if:

(a) The customer uses the licensee's Web site to access insurance products and services electronically and agrees to receive notices at the Web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the Web site; or

(b) The customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request.

(4) Oral description of notice insufficient. A licensee may not provide any notice required by this administrative regulation solely by orally explaining the notice, either in person or over the telephone.

(5) Retention or accessibility of notices for customers.

(a) For customers only, a licensee shall provide the initial notice required by Section 5(1)(a) of this administrative regulation, the annual notice required by Section 6(1) of this administrative regulation, and the revised notice required by Section 9 of this administrative regulation so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

(b) Examples of retention or accessibility. A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee:

1. Hand-delivers a printed copy of the notice to the customer;

2. Mails a printed copy of the notice to the last known address of the customer; or

3. Makes its current privacy notice available on a Web site, or a link to another Web site, for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the Web site.

(6) Joint notice with other financial institutions. A licensee may provide a joint notice from the licensee and one (1) or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution.

(7) Joint relationships. If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual and revised notice requirements of Sections 5(1), 6(1), and 9 of this administrative regulation, respectively, by providing one (1) notice to those consumers jointly.

Section 11. Limits on Disclosure of Nonpublic Personal Financial Information to Nonaffiliated Third Parties. (1)(a) Conditions for disclosure. Except as otherwise authorized in this administrative regulation, a licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless:

1. The licensee has provided to the consumer an initial notice as required under Section 5 of this administrative regulation;

2. The licensee has provided to the consumer an opt-out notice as required in Section 8 of this administrative regulation;

3. The licensee has given the consumer a reasonable opportunity, before it discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

4. The consumer does not opt out.

(b) A licensee provides a consumer with a reasonable opportunity to opt out if:

1. By mail. The licensee mails the notices required in subsection (1)(a) to the consumer and allows the consumer to opt out by mailing a form, calling a toll-free telephone number or any other reasonable means within thirty (30) days from the date the

licensee mailed the notices.

2. By electronic means. A customer opens an on-line account with a licensee and agrees to receive the notices required in subsection (1)(a) electronically, and the licensee allows the customer to opt out by any reasonable means within thirty (30) days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.

3. Isolated transaction with consumer. For an isolated transaction such as providing the consumer with an insurance quote, a licensee provides the consumer with a reasonable opportunity to opt out if the licensee provides the notices required in subsection (1)(a) at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

(2) Application of opt out to all consumers and all nonpublic personal financial information.

(a) A licensee shall comply with this section, regardless of whether the licensee and the consumer have established a customer relationship.

(b) Unless a licensee complies with this section, the licensee shall not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer.

(3) Partial opt out. A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

Section 12. Limits on Redislosure and Reuse of Nonpublic Personal Financial Information. (1)(a) Information the licensee receives under an exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception in Section 15 or 16 of this administrative regulation, the licensee's disclosure and use of that information shall be limited as follows:

1. The licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information;

2. The licensee may disclose the information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information; and

3. The licensee may disclose and use the information pursuant to an exception in Section 15 or 16 of this administrative regulation, in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

(b) If a licensee receives information from a nonaffiliated financial institution for claims settlement purposes, the licensee shall disclose the information for fraud prevention, or in response to a properly authorized subpoena. The licensee may not disclose that information to a third party for marketing purposes or use that information for its own marketing purposes.

(2)(a) Information a licensee receives outside of an exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution other than under an exception in Section 15 or 16 of this administrative regulation, the licensee may disclose the information only:

1. To the affiliates of the financial institution from which the licensee received the information;

2. To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and

3. To any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the licensee received the information.

(b) If a licensee obtains a customer list from a nonaffiliated financial institution outside of the exceptions in Section 15 or 16 of this administrative regulation:

1. The licensee may use that list for its own purposes; and

2. The licensee may disclose that list to another nonaffiliated third party only if the financial institution from which the licensee

purchased the list could have lawfully disclosed the list to that third party. That is, the licensee may disclose the list in accordance with the privacy policy of the financial institution from which the licensee received the list, as limited by the opt-out direction of each consumer whose nonpublic personal financial information the licensee intends to disclose, and the licensee may disclose the list in accordance with an exception in Section 15 or 16 of this administrative regulation, such as to the licensee's attorneys or accountants.

(3) Information a licensee discloses under an exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in Section 15 or 16 of this administrative regulation, the third party may disclose and use that information only as follows:

(a) The third party may disclose the information to the licensee's affiliates;

(b) The third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and

(c) The third party may disclose and use the information pursuant to an exception in Section 15 or 16 of this administrative regulation in the ordinary course of business to carry out the activity covered by the exception under which it received the information.

(4) Information a licensee discloses outside of an exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in Section 15 or 16 of this administrative regulation, the third party may disclose the information only:

(a) To the licensee's affiliates;

(b) To the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and

(c) To any other person, if the disclosure would be lawful if the licensee made it directly to that person.

Section 13. Limits on Sharing Account Number Information for Marketing Purposes. (1) General prohibition on disclosure of account numbers. A licensee shall not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.

(2) Exceptions. Subsection (1) of this section shall not apply if a licensee discloses a policy number or similar form of access number or access code:

(a) To the licensee's service provider solely in order to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account;

(b) To a licensee who is a producer solely in order to perform marketing for the licensee's own products or services; or

(c) To a participant in an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program.

(3)(a) A policy number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code.

(b) For the purposes of this section, a policy or transaction account is an account other than a deposit account or a credit card account. A policy or transaction account does not include an account to which third parties cannot initiate charges.

Section 14. Exception to Opt-out Requirements for Disclosure of Nonpublic Personal Financial Information for Service Providers and Joint Marketing. (1) General rule.

(a) The opt-out requirements in Sections 8 and 11 of this administrative regulation shall not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the

licensee's behalf, if the licensee:

1. Provides the initial notice in accordance with Section 5 of this administrative regulation; and

2. Enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in Section 15 or 16 of this administrative regulation in the ordinary course of business to carry out those purposes.

(b) If a licensee discloses nonpublic personal financial information under Section 14 to a financial institution with which the licensee performs joint marketing, the licensee's contractual agreement with that institution shall meet the requirements of Section 14(a)(2) if it prohibits the institution from disclosing or using the nonpublic personal financial information except as necessary to carry out the joint marketing or under an exception in Section 15 or 16 of this administrative regulation in the ordinary course of business to carry out that joint marketing.

(2) Service may include joint marketing. The services a nonaffiliated third party performs for a licensee under subsection (1) of this section may include marketing of the licensee's own products or services or marketing of financial products or services offered pursuant to joint agreements between the licensee and one (1) or more financial institutions.

Section 15. Exceptions to Notice and Opt-out Requirements for Disclosure of Nonpublic Personal Financial Information for Processing and Servicing Transactions. Exceptions for processing transactions at consumer's request. The requirements for initial notice in Section 5(1)(b) of this administrative regulation, the opt out in Sections 8 and 11 of this administrative regulation, and service providers and joint marketing in Section 14 of this administrative regulation shall not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with:

(1) Servicing or processing an insurance product or service that a consumer requests or authorizes;

(2) Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity;

(3) A proposed or actual securitization, secondary market sale, including sales of servicing rights, or similar transaction related to a transaction of the consumer; or

(4) Reinsurance or stop loss or excess loss insurance.

Section 16. Other Exceptions to Notice and Opt-out Requirements for Disclosure of Nonpublic Personal Financial Information. (1) Exceptions to opt-out requirements. The requirements for initial notice to consumers in Section 5(1)(b) of this administrative regulation, the opt out in Sections 8 and 11 of this administrative regulation, and service providers and joint marketing in Section 14 of this administrative regulation shall not apply if a licensee discloses nonpublic personal financial information:

(a) With the consent or at the direction of the consumer, if the consumer has not revoked the consent or direction;

(b)1. To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product or transaction;

2. To protect against or prevent actual or potential fraud or unauthorized transactions;

3. For required institutional risk control or for resolving consumer disputes or inquiries;

4. To persons holding a legal or beneficial interest relating to the consumer; or

5. To persons acting in a fiduciary or representative capacity on behalf of the consumer;

(c) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating a licensee, persons that are assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants and auditors;

(d) To the extent specifically permitted or required under other

provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 to 3422, to law enforcement agencies, including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, with respect to 31 U.S.C. 5311 to 5330, Records and Reports on Monetary Instruments and Transactions, and 12 U.S.C. 1951 to 1959, Financial Recordkeeping, a state insurance authority, and the Federal Trade Commission, self-regulatory organizations or for an investigation on a matter related to public safety;

(e)1. To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act, 15 U.S.C. 1681 to 1681u; or

2. From a consumer report reported by a consumer reporting agency;

(f) In connection with a proposed or actual sale, merger, transfer or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business or unit;

(g)1. To comply with federal, state or local laws, rules and other applicable legal requirements;

2. To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by federal, state or local authorities;

3. To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance or other purposes as authorized by law; or

4. For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan or a workers' compensation plan.

(2) Revocation of consent. A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under Section 8(6) of this administrative regulation.

(3) Licensees in liquidation or rehabilitation according to KRS Chapter 304.33 shall be exempt from the notice provisions of this administrative regulation.

Section 17. Privacy Notices to Group Policyholders. Unless a licensee is providing privacy notices directly to covered individuals described in Section 5(1)(c), a licensee shall provide initial, annual, and revised notices to the plan sponsor, group or blanket insurance policyholder or group annuity contractholder, or workers' compensation policyholder, in the manner described in Sections 5 through 10 of this administrative regulation, describing the licensee's privacy practices with respect to nonpublic personal information about individuals covered under the policies, contracts, or plans.

Section 18. When Authorization Required for Disclosure of Nonpublic Personal Health Information. (1) A licensee shall not disclose nonpublic personal health information about a consumer or customer unless an authorization is obtained from the consumer or customer about whom such information is sought to be disclosed.

(2) Nothing in this section shall prohibit, restrict or require an authorization for the disclosure of such information by a licensee for the performance of the following insurance functions by or on behalf of the licensee: claims administration; claims adjustment and management; detection, investigation or reporting of actual or potential fraud; misrepresentation or criminal activity; underwriting; policy placement or issuance; loss control; ratemaking and guaranty fund function; reinsurance and excess loss insurance; risk management; case management; disease management; quality assurance; quality improvement; performance evaluation; provider credentialing verification; utilization review; peer review activities; actuarial, scientific, medical or public policy research; grievance procedures; internal administration of compliance, managerial, and information systems; policyholder service function; auditing; reporting; database security; administration of consumer disputes and inquiries; external accreditation standards; the replacement of a group benefit plan or workers' compensation

policy or program; activities in connection with a sale, merger, transfer, or exchange of all or part of a business or operating unit; any activity that permits disclosure without authorization pursuant to the federal Health Insurance Portability and Accountability Act privacy rule which is promulgated by the U.S. Department of Health and Human Services at 45 C.F.R. 160 to 164; disclosure that is required, or is one (1) of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out a transaction or providing a product or service that a consumer requests or authorizes; and any activity otherwise permitted by law, required pursuant to governmental reporting authority, or to comply with legal process.

(3) Additional insurance functions may be added with the approval of the commissioner to the extent they are necessary for appropriate performance of insurance functions and are fair and reasonable to the interest of consumers.

Section 19. Authorizations. (1) A valid authorization to disclose nonpublic personal health information pursuant to Section 18 shall be in written or electronic form and shall contain the following:

(a) The identity of the consumer or customer who is the subject of the nonpublic personal health information;

(b) A general description of the types of information to be disclosed;

(c) General descriptions of the parties to whom disclosure shall be made, the purpose of the disclosure, and how the information will be used;

(d) The signature of the affected consumer or customer or the individual who is legally empowered to grant authority and the date signed;

(e) Notice of the length of time for which the authorization is valid, not to exceed twenty-four (24) months; and

(f) Notice that the consumer or customer may revoke the authorization at any time and the procedure for making a revocation.

(2) A consumer or customer who is subject of nonpublic personal health information may revoke an authorization provided pursuant to this section at any time, subject to the rights of an individual who acted in reliance on the authorization prior to notice of the revocation.

(3) A licensee shall retain the authorization or copy thereof in the record of the affected individual.

Section 20. Authorization Request Delivery. (1) A request for authorization and an authorization form may be delivered to a consumer or customer as part of an opt-out notice pursuant to Section 10, provided that the request and the authorization form are clear and conspicuous. An authorization form is not required to be delivered to the consumer or customer or included in any other notices unless the licensee intends to disclose protected health information pursuant to Section 18(1).

Section 21. Relationship to Federal Rules. Regardless of whether a licensee is subject to the federal Health Insurance Portability and Accountability Act ("HIPAA") privacy rule as promulgated by the U.S. Department of Health and Human Services at 45 C.F.R. 160 to 164, if a licensee complies with all requirements of 45 C.F.R. 160 to 164, the licensee shall not be subject to Sections 18, 19, and 20 of this administrative regulation.

Section 22. Nondiscrimination. A licensee shall not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure or has not granted authorization for the disclosure of his or her nonpublic personal financial information pursuant to the provisions of this administrative regulation.

Section 23. Violation. A violation of this administrative regulation shall constitute an unfair trade practice in the business of insurance and shall subject the licensee to a civil penalty authorized by KRS 304.99-020.

Section 24. Incorporation by Reference. (1) The following

material is incorporated by reference:

(a) PVCY-01, "Sample Clauses and Examples (Edition 11/01)"; and

(b) Model Privacy Forms & General Instructions.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Office of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [Definitions. (1) "Affiliate" means a company that controls, is controlled by, or is under common control with another company.

(2) "Annually" means at least once in a period of twelve (12) consecutive months during which a customer relationship exists.

(3) "Clear and conspicuous" means that a notice that is reasonably understandable and designed to call attention to the nature and significance of information in the notice.

(4) "Collect" means to obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol, or other identifying particular assigned to the individual, irrespective of the source of the underlying information.

(5) "Executive Director" means the Commissioner of the Kentucky Office of Insurance.

(6) "Company" means a corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship, or similar organization.

(7) "Consumer" means:

(a) An individual who seeks to obtain, obtains, or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes, and about whom the licensee has nonpublic personal information; or

(b) That individual's legal representative.

(8) "Consumer reporting agency" is defined in 15 U.S.C. 1681a(f) of the federal Fair Credit Reporting Act.

(9) "Continuing relationship" means a relationship between a customer and a licensee if:

(a) The consumer is a current policyholder of an insurance product issued by or through the licensee; or

(b) The consumer obtains financial, investment, or economic advisory services relating to an insurance product or service from the licensee for a fee.

(10) "Control" means:

(a) Ownership, control, or power to vote twenty-five (25) percent or more of the outstanding shares of any class of voting security of the company, or acting through one (1) or more other persons;

(b) Control over the election of a majority of directors, trustees, or general partners, or individuals exercising similar functions of the company; or

(c) The power to exercise a controlling influence over the management or policies of the company.

(11) "Customer" means a consumer who has a customer relationship with a licensee.

(12) "Customer relationship" means a continuing relationship between a consumer and a licensee under which the licensee provides one (1) or more insurance products or services to the consumer that are to be used primarily for personal, family, or household purposes.

(13) "Designed to call attention" means that the notice:

(a) Uses a plain language heading to call attention to the notice;

(b) Uses a typeface and type size that are easy to read;

(c) Provides wide margins and ample line spacing;

(d) Uses boldface or italics for key words; and

(e) Is in a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars.

(f) If a licensee provides a notice on an Internet Web page, "designed to call attention" means that the notice uses text or visual cues to encourage scrolling down the page to view the entire notice, if necessary, and ensures that other elements on the Web site do not distract attention from the notice, and the licensee either:

1. Places the notice on a screen that consumers frequently

access, such as a page on which transactions are conducted; or

2. Places a link on a screen that consumers frequently access, such as a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature, and relevance of the notice.

(14) "Financial institution" means any institution engaging in activities that are financial in nature or incidental to financial activities as described in 12 U.S.C. 1843(k).

(15) "Financial product or service" means any product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to a financial activity described in 12 U.S.C. 1843(k).

(16) "Former customer" means an individual with whom a licensee no longer has a continuing relationship.

(17) "Insurance product or service" means any product or service that is offered by a licensee, pursuant to KRS Chapter 304.

(18) "Joint agreement" means a written contract pursuant to which a licensee and one (1) or more financial institutions jointly offer, endorse, or sponsor a financial product or service.

(19) "Licensee" means all insurers holding a certificate of authority, licensed producers, companies, or business entities licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to the Kentucky Insurance Code, KRS Chapter 304.

(20) "Necessary to effect, administer, or enforce a transaction" means that the disclosure is:

(a) Required, or is one (1) of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(b) Required, or is a usual, appropriate, or acceptable method:

1. To carry out the transaction, the product, or the service business of which the transaction is a part, and record, service, or maintain the consumer's account in the ordinary course of providing the insurance product or service;

2. To administer or service benefits or claims relating to the transaction, product, or service business of which it is a part;

3. To provide a confirmation, statement, or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer's agent or broker;

4. To accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party;

5. To underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance:

a. Account administration;

b. Reporting;

c. Investigating or preventing fraud or material misrepresentation;

d. Processing premium payments;

e. Processing insurance claims;

f. Administering insurance benefits, such as utilization review activities;

g. Participating in research projects; or

h. As otherwise required or specifically permitted by federal or state law; or

6. In connection with:

a. The authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited, or otherwise paid using a debit, credit, or other payment card, check or account number, or by other payment means;

b. The transfer of receivables, accounts, or interests; or

c. The audit of debit, credit, or other payment information.

(21) "Nonaffiliated third party" means any person who is not:

(a) A licensee's affiliate; or

(b) Employed jointly by a licensee and a company that is not the licensee's affiliate.

(22) "Nonpublic personal financial information" means:

(a) Personally-identifiable financial information; and

(b) Any list, description, or other grouping of consumers, and publicly-available information pertaining to them that is derived

using personally-identifying financial information that is not publicly available.

(23) "Opt out" means a direction by the consumer that the licensee not disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by Sections 15, 16, and 17 of this administrative regulation.

(24) "Personally-identifiable financial information" means information:

(a) That a consumer provides to a licensee to obtain an insurance product or service from the licensee;

(b) About a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer; or

(c) That the licensee otherwise obtains about a consumer in connection with providing an insurance product or service to a consumer.

(25) "Publicly-available information" means any information that a licensee has a reasonable basis to believe is lawfully made available to the general public from:

(a) Federal, state, or local government records;

(b) Widely-distributed media; or

(c) Disclosures to the general public that are required to be made by federal, state, or local law.

(26) "Reasonable basis" to believe that information is lawfully made available to the general public means the licensee has taken steps to determine:

(a) That the information is the type that is available to the general public; and

(b) Whether an individual may direct that the information not be made available to the general public and, if so, that the licensee's consumer has not done so.

(27) "Reasonably understandable" means a notice:

(a) Presents the information in the notice in clear, concise sentences, paragraphs, and sections;

(b) Uses short explanatory sentences or bullet lists, if possible;

(c) Uses definite, concrete, everyday words and active voice, if possible;

(d) Avoids multiple negatives;

(e) Avoids legal and highly technical business terminology, if possible; and

(f) Avoids explanations that are imprecise and readily subject to different interpretations.

Section 2. This administrative regulation governs the treatment of nonpublic personal financial information about individuals by all licensees of the state insurance office. This administrative regulation:

(1) Requires a licensee to provide notice to individuals about its privacy policies and practices;

(2) Describes the conditions under which a licensee may disclose nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties;

(3) Provides methods for individuals to prevent a licensee from disclosing that information; and

(4) Applies to nonpublic personal financial information about individuals who obtain or are claimants or beneficiaries of products or services primarily for personal, family or household purposes from licensees. This administrative regulation shall not apply to information about companies or about individuals who obtain products or services for business, commercial or agricultural purposes.

Section 3. A licensee domiciled in this state that is in compliance with this administrative regulation in a state that has not enacted laws or regulations that meet the requirements of 15 U.S.C. 6801 to 6810 of the Gramm-Leach-Bliley Act may be deemed to be in compliance with 15 U.S.C. 6801 to 6810 of the Gramm-Leach-Bliley Act in such other state.

Section 4. The examples and sample clauses in the material incorporated by reference are not exclusive. Compliance with an example or use of a sample clause, to the extent applicable, shall

constitute compliance with this administrative regulation.

Section 5. Requirements. (1) Consumer.

(a) A "consumer" shall include:

1. An individual who provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment, or economic advisory services relating to an insurance product or service, regardless of whether the licensee establishes an ongoing advisory relationship;

2. An applicant for insurance prior to the inception of insurance coverage;

3. An individual subject to disclosure by a licensee of nonpublic personal financial information to a nonaffiliated third party, other than as permitted under Sections 15, 16, and 17 of this administrative regulation, if:

a. The individual is a beneficiary of a life insurance policy underwritten by the licensee;

b. The individual is a claimant under an insurance policy issued by the licensee;

c. The individual is an insured or annuitant under an insurance policy or an annuity issued by the licensee; or

d. The individual is a mortgagor of a mortgage covered under a mortgage insurance policy.

(b) An individual shall not be a "consumer" solely on the basis that:

1. An individual is a consumer of another financial institution and the licensee is acting as agent for, or provides processing or other services to, that financial institution;

2. An individual is a beneficiary of a trust for which the licensee is a trustee;

3. An individual has designated the licensee as trustee for a trust; or

(c) An individual shall not be a "consumer" solely based on the status listed in subparagraph 2a through c of this paragraph, if:

1. The licensee provides the initial, annual, and revised notices under Sections 6, 7, and 10 of this administrative regulation to the plan sponsor, group, or blanket insurance policyholder or group annuity contract holder, workers' compensation plan participant; and

2. The licensee does not disclose to a nonaffiliated third party nonpublic personal financial information, other than as permitted under Sections 15, 16, and 17 of this administrative regulation, about an individual who is:

a. A participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer, or fiduciary;

b. Covered under a group or blanket life insurance policy or group annuity contract issued by the licensee; or

c. A beneficiary in a workers' compensation plan.

(d) The individuals described in paragraph (c)2a through c of this subsection shall be consumers of a licensee if the licensee fails to meet all the conditions of paragraph (c)1 and 2 of this subsection.

(2) Nonpublic personal financial information.

(a) "Nonpublic personal financial information" shall include any list of individuals' names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers.

(b) "Nonpublic personal financial information" shall not include:

1. Health information;

2. Publicly available information, except as included on a list described in Section 1(22)(b) of this administrative regulation or paragraph (a) of this subsection; or

3. Any list, description, or other grouping of consumers and publicly available information pertaining to them that is derived without using any personally identifiable financial information that is not:

a. Publicly available, including any list of individuals' names and addresses that contains only publicly available information;

b. Derived in whole or in part using personally identifiable financial information that is not publicly available; and

c. Disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

(3) "Nonaffiliated third party" shall include:

(a) Any company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or its affiliate in conducting merchant banking or investment banking activities of the type described in 12 U.S.C. 1843(k)(4)(H) and (I) of the federal Bank Holding Company Act; and

(b) A company that is not the licensee's affiliate that jointly employs a person who is also employed by the licensee.

(4) "Financial institution" shall not include:

(a) Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under 7 U.S.C. 1 to 27f of the Commodity Exchange Act;

(b) The federal Agricultural Mortgage Corporation or any entity charged and operating under 12 U.S.C. 2001-2279cc of the Farm Credit Act of 1971; or

(c) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales, including sales of servicing rights, or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(5) "Financial service" shall include a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

(6) "Insurance service" shall include a licensee's evaluation, brokerage, or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

(7) Personally identifiable financial information.

(a) "Personally identifiable financial information" shall include:

1. Information a consumer provides to a licensee on an application to obtain an insurance product or service;

2. Account balance information and payment history;

3. The fact that an individual is or has been one of the licensee's customers or has obtained an insurance product or service from the licensee;

4. Any information about the licensee's consumer if it is disclosed in a manner that indicates that the individual is or has been the licensee's consumer;

5. Any information that a consumer provides to a licensee or that the licensee or its agent otherwise obtains in connection with collecting on a loan or servicing a loan;

6. Any information the licensee collects through an Internet cookie, an information-collecting device from a Web server; and

7. Information from a consumer report.

(b) "Personally identifiable financial information" shall not include:

1. Health information;

2. A list of names and addresses of customers of an entity that is not a financial institution; and

3. Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names, or addresses.

(8) Licensee.

(a) A licensee shall not be subject to the notice and opt-out requirements for nonpublic personal financial information established in this administrative regulation if the licensee is an employee, agent, or other representative of another licensee, "the principal", and:

1. The principal otherwise complies with, and provides the notices required by, the provisions of this administrative regulation; and

2. The licensee does not disclose any nonpublic personal financial information to any person other than the principal or its affiliates in a manner permitted by this administrative regulation.

(b) Subject to paragraph (a) of this subsection, "licensee" shall also include an unauthorized insurer that accepts business placed through a licensed surplus broker in Kentucky, but only in regard to the surplus lines placements placed pursuant to KRS 304.10.

(c) A surplus lines broker or surplus lines insurer shall be in compliance with the notice and opt-out requirements for nonpublic personal financial information established in this administrative

regulation if:

1. The broker or insurer does not disclose nonpublic personal information of a consumer or a customer to nonaffiliated third parties for any purpose, including joint servicing or marketing under Section 15 of this administrative regulation, except as permitted by Section 16 or 17 of this administrative regulation; and

2. The broker or insurer delivers a notice to a consumer when a customer relationship is established on which the following is printed in sixteen (16) point type:

"PRIVACY NOTICE - NEITHER THE U.S. BROKERS THAT HANDLED THIS INSURANCE NOR THE INSURERS THAT HAVE UNDERWRITTEN THIS INSURANCE WILL DISCLOSE NONPUBLIC PERSONAL INFORMATION CONCERNING THE BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS EXCEPT AS PERMITTED BY LAW."

(d) A licensee shall not include registered service contract makers as defined in 806 KAR 5:060.

(9) Continuing relationship. A consumer shall not be deemed to have a continuing relationship with the licensee if:

(a) The consumer applies for insurance but does not purchase the insurance;

(b) The licensee sells the consumer airline travel insurance in an isolated transaction;

(c) The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

(d) The consumer is a beneficiary or claimant under a policy and has submitted a claim under that policy choosing a settlement option involving an ongoing relationship with the licensee;

(e) The consumer is a beneficiary or claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;

(f) The customer's policy has lapsed, expired, or is otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive months, other than annual privacy notices, material required by law or administrative regulation, communication at the direction of a state or federal authority, or promotional materials;

(g) The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

(h) The individual's last known address according to the licensee's records is deemed invalid. An address of record shall be deemed invalid if mail sent to that address by the licensee is returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual are unsuccessful.

Section 6. Initial Privacy Notice to Consumers Required. (1) Initial notice requirement. A licensee shall provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to a:

(a) Customer. An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in subsection (5) of this section; and

(b) Consumer. A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by Sections 16 and 17 of this administrative regulation.

(2) When initial notice to a consumer is not required. A licensee shall not be required to provide an initial notice to a consumer under subsection (1)(b) of this section if:

(a) The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized by Sections 16 and 17 of this administrative regulation, and the licensee does not have a customer relationship with the consumer; or

(b) A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee and the other

institutions:

(3) When the licensee establishes a customer relationship.

(a) General rule. A licensee establishes a customer relationship when the licensee and the consumer enter into a continuing relationship.

(b) Establishing customer relationship examples are contained in the list of Sample Clauses and Examples (Edition, 11/01), PVCY-01.

(4) Existing customers. If an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family or household purposes, the licensee satisfies the initial notice requirements of subsection (1) of this section as follows:

(a) The licensee may provide a revised policy notice, under Section 10 of this administrative regulation, that covers the customer's new insurance product or service; or

(b) If the initial, revised or annual notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee shall not be required to provide a new privacy notice under subsection (1) of this section.

(5) Exceptions to allow subsequent delivery of notice.

(a) A licensee may provide the initial notice required by subsection (1)(a) of this section within a reasonable time after the licensee establishes a customer relationship if:

1. Establishing the customer relationship is not at the customer's election; or

2. Providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time.

(b) Examples of exceptions are contained in the list of Sample Clauses and Examples (Edition, 11/01), PVCY-01.

(6) Delivery. When a licensee is required to deliver an initial privacy notice by this section, the licensee shall deliver it according to Section 11 of this administrative regulation. If the licensee uses a short form initial notice for noncustomers according to Section 8(4) of this administrative regulation, the licensee may deliver its privacy notice according to Section 8(4)(c) of this administrative regulation.

Section 7. Annual Privacy Notice to Customers Required.

(1)(a) General rule. A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. A licensee may define the twelve (12) consecutive month period, but the licensee shall apply it to the customer on a consistent basis.

(b) An example of an annual privacy notice is contained in the list of Sample Clauses and Examples (Edition, 11/01), PVCY-01.

(2)(a) Termination of customer relationship. A licensee shall not be required to provide an annual notice to a former customer.

(b) Examples of customer terminations are contained in the list of Sample Clauses and Examples (Edition, 11/01), PVCY-01.

(3) Delivery. When a licensee is required by this section to deliver an annual privacy notice, the licensee shall deliver it according to Section 11 of this administrative regulation.

Section 8. Information to be Included in Privacy Notices. (1)

General rule. The initial, annual and revised privacy notices that a licensee provides under Sections 6, 7, and 10 of this administrative regulation shall include each of the following items of information, in addition to any other information the licensee wishes to provide, that applies to the licensee and to the consumers to whom the licensee sends its privacy notice:

(a) The categories of nonpublic personal financial information that the licensee collects;

(b) The categories of nonpublic personal financial information that the licensee discloses;

(c) The categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under Sections 16 and 17 of this

administrative regulation;

(d) The categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to whom the licensee discloses information under Sections 16 and 17 of this administrative regulation;

(e) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under Section 15 of this administrative regulation, and no other exception in Sections 16 and 17 of this administrative regulation applies to that disclosure, a separate description of the categories of information the licensee discloses and the categories of third parties with whom the licensee has contracted;

(f) An explanation of the consumer's right under Section 12 of this administrative regulation to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise that right at that time;

(g) Any disclosures that the licensee makes under 15 U.S.C. 1681a(d)(2)(A)(iii) of the federal Fair Credit Reporting Act, notices regarding the ability to opt out of disclosures of information among affiliates;

(h) The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information; and

(i) Any disclosure that the licensee makes under subsection (2) of this section.

(2) Description of parties subject to exceptions. If a licensee discloses nonpublic personal financial information as authorized under Sections 16 and 17 of this administrative regulation, the licensee shall not be required to list those exceptions in the initial or annual privacy notices required by Sections 6 and 7 of this administrative regulation. If describing the categories of parties to whom disclosure is made, the licensee shall state only that it makes disclosures to other affiliated or nonaffiliated third parties, as applicable, as permitted by law.

(3) Examples.

(a) Categories of nonpublic personal financial information that the licensee collects. A licensee shall satisfy the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes it according to the source of the information, as applicable:

1. Information from the consumer;
2. Information about the consumer's transactions with the licensee or its affiliates;
3. Information about the consumer's transactions with nonaffiliated third parties; and
4. Information from a consumer reporting agency.

(b) Categories of nonpublic personal financial information a licensee discloses.

1. A licensee shall satisfy the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes the information according to source, as described in subparagraph 3 of this paragraph, as applicable, and provides a few examples to illustrate the types of information in each category. These may include:

- a. Information from the consumer, including application information, such as assets and income and identifying information, such as name, address and Social Security number;
- b. Transaction information, such as information about balances, payment history and parties to the transaction; and
- c. Information from consumer reports, such as a consumer's creditworthiness and credit history.

2. A licensee shall not categorize the information that it discloses by using only general terms, such as transaction information about the consumer.

3. If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information that the licensee discloses.

(c) Categories of affiliates and nonaffiliated third parties to whom the licensee discloses.

1. A licensee shall satisfy the requirement to categorize the affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which they engage.

2. Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business. For example, a licensee may use the term "financial products or services" if it includes appropriate examples of significant lines of businesses, such as life insurer, automobile insurer, consumer banking or securities brokerage.

3. A licensee also may categorize the affiliates and nonaffiliated third parties to which it discloses nonpublic personal financial information about consumers using more detailed categories.

4. Disclosures under exception for service providers and joint marketers. If a licensee discloses nonpublic personal financial information under the exception in Section 15 of this administrative regulation to a nonaffiliated third party to market products or services that it offers alone or jointly with another financial institution, the licensee shall satisfy the disclosure requirement of subsection (1)(e) of this section if it:

a. Lists the categories of nonpublic personal financial information it discloses, using the same categories and examples the licensee used to meet the requirements of subsection (1)(b) of this section, as applicable; and

b. States whether the third party is a service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or a financial institution with whom the licensee has a joint marketing agreement.

5. Simplified notices. If a licensee does not disclose, and does not wish to reserve the right to disclose, nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under Sections 16 and 17 of this administrative regulation, the licensee may simply state that fact, in addition to the information it shall provide under subsections (1)(a), (h), (i), and (2) of this section.

6. Confidentiality and security. A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following:

a. Describes in general terms who is authorized to have access to the information; and

b. States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. The licensee shall not be required to describe technical information about the safeguards it uses.

(4) Short-form initial notice with opt-out notice for noncustomers.

(a) A licensee may satisfy the initial notice requirements in Sections 6(1)(b) and 9(3) of this administrative regulation for a consumer who is not a customer by providing a short-form initial notice at the same time as the licensee delivers an opt-out notice as required in Section 9 of this administrative regulation.

(b) A short-form initial notice shall:

1. Be clear and conspicuous;
2. State that the licensee's privacy notice is available upon request; and
3. Explain a reasonable means by which the consumer may obtain that notice.

(c) The licensee shall deliver its short-form initial notice according to Section 11 of this administrative regulation. The licensee is not required to deliver its privacy notice with its short-form initial notice. The licensee instead may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the licensee's privacy notice, the licensee shall deliver its privacy notice according to Section 11 of this administrative regulation.

(d) Examples of obtaining privacy notice are contained in the list of Sample Clauses and Examples (Edition, 11/01), PVCY-01.

(5) Future disclosures. The licensee's notice may include:

(a) Categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future, but does not currently disclose; and

(b) Categories of affiliates or nonaffiliated third parties to whom the licensee reserves the right in the future to disclose, but to whom the licensee does not currently disclose, nonpublic personal financial information.

(6) Sample clauses. Sample clauses illustrating some of the notice content required by this section are included in the list of Sample Clauses and Examples (Edition, 11/01), PVCY-01.

Section 9. Form of Opt-out Notice to Consumers and Opt-out Methods. (1)(a) Form of opt-out notice. If a licensee is required to provide an opt-out notice under Section 12(1) of this administrative regulation, it shall provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under that section. The notice shall state:

1. That the licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party;

2. That the consumer has the right to opt out of that disclosure; and

3. A reasonable means by which the consumer may exercise the opt-out right.

(b)1. Adequate opt-out notice. A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee:

a. Identifies all of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, as described in Section 8(1)(b) and (c) of this administrative regulation, and states that the consumer may opt out of the disclosure of that information; and

b. Identifies the insurance products or services that the consumer obtains from the licensee, either singly or jointly, to which the opt-out direction would apply.

2. Reasonable opt-out means. A licensee provides a reasonable means to exercise an opt-out right if it:

a. Designates check-off boxes in a prominent position on the relevant forms with the opt-out notice;

b. Includes a reply form together with the opt-out notice;

c. Provides an electronic means to opt out, such as a form that can be sent via electronic mail or a process at the licensee's Web site, if the consumer agrees to the electronic delivery of information; or

d. Provides a toll-free telephone number that consumers may call to opt out.

3. Unreasonable opt-out means. A licensee does not provide a reasonable means of opting out if:

a. The only means of opting out is for the consumer to write his or her own letter to exercise that opt-out right; or

b. The only means of opting out as described in any notice subsequent to the initial notice is to use a check-off box that the licensee provided with the initial notice but did not include with the subsequent notice.

4. Specific opt-out means. A licensee may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

(2) Same form as initial notice permitted. A licensee may provide the opt-out notice together with or on the same written or electronic form as the initial notice the licensee provides in accordance with Section 6 of this administrative regulation.

(3) Initial notice required when opt-out notice delivered subsequent to initial notice. If a licensee provides the opt-out notice later than required for the initial notice in accordance with Section 6 of this administrative regulation, the licensee shall also include a copy of the initial notice with the opt-out notice in writing or, if the consumer agrees, electronically.

(4) Joint relationships.

(a) If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a

single opt-out notice. The licensee's opt-out notice shall explain how the licensee will treat an opt-out direction by a joint consumer.

(b) Any of the joint consumers may exercise the right to opt out. The licensee may either:

1. Treat an opt-out direction by a joint consumer as applying to all of the associated joint consumers; or

2. Permit each joint consumer to opt out separately.

(c) If a licensee permits each joint consumer to opt out separately, the licensee shall permit one (1) of the joint consumers to opt out on behalf of all of the joint consumers.

(d) A licensee may not require all joint consumers to opt out before it implements any opt-out direction.

(e) Example of joint consumers opt out is contained in the list of Sample Clauses and Examples (Edition, 11/01), PVCY-01.

(5) Time to comply with opt out. A licensee shall comply with a consumer's opt-out direction as soon as reasonably practicable after the licensee receives it.

(6) Continuing right to opt out. A consumer may exercise the right to opt out at any time.

(7) Duration of consumer's opt-out direction.

(a) A consumer's direction to opt out under this section is effective until the consumer revokes it in writing or, if the consumer agrees, electronically.

(b) When a customer relationship terminates, the customer's opt-out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the licensee, the opt-out direction that applied to the former relationship does not apply to the new relationship.

(8) Delivery. When a licensee is required to deliver an opt-out notice by this section, the licensee shall deliver it according to Section 11 of this administrative regulation.

Section 10. Revised Privacy Notices. (1) General rule. Except as otherwise authorized in this administrative regulation, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to that consumer under Section 6 of this administrative regulation, unless:

(a) The licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices;

(b) The licensee has provided to the consumer a new opt-out notice;

(c) The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

(d) The consumer does not opt out.

(2)(a) Except as otherwise permitted by Sections 15, 16, and 17 of this administrative regulation, a licensee shall provide a revised notice before it:

1. Discloses a new category of nonpublic personal financial information to any nonaffiliated third party;

2. Discloses nonpublic personal financial information to a new category of nonaffiliated third party; or

3. Discloses nonpublic personal financial information about a former customer to a nonaffiliated third party, if that former customer has not had the opportunity to exercise an opt-out right regarding that disclosure.

(b) A revised notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in its prior notice.

(3) Delivery. When a licensee is required to deliver a revised privacy notice by this section, the licensee shall deliver it according to Section 11 of this administrative regulation.

Section 11. Delivery. (1) How to provide notices. A licensee shall provide any notices that this administrative regulation requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

(2)(a) Illustrations of reasonable expectation of actual notice. A

licensee may reasonably expect that a consumer will receive actual notice if the licensee:

1. Hand-delivers a printed copy of the notice to the consumer;
2. Mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing or other written communication;
3. For a consumer who conducts transactions electronically, posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service; or
4. For an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, posts the notice and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular insurance product or service.

(b) Illustrations of unreasonable expectation of actual notice. A licensee shall not, however, reasonably expect that a consumer will receive actual notice of its privacy policies and practices if it:

1. Only posts a sign in its office or generally publishes advertisements of its privacy policies and practices; or
2. Sends the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically.

(3) Annual notices only. A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if:

(a) The customer uses the licensee's Web site to access insurance products and services electronically and agrees to receive notices at the Web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the Web site; or

(b) The customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request.

(4) Oral description of notice insufficient. A licensee may not provide any notice required by this administrative regulation solely by orally explaining the notice, either in person or over the telephone.

(5) Retention or accessibility of notices for customers.

(a) For customers only, a licensee shall provide the initial notice required by Section 6(1)(a) of this administrative regulation, the annual notice required by Section 7(1) of this administrative regulation, and the revised notice required by Section 10 of this administrative regulation so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically.

(b) Examples of retention or accessibility. A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee:

1. Hand-delivers a printed copy of the notice to the customer;
2. Mails a printed copy of the notice to the last known address of the customer; or
3. Makes its current privacy notice available on a Web site, or a link to another Web site, for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the Web site.

(6) Joint notice with other financial institutions. A licensee may provide a joint notice from the licensee and one (1) or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution.

(7) Joint relationships. If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual and revised notice requirements of Sections 6(1), 7(1), and 10 of this administrative regulation, respectively, by providing one (1) notice to those consumers jointly.

Section 12. Limits on Disclosure of Nonpublic Personal Financial Information to Nonaffiliated Third Parties. (1)(a) Conditions for disclosure. Except as otherwise authorized in this

administrative regulation, a licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless:

1. The licensee has provided to the consumer an initial notice as required under Section 5 of this administrative regulation;
2. The licensee has provided to the consumer an opt-out notice as required in Section 8 of this administrative regulation;
3. The licensee has given the consumer a reasonable opportunity, before it discloses the information to the nonaffiliated third party, to opt out of the disclosure; and
4. The consumer does not opt out.

(b) Examples of reasonable opportunity to opt out. A licensee provides a consumer with a reasonable opportunity to opt out if:

1. By mail. The licensee mails the notices required in paragraph (a) of this subsection to the consumer and allows the consumer to opt out by mailing a form, calling a toll-free telephone number or any other reasonable means within thirty (30) days from the date the licensee mailed the notices.

2. By electronic means. A customer opens an on-line account with a licensee and agrees to receive the notices required in paragraph (a) of this subsection electronically, and the licensee allows the customer to opt out by any reasonable means within thirty (30) days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.

3. Isolated transaction with consumer. For an isolated transaction such as providing the consumer with an insurance quote, a licensee provides the consumer with a reasonable opportunity to opt out if the licensee provides the notices required in paragraph (a) of this subsection at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

(2) Application of opt out to all consumers and all nonpublic personal financial information.

(a) A licensee shall comply with this section, regardless of whether the licensee and the consumer have established a customer relationship.

(b) Unless a licensee complies with this section, the licensee shall not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer.

(3) Partial opt out. A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

Section 13. Limits on Rediscovery and Reuse of Nonpublic Personal Financial Information. (1)(a) Information the licensee receives under an exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception in Section 16 or 17 of this administrative regulation, the licensee's disclosure and use of that information shall be limited as follows:

1. The licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information;

2. The licensee may disclose the information to its affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information; and

3. The licensee may disclose and use the information pursuant to an exception in Section 16 or 17 of this administrative regulation, in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

(b) Example. If a licensee receives information from a nonaffiliated financial institution for claims settlement purposes, the licensee shall disclose the information for fraud prevention, or in response to a properly authorized subpoena. The licensee may not disclose that information to a third party for marketing purposes or use that information for its own marketing purposes.

(2)(a) Information a licensee receives outside of an exception. If a licensee receives nonpublic personal financial information from

a nonaffiliated financial institution other than under an exception in Section 16 or 17 of this administrative regulation, the licensee may disclose the information only:

1. To the affiliates of the financial institution from which the licensee received the information;
2. To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and
3. To any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the licensee received the information.

(b) Example. If a licensee obtains a customer list from a nonaffiliated financial institution outside of the exceptions in Section 16 or 17 of this administrative regulation:

1. The licensee may use that list for its own purposes; and
2. The licensee may disclose that list to another nonaffiliated third party only if the financial institution from which the licensee purchased the list could have lawfully disclosed the list to that third party. That is, the licensee may disclose the list in accordance with the privacy policy of the financial institution from which the licensee received the list, as limited by the opt-out direction of each consumer whose nonpublic personal financial information the licensee intends to disclose, and the licensee may disclose the list in accordance with an exception in Section 16 or 17 of this administrative regulation, such as to the licensee's attorneys or accountants.

(3) Information a licensee discloses under an exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception in Section 16 or 17 of this administrative regulation, the third party may disclose and use that information only as follows:

- (a) The third party may disclose the information to the licensee's affiliates;
- (b) The third party may disclose the information to its affiliates, but its affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information; and
- (c) The third party may disclose and use the information pursuant to an exception in Section 16 or 17 of this administrative regulation in the ordinary course of business to carry out the activity covered by the exception under which it received the information.

(4) Information a licensee discloses outside of an exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception in Section 16 or 17 of this administrative regulation, the third party may disclose the information only:

- (a) To the licensee's affiliates;
- (b) To the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and
- (c) To any other person, if the disclosure would be lawful if the licensee made it directly to that person.

Section 14. Limits on Sharing Account Number Information for Marketing Purposes. (1) General prohibition on disclosure of account numbers. A licensee shall not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer.

(2) Exceptions. Subsection (1) of this section shall not apply if a licensee discloses a policy number or similar form of access number or access code:

- (a) To the licensee's service provider solely in order to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account;
- (b) To a licensee who is a producer solely in order to perform marketing for the licensee's own products or services; or
- (c) To a participant in an affinity or similar program where the participants in the program are identified to the customer when the

customer enters into the program.

(3) Examples.

(a) Policy number. A policy number, or similar form of access number or access code, shall not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code.

(b) Policy or transaction account. A policy or transaction account shall be any account other than a deposit account or a credit card account. A policy or transaction account shall not include an account to which third parties cannot initiate charges.

Section 15. Exception to Opt-out Requirements for Disclosure of Nonpublic Personal Financial Information for Service Providers and Joint Marketing. (1) General rule.

(a) The opt-out requirements in Sections 9 and 12 of this administrative regulation shall not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee:

1. Provides the initial notice in accordance with Section 6 of this administrative regulation; and
2. Enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in Section 16 or 17 of this administrative regulation in the ordinary course of business to carry out those purposes.

(b) Example. If a licensee discloses nonpublic personal financial information under this section to a financial institution with which the licensee performs joint marketing, the licensee's contractual agreement with that institution shall meet the requirements of paragraph (a)2 of this subsection if it prohibits the institution from disclosing or using the nonpublic personal financial information except as necessary to carry out the joint marketing or under an exception in Section 16 or 17 of this administrative regulation in the ordinary course of business to carry out that joint marketing.

(2) Service may include joint marketing. The services a nonaffiliated third party performs for a licensee under subsection (1) of this section may include marketing of the licensee's own products or services or marketing of financial products or services offered pursuant to joint agreements between the licensee and one (1) or more financial institutions.

Section 16. Exceptions to Notice and Opt-out Requirements for Disclosure of Nonpublic Personal Financial Information for Processing and Servicing Transactions. Exceptions for processing transactions at consumer's request. The requirements for initial notice in Section 6(1)(b) of this administrative regulation, the opt out in Sections 9 and 12 of this administrative regulation, and service providers and joint marketing in Section 15 of this administrative regulation shall not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with:

- (1) Servicing or processing an insurance product or service that a consumer requests or authorizes;
- (2) Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity;
- (3) A proposed or actual securitization, secondary market sale, including sales of servicing rights, or similar transaction related to a transaction of the consumer; or
- (4) Reinsurance or stop loss or excess loss insurance.

Section 17. Other Exceptions to Notice and Opt-out Requirements for Disclosure of Nonpublic Personal Financial Information. (1) Exceptions to opt-out requirements. The requirements for initial notice to consumers in Section 6(1)(b) of this administrative regulation, the opt out in Sections 9 and 12 of this administrative regulation, and service providers and joint marketing in Section 15 of this administrative regulation shall not apply if a licensee discloses nonpublic personal financial

information:

(a) With the consent or at the direction of the consumer, if the consumer has not revoked the consent or direction;

(b)1. To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product or transaction;

2. To protect against or prevent actual or potential fraud or unauthorized transactions;

3. For required institutional risk control or for resolving consumer disputes or inquiries;

4. To persons holding a legal or beneficial interest relating to the consumer; or

5. To persons acting in a fiduciary or representative capacity on behalf of the consumer;

(c) To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies that are rating a licensee, persons that are assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants and auditors;

(d) To the extent specifically permitted or required under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 to 3422, to law enforcement agencies, including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, with respect to 31 U.S.C. 5311 to 5330, Records and Reports on Monetary Instruments and Transactions, and 12 U.S.C. 1951 to 1959, Financial Recordkeeping, a state insurance authority, and the Federal Trade Commission, self-regulatory organizations or for an investigation on a matter related to public safety;

(e)1. To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act, 15 U.S.C. 1681 to 1681u; or

2. From a consumer report reported by a consumer reporting agency;

(f) In connection with a proposed or actual sale, merger, transfer or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business or unit;

(g)1. To comply with federal, state or local laws, rules and other applicable legal requirements;

2. To comply with a properly authorized civil, criminal or regulatory investigation, or subpoena or summons by federal, state or local authorities;

3. To respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance or other purposes as authorized by law; or

4. For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan or a workers' compensation plan.

(2) Example of revocation of consent. A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under Section 9(6) of this administrative regulation.

(3) Licensees in liquidation or rehabilitation according to KRS Chapter 304.33 shall be exempt from the notice provisions of this administrative regulation.

~~Section 18. Protection of Fair Credit Reporting Act. This administrative regulation shall not be construed to modify, limit or supersede the operation of the federal Fair Credit Reporting Act, 15 U.S.C. 1681 to 1681u, and an inference shall not be drawn on the basis of the provisions of this administrative regulation regarding whether information is transaction or experience information under 15 U.S.C. 1681a of the Fair Credit Reporting Act.~~

~~Section 19. Nondiscrimination. A licensee shall not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure or has not granted authorization for the disclosure of his or her nonpublic personal financial information pursuant to the provisions of this administrative regulation.~~

~~Section 20. Violation. A violation of this administrative regulation shall constitute an unfair trade practice in the business of insurance and shall subject the licensee to a civil penalty authorized by KRS 304.99-020.~~

~~Section 21. Severability. If any section or portion of a section of this administrative regulation or its applicability to any person or circumstance is held invalid by a court, the remainder of this administrative regulation or the applicability of the provision to other persons or circumstances shall not be affected.~~

~~Section 22. Effective Date. (1) Effective date. This administrative regulation is effective upon approval.~~

~~(2) Two (2) year grandfathering of service agreements. Until July 1, 2002, a contract that a licensee has entered into with a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf satisfies the provisions of Section 15(1)(a)2 of this administrative regulation of this administrative regulation, even if the contract does not include a requirement that the third party maintain the confidentiality of nonpublic personal information, as long as the licensee entered into the agreement on or before July 1, 2000.~~

~~Section 23. Incorporation by Reference. (1) The following material is incorporated by reference: PVCY-01, "Sample Clauses and Examples (Edition 11/01)".~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Office of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (28 Ky.R. 1523; Am. 1828; eff. 2-11-2002; TAm eff. 8-9-2007.)~~

NANCY G. ATKINS, Commissioner
DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: September 14, 2017

FILED WITH LRC: September 15, 2017 at 9 a.m.

CONTACT PERSON: Patrick D. O'Connor II, Kentucky Department of Insurance, 215 W. Main Street, Frankfort, Kentucky 40601, phone (502) 564-6026, fax (502) 564-2669, email Patrick.OConnor@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Patrick D. O'Connor II

(1) Provide a brief summary of:

(a) What this administrative regulation does: This amended administrative regulation accomplishes three primary objectives. First, in conjunction with the NAIC Model Rule No. 672 governing privacy standards for consumer financial and health information, the regulation incorporates the provisions of 806 KAR 3:220 (Privacy of Health Information) into this regulation, 806 KAR 3:210. The amendment simplifies the regulatory provisions and eliminates duplicative sections of two regulations. Second, this amendment adopts the December 4, 2015 amendments to the Gramm Leach Bliley Act to add an exception to the prior requirement to provide annual privacy notices to consumers. This exception will relieve many of Kentucky's regulated entities from the expensive burden of providing customers an annual privacy notice, which the Consumer Financial Protection Bureau has called wasteful because the notices are generally disregarded without being read. Third, the regulation largely adopts NAIC Model Rule No. 672 to provide uniformity for the Department's regulated entities operating in multiple jurisdictions and compliance burdens.

(b) The necessity of this administrative regulation: The amendment is necessary to bring Kentucky into conformity with the amendments to the Gramm Leach Bliley Act regarding the submission of annual privacy notices and the recently adopted changes to the NAIC Model Rule No. 672 on which this regulation was originally based. These amendments will relieve our regulated entities of the expensive burden of providing annual privacy notices in situations where they are wasteful and of little consumer benefit. Additionally, by combining the financial and health privacy regulations, the Department is eliminating unnecessarily

duplicative regulatory provisions to promote efficiency. Thus, the amendment will ease regulatory burdens on our regulated entities while maintaining the security and protection of consumer health and financial information.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The Commissioner is provided authority under KRS 304.2-110 to promulgate regulations necessary to effectuate provisions of the insurance code. KRS 304.2-105 allows the commissioner to extend by regulation the authority of insurance companies to act and perform functions similar to those federally regulated financial institutions. The Gramm Leach Bliley Act applies to regulate the actions of all financial institutions, including insurance companies. This regulation adopts those provisions and applies them to the licensed entities specified in KRS 304.2-105.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation provides clarity on the requirements in Kentucky regarding privacy policies and the submission of privacy notices to impacted consumers. Kentucky's regulation will conform to the federal requirements and recently adopted NAIC Model Rule No. 672 promoting an ease of compliance for our regulated entities.

(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: The amendment incorporates the provisions of 806 KAR 3:220 (Privacy of Health Information) to reduce duplicative restatements of definitions and other provisions. It also changes the annual privacy notice requirement by allowing an exception as permitted under the Gramm Leach Bliley Act, as amended. Lastly, the safe harbor for use of state specific sample clauses and examples is subject to a sunset provision due to the potential variations between states. Instead, as thoroughly discussed and recently adopted by the NAIC, the regulation incorporates the "Model Privacy Form." The use of this form will provide safe harbor for our regulated entities, and promote easier compliance through the adoption of a single, uniform standard in Kentucky and elsewhere.

(b) The necessity of the amendment to this administrative regulation: Based on the nationwide investigation performed by the Consumer Financial Protection Bureau as described in 79 Fed. Reg. 208, 64057 (October 28, 2014) and 81 Fed. Reg. 132, 44801 (July 11, 2016), annual privacy notice requirements like those in the prior version of this regulation, provide little benefit to consumers and in many cases overload consumers with unwanted mail. This amendment will relieve regulated entities of the burden to provide annual privacy notices, and bring Kentucky into conformity with the national standard. This amendment is necessary to remain consistent with the federal requirements and to reduce unduly burdensome and unnecessary compliance measures.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms Kentucky's regulations to the authorizing statutes by allowing Kentucky's insurance companies and other regulated entities to be subject to the same requirements, and perform similar functions as federal financial institutions.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist by providing greater clarity for the Department through the reduction of duplicative provisions between multiple regulations, and incorporating the use of the federal form in line with the recently approved NAIC Model Rule No. 672.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amended regulation affects all entities subject to KRS Chapter 304 licensed and authorized to perform insurance business within Kentucky. It affects policyholders who seek out or obtain insurance products and services from those entities pursuant to KRS Chapter 304.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: The annual privacy notice exception included in this amendment relieves our regulated entities of the requirements to submit annual privacy notices in the event they satisfy certain conditions enumerated in the Gramm Leach Bliley Act §503(f), as amended on December 4, 2015. Insureds and policyholders will continue to receive adequate notification of the regulated entity's privacy policies, and will be informed of any changes under the requirement to provide revised privacy notices. However, they will not receive any unnecessary or unwanted mailings. The adoption of the "Model Privacy Form" may require some minimal administrative changes by our regulated entities. However, this form has been adopted by federal regulations and the recently adopted NAIC Model Rule No. 672. Thus, the form is the national standard for privacy notices, and will provide easier compliance for our regulated entities often subject to varied requirements across multiple states.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The "Federal Model Privacy Form" is already utilized. Therefore, no cost is anticipated to each of the regulated entities by the amended administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The regulated entities that satisfy the elements for the annual notice exception will no longer be required to provide costly annual privacy notices. The Department anticipates this will result in significant annual savings to those regulated entities. For instance, one small insurer has indicated this change will achieve an annual savings of approximately \$50-60,000. The regulated entities will also benefit from the streamlined requirements and incorporation of the "Federal Model Privacy Form."

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

(a) Initially: No cost is anticipated in the implementation of this administrative regulation.

(b) On a continuing basis: No cost is anticipated in the implementation of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding will be necessary for the implementation and enforcement of this administrative regulation.

(7) 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 will be necessary for the implementation and enforcement of this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amended administrative regulation does not establish or increase any fees.

(9) TIERING: Is tiering applied? Tiering was not used because this regulation will apply to all regulated entities equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 15 U.S.C. 6801-6810, the Gramm-Leach-Bliley Act, 12 C.F.R. 1016 (Regulation P).

2. State compliance standards. Kentucky's compliance standards mirror the federal requirements. The amendments now include both the federal exception to the annual privacy notice requirement and the "Model Privacy Form." The Department has preserved the "nondiscrimination" provision in Kentucky, which prevents entities from discriminating against those individuals who choose to opt-out of their disclosure provisions.

3. Minimum or uniform standards contained in the federal mandate. This federal mandate stipulates the requirements for the collection and disclosure of nonpublic personal financial information by insurance companies, the privacy notices provided by such entities to their consumers and customers, and the ability of consumers and customers to opt-out of the disclosure of their

private information. Kentucky adopted the federal standards to promote uniformity and ease of compliance burdens.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This regulation does not impose stricter requirements except to state that regulated entities shall not discriminate to individuals who opt-out. This provision may already apply pursuant to the unfair trade practices law, but it was preserved to ensure clarity on this point.

5. Justification or the imposition of the stricter standard, or additional or different responsibilities or requirements. Insurers are not permitted to discriminate against individuals who elect to opt-out of the disclosure of their non-public personal financial information to non-affiliated parties. This beneficial consumer protection measure prevents regulated entities from charging extra fees or denying products and services to consumers who simply assert their right to opt-out.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Insurance.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 15 U.S.C. 6801-6810, the Gramm-Leach-Bliley Act, 12 C.F.R. 1016 (Regulation P), KRS 304.2-110, KRS 304.2-105, 304.2-110.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The regulation will not generate any revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The regulation will not generate any revenue for state or local government.

(c) How much will it cost to administer this program for the first year? There is no cost to administer this regulation.

(d) How much will it cost to administer this program for subsequent years? There is no cost to administer this regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary
Medical Review Panel Branch
(Amended After Comments)

900 KAR 11:010. Medical Review Panels.

RELATES TO: KRS 216C.010, 216C.030, 216C.040, 216C.050, 216C.060, 216C.070, 216C.080, 216C.090, 216C.100, 216C.110, 216C.120, 216C.160, 216C.170, 216C.180, 216C.200, 216C.210, 216C.220, 216C.230

STATUTORY AUTHORITY: KRS 194A.050(1), 216C.040(3)

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 Chapter 216C establishes the framework and general requirements for medical review panels in

Kentucky and KRS 216C.040(3) requires the cabinet to establish the filing fee that shall accompany each proposed complaint filed with a medical review panel. This administrative regulation establishes the requirements for medical review panels in accordance with KRS Chapter 216C.

Section 1. Definitions. (1) "Claimant" means a patient who is pursuing a malpractice or malpractice-related claim against a health care provider.

(2) "Defendant" means the health care provider or providers against whom a complaint is filed.

(3) "Derivative claim" means a claim included in the description of a derivative claim within the KRS 216C.010(7) definition of "patient".

(4) "Health care provider" is defined by KRS 216C.010(4).

(5) "Licensing agency" means a licensure board that licenses health care providers.

(6) "Patient" is defined by KRS 216C.010(7).

(7) "Proposed complaint" or "complaint" means the documentation required by Section 4(1) of this administrative regulation.

Section 2. Application Process for Prospective Panel Chairperson. (1) To apply to serve as chairperson of a medical review panel, an attorney shall complete and submit to the Cabinet for Health and Family Services, Medical Review Panel Branch, Form MRP-001, Application to Serve as Chairperson of a Medical Review Panel.

(2) The name of each attorney who submits a Form MRP-001 shall remain on the list of attorneys required by KRS 216C.070(8) until the:

(a) Attorney notifies the cabinet that the application is withdrawn; or

(b) Cabinet receives notification that the attorney is no longer licensed to practice law in Kentucky.

Section 3. Identification of Prospective Panelists. (1) The cabinet shall request each licensing agency to provide a current list of all health care providers who:

(a) Are licensed by that agency;

(b) Are natural persons; and

(c) Hold a valid, active license to practice in his or her profession in Kentucky.

(2) The list provided by the licensing agency shall include each licensee's:

(a) Name;

(b) Mailing address;

(c) Business address;

(d) Type of license; and

(e) If applicable, known specialty fields.

Section 4. Proposed Complaints and Filing Fee. (1) A proposed complaint:

(a) May be filed on Form MRP-002;**[and]**

(b) Shall include:

1. **a.** The name and current mailing address, phone number, and if known, email address of each named party; **and**

b. For each named defendant, the name, current mailing address, phone number, and if known, email address of the person authorized to receive summons under the Kentucky Rules of Civil Procedure on behalf of that named defendant;

2. The name and current mailing address, phone number, and email address of the claimant's attorney, if retained;

3. Identification of the claimant, including:

a. If the claimant is the individual who received or should have received health care from a health care provider and the patient's date of birth; or

b. If the claimant is pursuing a derivative claim, a description of that derivative claim, including the name and birth date of the individual who received or should have received health care from a health care provider, and the reason that the claimant is pursuing the claim on that person's behalf;

4. A description of the malpractice and malpractice-related

claims against each named health care provider, including:

- a. The nature of the patient's injury;
- b. The appropriate standard of care with which each defendant was expected to comply;
- c. The actions each defendant took or failed to take that caused the defendant's failure to comply with the appropriate standard of care; and
- d. How this failure caused or contributed to the claimant's injury;

5. The date of the alleged occurrence of malpractice;**[and]**

6. The Kentucky Supreme Court district in which the case would be filed; and

7. The signature of the claimant or the claimant's counsel, if retained; and

(c) Shall not be filed against an unknown defendant. If a complaint is filed that names an unknown defendant, the cabinet shall return the complaint to the claimant or claimant's attorney to:

1. Completely remove the unknown defendant from the proposed complaint; or

2. Replace the unknown defendant with an identified defendant.

(2) Except as provided by Section 14 of this administrative regulation, each proposed complaint shall be accompanied by a filing fee **as required by this subsection.**

(a)1. Except as provided by subparagraph 2. of this paragraph, the amount of the filing fee shall include:

a. A base amount of \$125; and

b. An additional amount of twelve (12) dollars for each defendant to cover the costs of service of process.

2. If service of process is not completed because a valid address was not provided by the claimant in the complaint, as required by subsection (1)(b)1. of this section, the claimant shall pay an additional twelve (12) dollars for each subsequent attempt at service of process.

(b) A fee required by paragraph (a) of this subsection shall be:

1.:

(a) In the amount of \$125, plus twelve (12) dollars for each defendant;

(b) In the form of a check or money order; and

2. (e) Payable to the Kentucky State Treasurer.

(3) Medical records shall not be submitted with the complaint. Medical records received by the cabinet shall be returned or destroyed.

(4)(a) **Except as provided by Section 14 of this administrative regulation,** the proposed complaint and required filing fee shall be delivered or mailed by registered or certified mail to the Cabinet for Health and Family Services, Medical Review Panel Branch, 275 East Main Street, 5W-A(MRP), Frankfort, Kentucky 40621.

(b) Upon receipt of the proposed complaint and the required filing fee, the cabinet shall:

1. Issue Form MRP-003, Acknowledgement of Complaint Filing, to the claimant; and

2. Assign a case number in the format of "MRP-(four (4) digit calendar year)-(four (4) digit sequential number)".

(c) The cabinet shall:

1. Serve a copy of the proposed complaint on each defendant as required by KRS 216C.050, **which requires service on a person authorized to receive summons under the Kentucky Rules of Civil Procedure;** and

2. Include Form MRP-004, Cabinet Letter to Party re Filing of Proposed Complaint.

(5) Within ten (10) days after completion of service on each defendant, determined in accordance with KRS 216C.050, the cabinet shall email Form MRP-005, Cabinet Notification to the Parties Regarding Service of the Complaint and Panel Chairperson Selection, to all parties to notify them:

(a) Of the date service on all defendants was completed; and

(b) Regarding the panel chairperson selection process established by KRS 216C.070.

(6)(a) An inquiry about the medical review panel process may

be submitted via e-mail to mrp@ky.gov.

(b) A proposed complaint and the required filing fee shall not be submitted via e-mail.

Section 5. Representation by Counsel. (1) If the complaint is filed by counsel on behalf of a claimant, or if notification is received that the claimant has later become represented by counsel, all subsequent notices and information for the claimant shall be sent to the identified counsel unless notification is received that the claimant has obtained different counsel or is no longer represented by counsel.

(2) If an appearance is made by counsel for a defendant, all subsequent notices and information for the defendant shall be sent to the identified counsel unless notification is received that the defendant has obtained different counsel or is no longer represented by counsel.

Section 6. Document Templates. (1)(a) The cabinet shall use the document templates listed in subsection (3) of this section for the documents' established purposes.

(b) The panel chairperson shall communicate the information required by KRS Chapter 216C by using either:

1. The document templates listed in subsection (4) of this section; or

2. A document developed by the panel chairperson that communicates the required information.

(c) Except for the items required by KRS 216C.040(2), 216C.050, 216C.110, and 216C.230 to be mailed, a required or recommended communication shall be mailed or emailed to the appropriate recipient.

(2) If the document template includes variable information that is complaint-specific or references information to be determined by the cabinet or chairperson, that information shall be completed as part of the document's preparation.

(3)(a) Form MRP-006, Cabinet Letter to Parties re Chairperson Striking Panel, shall be sent by the cabinet to notify the parties of the five (5) attorneys whose names were drawn pursuant to KRS 216C.070(2).

(b) Form MRP-007, Cabinet Letter to Party re Strike of Chairperson, shall be used by the cabinet to facilitate the selection of the chairperson pursuant to KRS 216C.070(3).

(c) Form MRP-008, Cabinet Letter to Party re Cabinet Strike of Chairperson, shall be used by the cabinet pursuant to KRS 216C.070(5)(b).

(d) Form MRP-009, Cabinet Letter to Chairperson re Selection to Serve, shall be used by the cabinet to:

1. Send the notification required by KRS 216C.070(6) of the name of the chairperson to the chairperson and to each party.

(e) Form MRP-010, Cabinet Letter to Chairperson re List of Potential Panelists, shall be used by the cabinet to send the chairperson the list of potential panelists required by KRS 216C.080 and 216C.090(1), which is:

1. Based on the list obtained from the applicable licensing agency as required by Section 3(1) and (2) of this administrative regulation; and

2. To the extent reasonably possible, limited to the professions and specialty fields, if any, of one (1) or more of the defendants.

(f) Form MRP-011, Cabinet Letter to Parties re Acknowledgement by Chairperson, shall be used by the cabinet to notify each party that the chairperson has acknowledged the appointment to serve as chairperson.

(4)(a) Form MRP-012, Chairperson Letter to Parties re Panel Striking Lists, may be used by the panel chairperson to provide the lists required by KRS 216C.090(1) to the parties.

(b) Form MRP-013, Chairperson Letter to Party re Strike, may be used by the panel chairperson to remind a party of the need to strike to comply with KRS 216C.090(3).

(c) Form MRP-014, Chairperson Letter to Panel Members re Selection to Serve, may be used by the panel chairperson to explain to the first two (2) panel members the process established in KRS 216C.090(2) for selecting the third panel member and to provide an overview of their responsibilities as panel members.

(d) Form MRP-015, Chairperson Letter to Third Panel Member

re Selection to Serve, may be used by the panel chairperson to notify the third panel member of that person's selection pursuant to KRS 216C.090(3) and to provide an overview of the person's responsibilities as a panel member.

(e) Form MRP-016, Authorization to Release Medical Records and Protected Health Care Information, may be used by the panel chairperson to request that a claimant authorize the release of medical records.

(f) Form MRP-017, Chairperson Letter to Parties re Formation of Panel and Schedule of Submissions, may be used by the panel chairperson as authorized by Section ~~9[8]~~(4)(b) of this administrative regulation, to provide the notifications required by KRS 216C.110(1) and (2), and to outline the schedule for submission of evidence in accordance with KRS 216C.160(6) and (7).

(g) Form MRP-018, Chairperson Letter to Panel re Evidence, may be used by the panel chairperson as authorized by Section ~~9[8]~~(6)(b) of this administrative regulation, to:

1. Identify and transmit to the panel members the evidence to be considered by the medical review panel in accordance with KRS 216C.160; and

2. Determine potential dates for the panel to convene to:

- a. Discuss the evidence;
- b. Reach a decision; and
- c. Issue a report.

(h) Form MRP-019, Chairperson Letter to Parties re **[Convening] Panel Hearing**, may be used by the panel chairperson to notify the parties that the panel plans to convene a hearing **to question counsel or ask the parties to answer specific questions**, in accordance with KRS 216C.170(2)(e).

(i) Form MRP-020, Administrative Subpoena, may be used by the panel chairperson to issue an administrative subpoena as authorized by KRS 216C.160(4).

Section 7. Oath for Panel Members. (1) Before considering any evidence or deliberating with other panel members, each member of the medical review panel shall submit written evidence of taking an oath, which shall read as follows: "I swear or affirm under penalties of perjury that I will well and truly consider the evidence submitted by the parties; that I will render my opinion without bias, based upon the evidence submitted by the parties; and that I will not communicate with any party or representative of a party before rendering my opinion, except as authorized by law."

(2) Form MRP-021, Oath for Panel Members, shall be provided to each panelist by the chairperson either prior to submission of the evidence to the panel members or at the same time the panel members receive the evidence.

(3) The written oath shall be signed by each panelist, witnessed, and returned to the panel chairperson for inclusion in the official record of the panel.

Section 8. **Duties of Chairperson. In accordance with KRS 216C.060(3), the chairperson shall:**

(1) Rule on motions tendered by the parties to:

(a) Expedite the panel's review of a proposed complaint; and

(b) Allow for the parties to make full and adequate presentation of related facts and authorities; and

(2) Use the Kentucky Rules of Civil Procedure as a reference, including for guidance on whether to add a third party for purposes of having all interested and relevant parties before the medical review panel.

Section 9. Submission to the Panel and Other Parties. (1) Evidence submitted pursuant to KRS 216C.160(6) by a claimant shall be submitted to the panel chairperson and all other parties.

(2) Evidence submitted pursuant to KRS 216C.160(7) by a defendant shall be submitted to the panel chairperson and all other parties.

(3) Evidence shall not be submitted by a claimant or defendant directly to a panel member.

(4)(a) The panel chairperson shall send written notification to the parties to provide the:

1. Email addresses to use to submit evidence in electronic form, as authorized by KRS 216C.160(1); and

2. Mailing addresses to use to submit evidence in written form, as authorized by KRS 216C.160(1).

(b) The panel chairperson may use Form MRP-017, Chairperson Letter to Parties re Formation of Panel and Schedule of Submissions, as a template for the written notification required by paragraph (a) of this subsection.

(5) If evidence is submitted in written form, the mailing to the panel chairperson shall include four (4) copies of each item.

(6) The chairperson:

(a) Shall send all submitted evidence to each panel member, as required by KRS 216C.160(5); and

(b) May use Form MRP-018, Chairperson Letter to Panel re Evidence, as a template for the written notification required by paragraph (a) of this subsection.

Section ~~10[9]~~. Panel Decision. (1) Each member of the medical review panel shall use Form MRP-022, Panel Member's Opinion, to issue that panel member's opinion as to each defendant, as required and limited by KRS 216C.180. One (1) copy of Form MRP-022 shall be completed by each panel member for each defendant. The completed forms shall be submitted to the panel chairperson.

(2)(a) In accordance with KRS 216C.180(3), if two (2) or more members of the panel agree on the conclusion, that conclusion shall be the opinion of the panel and the chairperson shall complete Form MRP-023, Chairperson's Report of Panel's Final Opinion.

(b) If there is not agreement by two (2) or more members as required by KRS 216C.180(3), the panel chairperson shall instruct the panel members to continue deliberations.

(3) The chairperson shall provide a copy of the completed Form MRP-023, the supporting Form MRP-022 submitted by each panel member, and the time and expense reports required by Section ~~11[40]~~ of this administrative regulation to:

(a) Each party;

(b) Each medical review panel member; and

(c) The Cabinet for Health and Family Services, Medical Review Panel Branch.

Section ~~11[40]~~. Payment for Panel Members and Chairperson.

(1)(a) Except as provided in paragraph (b) of this subsection, each panel member shall submit to the chairperson of the medical review panel a completed Form MRP-024, Time and Expense Report for Panel Members, with Form MRP-022, Panel Member's Opinion.

(b) If a proposed complaint is settled or withdrawn prior to receipt of the medical review panel's report pursuant to KRS 216C.180 and 216C.230, each panel member shall submit to the chairperson of the medical review panel, within three (3) business days of notification of the settlement or withdrawal, a completed Form MRP-024, Time and Expense Report for Panel Members.

(c) The Form MRP-024 shall include the log of the panel member's time spent on that medical review panel and the panel member's reasonable travel expenses.

(d) The chairperson shall review each of the forms submitted by the panel members and shall sign the form to verify that the form has been reviewed and appears to be an accurate representation of the panel member's time and expense report.

(2)(a) The chairperson shall complete Form MRP-025, Time and Expense Report for Chairperson, and submit it with the panel's report as required by subsection (3) of this section.

(b) The Form MRP-025 shall include the log of the chairperson's time spent on that medical review panel and the chairperson's reasonable travel expenses.

(3)(a) Pursuant to KRS 216C.220(3), the chairperson shall submit the four (4) completed time and expense reports to the appropriate party or parties with:

1. Form MRP-023, Chairperson's Report of Panel's Final Opinion, as required by KRS 216C.180 and Section ~~10[9]~~ of this administrative regulation; or

2. Form MRP-026, Panel's Final Report Following Notification

of Settlement or Complaint Withdrawal, if a report will not be issued because the complaint was settled or withdrawn prior to receipt of the medical review panel's report.

(b) The completed time and expense reports shall also be sent by the chairperson to the Cabinet for Health and Family Services, Medical Review Panel Branch.

(4)(a) Except as provided by paragraph (b) of this subsection, payment shall be made as required by KRS 216C.220(4).

(b) If the parties agreed to settle or withdraw the proposed complaint prior to receipt of the medical review panel's report pursuant to KRS 216C.180 and 216C.230:

1. Payment shall be made as agreed to by the parties and stated on Form MRP-027, Notification of Settlement or Withdrawal; or

2. If the Form MRP-027, Notification of Settlement or Withdrawal, does not address payment of the fees and expenses:

a. If there is one (1) claimant and one (1) defendant, the claimant and defendant shall each pay fifty (50) percent of the fees and expenses; and

b. If there are multiple claimants or defendants, the fees and expenses shall be split equally between the parties, with:

(i) The claimants collectively responsible for fifty (50) percent of the fees and expenses; and

(ii) The defendants collectively responsible for fifty (50) percent of the fees and expenses.

(5)(a) A party required to pay the fees and expenses shall submit payment by check or money order:

1. To the medical review panel's chairperson, who shall distribute the payments to each panel member; and

2. Within thirty (30) days of the date of the panel's report or the date of the settlement.

(b) If full payment is not received by the deadline established in paragraph (a)2. of this subsection, interest shall accrue:

1. From the date of the panel's report or the date of the settlement; and

2. At the current Kentucky post-judgment interest rate.

Section ~~12~~~~14~~. Settlements or Withdrawals. (1) Upon settlement or withdrawal of a matter pending before a medical review panel prior to receipt of the medical review panel's opinion pursuant to KRS 216C.180 and 216C.230, the claimant and defendant shall complete and file Form MRP-027, Notification of Settlement or Withdrawal, as required by subsection (2) or (3) of this section.

(2) If the settlement or withdrawal occurs before the chairperson is selected, the claimant and defendant shall file Form MRP-027 with the Cabinet for Health and Family Services, Medical Review Panel Branch, 275 East Main Street, 5W-A(MRP), Frankfort, Kentucky 40621.

(3)(a) If the settlement or withdrawal occurs after the chairperson is selected and before the opinion is issued by the medical review panel, the claimant and defendant shall file Form MRP-027 with the chairperson.

(b) The chairperson shall:

1. Notify the panel members that the complaint has been settled or withdrawn and shall request submission of Form MRP-024, Time and Expense Report for Panel Members, for payment as established in Section ~~11~~~~10~~(4) of this administrative regulation; and

2. Forward a copy of the Form MRP-027, Notification of Settlement or Withdrawal, to the Cabinet for Health and Family Services, Medical Review Panel Branch.

(4) Settlement with, or withdrawal regarding, one (1) or more, but not all, claimants or defendants shall not conclude the medical review panel's obligation to review the remaining claims.

Section ~~13~~~~12~~. Sample Form for Waiver of Medical Review Panel Process. (1) To waive the medical review process, a claimant and all parties shall complete:

(a) Form MRP-028, Parties' Agreement to Waive the Medical Review Panel Process; or

(b) Written documentation, without use of Form MRP-028, that provides evidence of the agreement required by KRS 216C.030.

(2) A waiver of the medical review process may be filed pursuant to KRS 216C.030 without previously filing a proposed complaint and filing fee as required by Section 4(1) and (2) of this administrative regulation.

(3) A copy of the Form MRP-028 or the alternative written documentation shall be filed with the Cabinet for Health and Family Services, Medical Review Panel Branch.

Section 14. Indigent Claimants. (1) If a claimant is unable to pay the filing fee established by Section 4(2) of this administrative regulation and the twenty-five (25) dollar fee for selecting a panel chair established by KRS 216C.070(2), the claimant shall file Form MRP-029, Attestation of Indigency. The proposed complaint and the Form MRP-029, Attestation of Indigency, shall be delivered or mailed by registered or certified mail to the Cabinet for Health and Family Services, Medical Review Panel Branch, 275 East Main Street, 5W-A(MRP), Frankfort, Kentucky 40621.

(2) The cabinet secretary or designee shall consider the following factors in evaluating a request that is filed pursuant to subsection (1) of this section:

(a) Income;

(b) Source of income;

(c) Property owned;

(d) Number of motor vehicles owned and in working condition;

(e) Other assets;

(f) Outstanding obligations;

(g) The number and ages of the claimant's dependents; and

(h) The poverty level income guidelines compiled and published by the United States Department of Labor.

(3) The cabinet secretary or designee shall issue Form MRP-030, Accompanying Order, within two (2) business days either waiving the fees or denying the request.

(4) If the fees are waived:

(a) The filing date for the complaint shall be the date the order is issued;

(b) The required filing fee shall be zero dollars; and

(c) The cabinet shall proceed with the process established in Section 4(4)(b) of this administrative regulation.

(5) If the fees are not waived:

(a) The filing date for the complaint shall be the date the filing fee established by Section 4(2)(a) of this administrative regulation is received by the cabinet; and

(b) The cabinet shall proceed with the process established in Section 4(4)(b) of this administrative regulation once the fee is paid.

(6) Payment for the medical review panel chairperson and members, which is required by KRS 216C.220, shall not be waived.

Section 15~~13~~. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form MRP-001, "Application to Serve as Chairperson of a Medical Review Panel", June 2017;

(b) Form MRP-002, "Proposed Complaint", ~~September~~~~June~~ 2017;

(c) Form MRP-003, "Acknowledgement of Complaint Filing", June 2017;

(d) Form MRP-004, "Cabinet Letter to Party re Filing of Proposed Complaint", June 2017;

(e) Form MRP-005, "Cabinet Notification to the Parties Regarding Service of the Complaint and Panel Chairperson Selection", June 2017;

(f) Form MRP-006, "Cabinet Letter to Parties re Chairperson Striking Panel", ~~September~~~~June~~ 2017;

(g) Form MRP-007, "Cabinet Letter to Party re Strike of Chairperson", June 2017;

(h) Form MRP-008, "Cabinet Letter to Party re Cabinet Strike of Chairperson", June 2017;

(i) Form MRP-009, "Cabinet Letter to Chairperson re Selection to Serve", June 2017;

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

(j) Form MRP-010, "Cabinet Letter to Chairperson re List of Potential Panelists", June 2017;

(k) Form MRP-011, "Cabinet Letter to Parties re Acknowledgement by Chairperson", June 2017;

(l) Form MRP-012, "Chairperson Letter to Parties re Panel Striking Lists", **September[June]** 2017;

(m) Form MRP-013, "Chairperson Letter to Party re Strike", **September[June]** 2017;

(n) Form MRP-014, "Chairperson Letter to Panel Members re Selection to Serve", **September[June]** 2017;

(o) Form MRP-015, "Chairperson Letter to Third Panel Member re Selection to Serve", June 2017;

(p) Form MRP-016, "Authorization to Release Medical Records and Protected Health Care Information", **September[June]** 2017;

(q) Form MRP-017, "Chairperson Letter to Parties re Formation of Panel and Schedule of Submissions", June 2017;

(r) Form MRP-018, "Chairperson Letter to Panel re Evidence", June 2017;

(s) Form MRP-019, "Chairperson Letter to Parties re **[Convening] Panel Hearing**", **September[June]** 2017;

(t) Form MRP-020, "Administrative Subpoena", June 2017;

(u) Form MRP-021, "Oath for Panel Members", June 2017;

(v) Form MRP-022, "Panel Member's Opinion", June 2017;

(w) Form MRP-023, "Chairperson's Report of Panel's Final Opinion", June 2017;

(x) Form MRP-024, "Time and Expense Report for Panel Members", June 2017;

(y) Form MRP-025, "Time and Expense Report for Chairperson", June 2017;

(z) Form MRP-026, "Panel's Final Report Following Notification of Settlement or Complaint Withdrawal", June 2017;

(aa) Form MRP-027, "Notification of Settlement or Withdrawal", June 2017; **[and]**

(bb) Form MRP-028, "Parties' Agreement to Waive the Medical Review Panel Process", June 2017;

(cc) Form MRP-029, "Attestation of Indigency", September 2017; and

(dd) Form MRP-030, "Accompanying Order", September 2017.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law:

(a) At the Cabinet for Health and Family Services, Medical Review Panel Branch, 275 East Main Street, 5W-A(MRP), Frankfort, Kentucky 40621, Monday through Friday, 8:00 a.m. to 4:30 p.m.; or

(b) Online at <http://mrp.ky.gov>.

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: September 11, 2017

FILED WITH LRC: September 13, 2017 at 4 p.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Molly Lewis, Deputy General Counsel, (502) 564-7905, ext. 3439, molly.lewis@ky.gov; or Laura Begin, (502) 564-6746, ext. 3448, laura.begin@ky.gov.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for medical review panels in accordance with KRS Chapter 216C.

(b) The necessity of this administrative regulation: 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 Chapter 216C establishes the framework and general requirements for medical review panels in Kentucky and KRS 216C.040(3) requires the cabinet to establish the filing fee that shall accompany each proposed complaint filed with a medical review panel.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing provisions and requirements regarding medical review panels and

establishing the fee required by KRS 216C.040(3).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the authorizing statutes by establishing the required fee and incorporating by reference standard forms for the cabinet and medical review panel chairpersons to use throughout the medical review panel process.

(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 is a new administrative regulation, but it is being amended after comments as explained in the statement of consideration filed concurrently with this administrative regulation. Changes include: (1) amending Section 4 to require the complaint to include: (a) the name, current mailing address, phone number, and, if known, email address of the person authorized to receive summons under the Kentucky Rules of Civil Procedure on behalf of that named defendant; and (b) the Kentucky Supreme Court district in which the case would be filed; (2) to amend Section 4 to prohibit filing a complaint against an unknown defendant and to direct the cabinet to return a complaint naming an unknown defendant to the claimant or claimant's attorney to completely remove the unknown defendant or replace the unknown defendant with an identified defendant; (3) amend Section 4 to: (a) clarify the components of the filing fee; and (b) require the claimant to pay an additional twelve (12) dollars for each subsequent attempt at service of process, if a valid address was not provided by the claimant in the complaint; (4) further amend Section 4 for clarity regarding the statutory requirements for service of process; (5) amend Section 6 to change the name of a form and to specify that it is used to convene a panel hearing to question counsel or ask the parties to answer specific questions; (6) create new provisions in Section 8 to establish the duties of the chairperson, in accordance with KRS 216C.060(3); (7) create a new Section 14 to establish provisions governing indigent claimants; (8) amend Section 13, which is now Section 15, to change the edition dates of seven (7) forms and the title of one (1) form, and to add two (2) forms to the incorporation by reference section; (9) make cross-reference amendments in various sections as necessary; and (10) amend seven (7) forms already incorporated by reference and create two (2) new forms.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation, but the changes being made in this amended after comments version are necessary to respond to some of the comments received at the public hearing and during the public comment period. Based upon comments received, these amendments were needed to clarify provisions, answer questions, and further implement the medical review panel process in Kentucky.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation, but the amended after comments version conforms to the content of the authorizing statutes by making changes authorized or required by KRS Chapter 216C and as authorized by KRS 13A.280.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation, but the amended after comments version will assist in the administration of KRS Chapter 216C by addressing concerns that have been brought to the cabinet's attention or that were raised internally from the time the emergency administrative regulation became effective on June 29, 2017, until the end of the public comment period, August 31, 2017.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: The administrative regulation affects anyone who wants to pursue a malpractice or malpractice-related claim against a health care provider in Kentucky, attorneys who wish to serve as medical review panel chairpersons, and licensed health care providers who will be potential defendants or medical review panel members. However, because this is a new process created by 2017 Ky. Acts ch. 22 (KRS Chapter 216C), it is not possible to provide the number of individuals affected by the administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: In accordance with KRS Chapter 216C, anyone who wants to pursue a malpractice or malpractice-related claim against a health care provider in Kentucky needs to use the medical review panel process (or specifically waive that process as permitted by KRS 216C.030). This administrative regulation establishes the process for attorneys to apply to be a panel chairperson and the various forms needed for uniform administration of medical review panels in Kentucky.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): KRS 216C.040 requires payment of a filing fee established by the Cabinet for Health and Family Services. That fee is established by this administrative regulation in the amount of \$125, plus \$12 for each defendant, in the form of a check or money order, payable to the Kentucky State Treasurer. Additional costs are specifically established by KRS Chapter 216C, not this administrative regulation, and include a \$25 fee if the parties desire the cabinet to select a panel chairperson (KRS 216C.070(2)), and the fees and reasonable travel expenses for medical review panel members and the chairperson (KRS 216C.220).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The main benefit that will accrue to the identified entities is compliance with KRS Chapter 216C, which established the medical review panel process for Kentucky to review proposed malpractice complaints against health care providers.

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

(a) Initially: Initial costs will be borne by the CHFS Secretary's Office through utilization of current personnel and assets.

(b) On a continuing basis: As the program grows, continuing costs will be partially reimbursed by user fees and partially by the CHFS Secretary's office. Independent funding may be sought from the FY 18/19 budget through the 2018 legislative session. Anticipated costs are personnel costs for two full time administrative support personnel and one half of one supervisory attorney. Additional funding will be necessary if the cabinet is to establish an electronic filing system.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Until separate budgetary authority is achieved, costs will be borne in part by user fees and in part by the CHFS Secretary's office funds.

(7) 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: Because this is a new program just created by 2017 Ky. Acts ch. 22 (KRS Chapter 216C), the filing fee established in this administrative regulation is a new fee, specifically required by KRS 216C.040(3).

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees. Because this is a new program just created by 2017 Ky. Acts ch. 22 (KRS Chapter 216C), the filing fee established in this administrative regulation is a new fee, specifically required by KRS 216C.040(3).

(9) Tiering: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administration regulation applies equally to all individuals and entities regulated by it.

authorizes the action taken by the administrative regulation. KRS 194A.050(1), 216C.010, 216C.030, 216C.040, 216C.050, 216C.060, 216C.070, 216C.080, 216C.090, 216C.100, 216C.110, 216C.120, 216C.160, 216C.170, 216C.180, 216C.200, 216C.210, 216C.220, 216C.230

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? KRS 216C.040 requires payment of a filing fee established by the Cabinet for Health and Family Services. That fee is established by this administrative regulation in the amount of \$125, plus \$12 for each defendant, in the form of a check or money order, payable to the Kentucky State Treasurer. The other revenue for the cabinet is a \$25 fee if the parties desire the cabinet to select a panel chairperson (established by KRS 216C.070(2)). However, because this is a new process created by 2017 Ky. Acts ch. 22 (KRS Chapter 216C), it is not possible to provide the number of individuals who will be filing complaints with the cabinet to initiate the medical review panel process or the number of parties who will request the cabinet to select a panel chairperson. Thus, it is not known how much revenue this administrative regulation will generate for the first year or subsequent years.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Please see the detailed answer to subpart (a).

(c) How much will it cost to administer this program for the first year? Initial costs will be borne by the CHFS Secretary's Office through utilization of current personnel and assets.

(d) How much will it cost to administer this program for subsequent years? As the program grows, continuing costs will be partially reimbursed by user fees and partially by the CHFS Secretary's office. Independent funding may be sought from the FY 18/19 budget through the 2018 legislative session. Anticipated costs are personnel costs for two full time administrative support personnel and one half of one supervisory attorney.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services, various licensing agencies of health care providers, and the Judicial Branch.

2. Identify each state or federal regulation that requires or

PROPOSED AMENDMENTS

**PERSONNEL CABINET
Office of the Secretary
(Amendment)**

101 KAR 2:210. 2018[2017] Plan Year Handbook for the Public Employee Health Insurance Program.

RELATES TO: KRS 18A.030, 18A.225, 18A.2254
STATUTORY AUTHORITY: KRS 18A.030(2)(b), 18A.2254(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.2254(1)(a)1 requires the secretary of the Personnel Cabinet to promulgate an administrative regulation to incorporate by reference the plan year handbook distributed by the Department of Employee Insurance to public employees covered under the self-insured plan and establishes the minimum requirements for the information included in the handbook. This administrative regulation incorporates by reference the plan year Benefits Selection Guide, which is the handbook distributed by the department to public employees for the 2018[2017] Plan Year as required by KRS 18A.2254(1)(a)1.

Section 1. The Department of Employee Insurance shall distribute or make available to the public employees covered under the self-insured plan the 2018[2017] Plan Year Kentucky Employees' Health Plan Benefits Selection Guide, which shall include the premiums, employee contributions, employer contributions, and a summary of benefits, copays, coinsurance, and deductibles for each plan provided to the public employees covered under the self-insured plan.

Section 2. Incorporation by Reference. (1) "2018[2017] Plan Year Kentucky Employees' Health Plan Benefits Selection Guide", 2018[2017] edition, is incorporated by reference. (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Personnel Cabinet, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

THOMAS B. STEPHENS, Secretary

APPROVED BY AGENCY: September 7, 2017

FILED WITH LRC: September 15, 2017 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 23, 2017 at 10:00 a.m. at 501 High Street, 3rd Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing 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 cancelled. 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 11:59 p.m. on October 31, 2017. 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: Sharron Burton, Deputy Executive Director, Office of Legal Services, 501 High Street, 3rd Floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email Sharron.Burton@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Sharron Burton

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates by reference the 2018 plan year handbook containing information about the self-insured health

insurance plans offered through the Public Employee Health Insurance Program. The handbook, commonly referred to as the Benefits Selection Guide, is distributed to all plan holders participating in the self-insured program. The Benefits Selection Guide contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees through the self-insured program in 2018.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the statutory mandate of KRS 18A.2254. More specifically, KRS 18A.2254(1)(a) requires the Personnel Cabinet to promulgate an administrative regulation that incorporates by reference the 2018 plan year handbook that will be distributed to the public employees covered by the Public Employee Health Insurance Program. The handbook must be filed with the Legislative Research Commission on or before September 15 each year.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 18A.2254(1), the statute that establishes the self-insured plan and mandates the promulgation of the administrative regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation aids in the effectuation of the statute, KRS 18A.2254, by incorporating by reference the 2018 plan year handbook for the Public Employee Health Insurance Program in an administrative regulation. Further, this administrative regulation is the method by which the Personnel Cabinet will comply with KRS 18A.2254.

(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 is an amendment. The existing administrative regulation incorporates by reference the 2017 plan year handbook which constitutes a compilation of the premium rates and contributions, benefit options, eligibility rules, and enrollment information for participants of the Public Employee Health Insurance Program for plan year 2017. The amendment adds and incorporates by reference the 2018 plan year handbook which contains the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for each plan available to public employees for plan year 2018.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to give notice regarding the premiums, employee contributions, employer contributions, benefits, co-pays, coinsurance, and deductibles for each plan available to public employees under the Public Employee Health Insurance Program for plan year 2018. This amendment is also necessary to comply with the statutory mandate in KRS 18A.2254 to annually update the regulation incorporating the plan year handbook.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 18A.2254, the statute authorizing the self-insured plan under the Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2018 plan year handbook by reference in accordance with KRS 18A.2254.

(d) How the amendment will assist in the effective administration of the statutes: This amendment conforms to the requirements of KRS 18A.2254, the statute authorizing the self-insured plan under the Public Employee Health Insurance Program. KRS 18A.2254 mandates that the plan year handbook be incorporated by reference in an administrative regulation on or before September 15 each year. This amendment incorporates the 2018 plan year handbook by reference in accordance with KRS 18A.2254.

(3) List the type and number of individuals, businesses,

organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects employees of state and select county and local government entities, including employees of the local school boards and districts. This administrative regulation also affects certain retirees as specified by KRS 18A.225. More specifically, and as defined by KRS 18A.225(1)(a), this administrative regulation affects approximately 182,729 employees and retirees eligible to participate in the Public Employee Health Insurance Program. In total, this administrative regulation affects 293,380 members in the self-insured plan including employees and retirees, qualifying beneficiaries, and dependents.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: Affected entities will not be required to take any additional action to comply with this administrative regulation that incorporates the 2018 plan year handbook. The 2018 Benefits Selection Guide will provide information to the public employees covered under the Public Employee Health Insurance Program about the premiums, employee contributions, employer contributions, and a summary of benefits, co-pays, coinsurance, and deductibles for the 2018 plan year.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation provides employer and employee premium contribution information for health plans available under the Public Employee Health Insurance Program for plan year 2018. There is no direct cost impact to employers participating in the Public Employee Health Insurance Program as a result of incorporating the 2018 plan year handbook into the administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): For plan year 2018, participating employers (entities) and participating employees and retirees and their beneficiaries and dependents covered under the Public Employee Health Insurance Program will have access to comprehensive health insurance benefits under all plans offered through the self-insured program. For plan year 2018, adjustments to employer and employee premium contributions are necessary due to health care inflation. As permitted in the 2016-2018 biennium budget, there is an overall increase of 1% in employer premium contributions for coverage through the Public Employee Health Insurance Program. Employee premium contributions will increase by 3% for all plans, except premium for the lowest cost, single coverage health plan will increase from \$13.10 per month to \$26.20 per month.

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

(a) Initially: Costs of implementing this administrative regulation initially are believed to be minimal.

(b) On a continuing basis: Costs of implementing this administrative regulation on a continuing basis are believed to be minimal.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding to be used for the implementation of this administrative regulation will be the Public Employee Health Insurance Trust Fund.

(7) 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: This is an amendment. This administrative regulation will not require an increase in funding or fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No, tiering is not applied because this administrative regulation applies equally to all

participants in the Public Employee Health Insurance Program.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect all employees of state and select county and local government entities, including employees of the local school boards and districts that participate in the Public Employee Health Insurance Program. As employers, this administrative regulation will affect state and select county and local government entities as well as local school boards and districts. This administrative regulation also affects certain retirees eligible to participate in the Program.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.225, 18A.2253, 18A.2254, 18A.2255, 18A.2259, 18A.226, 18A.227, 18A.2271, 18A.228, 18A.2286, 18A.2287; 26 U.S.C. 21, 105, 106, 125, 129, 152, and 213 (Internal Revenue Code); Prop. Treas. Reg. 1.125-1 through 7; the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (2010); and the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, school boards or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, school boards or school districts) for the first year? The administrative regulation will not generate any revenues.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The administrative regulation will not generate any revenues.

(c) How much will it cost to administer this program for the first year? Costs of implementing this program are believed to be similar to previous plan years.

(d) How much will it cost to administer this program for subsequent years? Costs of implementing this program on a continuing basis are believed to be consistent with previous plan years. By law, an amended administrative regulation will be promulgated in 2017 and each subsequent plan year.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other:

**FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)**

103 KAR 26:110. Motor carrier repair and replacement parts.

RELATES TO: KRS 131.110, 139.010, [~~139.050, 139.100, 139.110, 139.120, 139.140,~~] 139.200, 139.260, 139.270, 139.310, 139.330, 139.480, 139.540, 139.550, [~~139.560,~~] 139.590, 139.720

STATUTORY AUTHORITY: KRS 131.130, 139.710
NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130 and 139.710 authorize the Department of Revenue[Revenue Cabinet] to promulgate administrative regulations for the assessment, collection, refunding, administration, and enforcement of the Kentucky tax laws. This administrative regulation establishes requirements and guidelines for the application of the sales and use tax exemption for repair and replacement parts for the direct

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire as provided in KRS 139.480(32).

Section 1. Definitions. (1) "Exclusively in interstate commerce" means the conveyance of property or passengers by a motor vehicle in more than one (1) state. A motor vehicle used in the conveyance of property or passengers only within the borders of this state is not used in interstate commerce.

(2) "For hire" means a motor carrier receiving compensation for transportation of property owned by others or passengers under the requirements of the Federal Motor Carrier Safety Administration (FMCSA) 49 C.F.R. 325 to 399.

(3) "Truck Part Direct Pay Authorization" or "TP DPA" means an authorization issued by the Department of Revenue~~Revenue Cabinet~~ that permits a taxpayer to report Kentucky sales and use tax directly to the department~~cabinet~~ on applicable repair and replacement parts.

Section 2. Application Process. (1) The applicant shall complete the Application for Truck Part Direct Pay Authorization, Revenue Form 51A160~~{October 2003}~~.

(2) To qualify for the TP DPA, the applicant shall be:

(a) Designated as an interstate motor carrier with the Federal Motor Carrier Safety Administration and the Kentucky Transportation Cabinet;

(b) Registered with a Kentucky sales and use tax account number or a Kentucky consumer use tax account number; and

(c) Operating one (1) or more motor vehicles exclusively in interstate commerce.

(3) The department~~cabinet~~ shall issue qualifying applicants a TP DPA (Revenue Form 51A161).

Section 3. Exemption Procedures. The TP DPA holder shall:

(1) Issue a copy of the authorization to all its truck part vendors;

(2) Report and remit the sales or use tax to the Department of Revenue~~Revenue Cabinet~~ on purchases of repair and replacement parts used on nonqualifying motor vehicles that the purchaser's vendor would have remitted if the authorization had not been issued;

(3) Report and pay all taxable purchases in accordance with KRS 139.540, 139.550,~~139.560,~~ and 139.590;

(4) Maintain records pursuant to KRS 139.720(2); and

(5) File by February 15 of each year the "Truck Part Direct Pay Authorization Purchase Report," Revenue Form 51A162~~{October 2003}~~, to report the total tax savings from purchases of repair and replacement parts that are exempt from sales and use tax pursuant to KRS 139.480(32).

Section 4. Vendor Requirements. (1) Vendors shall be relieved of the duty to collect and pay the sales or use tax on sales of repair and replacement parts if they:

(a) Accept a copy of the purchaser's TP DPA ~~in good faith~~ pursuant to KRS 139.270; and

(b) Retain the copy in the company records pursuant to KRS 139.720(2).

(2) Vendors shall:

(a) Report sales to a TP DPA holder on Line 1, Gross Receipts, of Revenue Form 51A102, "Sales and Use Tax Return"~~[(July 2003)]~~; and

(b) Take a corresponding deduction Code 190 on the return and identify the deduction as "TP DPA Sales".

Section 5. Transfer of Authorization. (1) A TP DPA shall not be transferable upon the sale, lease, or other transfer of the business.

(2) A TP DPA holder shall notify the department~~cabinet~~ within ten (10) days of the effective date of the sale, lease, or other transfer of the business.

Section 6. Termination. (1) The department~~cabinet~~ shall terminate a TP DPA if the holder:

(a) Fails or ceases to be an eligible taxpayer;

(b) Fails to timely file its sales and use tax returns and timely pay any tax due; or

(c) Fails to comply with any of the provisions of this administrative regulation.

(2) The department~~cabinet~~ shall notify a TP DPA holder of the termination by certified mail at the last known business address.

(3) Upon receipt of the notification of termination, a TP DPA holder shall notify all truck repair and replacement part vendors within thirty (30) days of the date of termination.

(4) The effective date of the termination shall be the date of the mailing of the termination notice.

Section 7. Protests. The denial or termination of a TP DPA may be protested pursuant to KRS 131.110.

Section 8. Forms. The forms listed herein may be inspected, copied, or obtained, subject to applicable copyright law, at:

(1) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;

(2) A Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(3) The department Web site at <http://revenue.ky.gov>.~~[Incorporation by Reference. (1) The following material is incorporated by reference:]~~

~~(a) "Sales and Use Tax Return", Form 51A102[(July 2003)];~~

~~(b) "Consumer's Use Tax Return", Form 51A113[(July 2003)];~~

~~(c) "Application for Truck Part Direct Pay Authorization", Form 51A160[(October 2003)];~~

~~(d) "Truck Part Direct Pay Authorization", Form 51A161[(October 2003)]; and~~

~~(e) "Truck Part Direct Pay Authorization (TP DPA) Purchase Report", Form 51A162[(October 2003)].~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Revenue Cabinet, 200 Fair Oaks Lane, Frankfort, Kentucky 40620, or at a Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

DANIEL P. BORK, Commissioner

APPROVED BY AGENCY: September 12, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 cancelled. 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 through October 31, 2017. 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: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation is an amendment that updates regulatory language to conform to recent statutory language revisions.

(b) The necessity of this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and KRS 131.131.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation.

(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: The current version of 103 KAR 26:110 contains repealed statutory references, outdated and unnecessary forms dates, and outdated Department of Revenue address and contact information. The proposed amendment updates regulatory language to address these issues. "Revenue Cabinet" and "cabinet" are updated to "Department of Revenue" and "department"; the reference to "Good faith" in Section 4 is deleted; and references to forms and form dates no longer promulgated in a regulation are removed.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation. Repealed statutory references are removed and replaced with the updated statutory reference, outdated and unnecessary forms dates are removed and DOR contact and address information is updated.

(c) How the amendment conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and KRS 131.131.

(d) How the amendment will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that access the amended regulation.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply with the amended regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

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

(a) Initially: Current budgetary funds and staff will be utilized to implement the proposed amendment.

(b) On a continuing basis: There is no cost on a continual basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current budgetary funds and staff will be used to implement and enforce the proposed amendment.

(7) 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 necessary. There is no additional cost to implement and enforce the proposed amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? No. Tiering is not applied to this amendment as the proposed amended regulation will apply equally to those affected by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and KRS 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None. This amendment only updates outdated regulatory language and information currently contained in the regulation. Repealed statutory references are removed and replaced with the updated statutory reference, outdated and unnecessary forms dates are removed, and DOR contact and address information is updated. No new revenue is generated by this amendment.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FINANCE AND ADMINISTRATION CABINET Department of Revenue (Amendment)

103 KAR 28:150. Collection of sales tax on certain motor vehicle sales.

RELATES TO: KRS 139.010, 139.200, 139.260, 139.470, 139.720

STATUTORY AUTHORITY: KRS 131.130, 139.710

NECESSITY, FUNCTION AND CONFORMITY: KRS 131.130 authorizes the Department of Revenue to promulgate administrative regulations necessary for the administration and enforcement of all tax laws in Kentucky. KRS 139.710 authorizes the department to administer the provisions of KRS Chapter 139, relating to the assessment, collection, refunding, and administration of taxes. This administrative regulation establishes requirements for the application and reporting of the sales tax by sellers of motor vehicles to certain nonresidents pursuant to KRS 139.470(20)(b)[~~KRS 139.470(24)(b)~~].

Section 1. Definition. "Motor vehicle" is defined by KRS 138.450(5).

Section 2. Reporting Requirements. A motor vehicle dealer making sales of motor vehicles shall: (1) Maintain records pursuant to KRS 139.720[~~KRS 139.470(20)(b)~~];

(2) Collect, report, and remit applicable sales tax on motor vehicle sales to nonresidents not exempt under KRS 139.470(20)(b)[~~KRS 139.470(24)(b)~~];

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

(3) Provide a completed copy of the "Certificate of Sales Tax Paid on the Purchase of a Motor Vehicle" (Revenue Form 51A270) to each customer from whom Kentucky sales tax is due; and

(4) File a supplementary schedule entitled "Kentucky Sales Tax Motor Vehicle Sales Supplementary Schedule" (Revenue Form 51A135) for each sales tax filing period that includes sales tax from sales of motor vehicles.

Section 3. Filing Process. The due date of the supplementary schedule shall be the same due date as the sales and use tax return for which the supplement is required. The supplementary schedule shall be filed separately from the sales and use tax return according to the instructions provided by the department on the form.

Section 4. Forms. The forms listed herein may be inspected, copied, or obtained, subject to applicable copyright law, at:

(1) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;

(2) A Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(3) The department Web site at <http://revenue.ky.gov>. [~~Incorporation by Reference. (1) The following material is incorporated by reference:~~

(a) ~~"Certificate of Sales Tax Paid on the Purchase of a Motor Vehicle", Form 51A270, (August 2006); and~~

(b) ~~"Kentucky Sales Tax Motor Vehicle Sales Supplementary Schedule," Form 51A135, (July 2006).~~

(2) ~~This material may be inspected, copied or obtained, subject to applicable copyright law, at the Department of Revenue, 200 Fair Oaks Lane, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 5 p.m.]~~

DANIEL P. BORK, Commissioner

APPROVED BY AGENCY: September 12, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 cancelled. 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 through October 31, 2017. 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: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation is an amendment that updates regulatory language to conform to recent statutory language revisions.

(b) The necessity of this administrative regulation: The amendment is necessary to update outdated or incorrect regulatory language and information currently contained in the regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and 131.131.

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

amendment updates regulatory language to address outdated or incorrect information currently contained in the regulation.

(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: The current version of 103 KAR 28:150 contains repealed or incorrect statutory references, outdated and unnecessary forms dates and prior Department of Revenue address and contact information. The proposed amendment updates regulatory language to address these issues

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update outdated or incorrect regulatory language and information currently contained in the regulation. Outdated or incorrect statutory references are removed and replaced with the correct statutory references, outdated and unnecessary forms dates are removed and DOR contact and address information is updated. Section 2(1) updates a reference to KRS 139.470(20)(b) to KRS 139.720 (statute related to records retention).

(c) How the amendment conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and KRS 131.131.

(d) How the amendment will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated or incorrect information currently contained in the regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that access the amended regulation.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply with the amended regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

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

(a) Initially: There is no cost to implement the proposed amendment.

(b) On a continuing basis: There is no cost to implement the proposed amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current department budgetary funding.

(7) 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: There are no new fees or an increase in funding necessary to implement and enforce the proposed amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? No. Tiering is not applied as the proposed amended regulation will apply equally to those affected by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will

be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and KRS 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None. This amendment is only a language cleanup to replace outdated or incorrect language.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)**

103 KAR 31:050. Returned merchandise.

RELATES TO: KRS 139.010

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: To interpret the sales and use tax law as it applies to returned or defective merchandise.

Section 1. "Gross receipts" and "sales price" do not include the amount charged for merchandise returned by customers if:

(1) The full sale price, including that portion designated as "sales tax" or "use tax" is refunded either in cash or credit; and

(2) The customer, in order to obtain the refund or credit, is not required to purchase other property at a price greater than the amount charged for the property that is returned.

Section 2. Refund or credit of the entire amount is deemed to be given when the purchase price, less rehandling and restocking costs, are refunded or credited to the customer.

Section 3. The records of the taxpayer must clearly reflect and support the taxpayer's claim for all such deductions for merchandise returned for credit or refund.

Section 4. Articles of tangible personal property that are repossessed by the seller may not be classed as returned goods. [See 103 KAR 31:040 for repossessed merchandise.]

Section 5. Credits or refunds allowed by sellers to consumers on account of defects in merchandise sold may be excluded in the same manner as credits or refunds for returned merchandise.

DANIEL P. BORK, Commissioner

APPROVED BY AGENCY: September 12, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24,

2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 cancelled. 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 through October 31, 2017. 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: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation is an amendment that updates regulatory language to conform to recent statutory language revisions.

(b) The necessity of this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation.

(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: The current version of 103 KAR 31:050 contains an outdated reference to 103 KAR 31:040 which was repealed in 2004. This proposed amendment removes this reference and is the only change made in this regulation. This amendment is merely removing unneeded language in a department cleanup effort for the Red Tape Reduction Initiative.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation. The reference to 103 KAR 31:040 is removed.

(c) How the amendment conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130.

(d) How the amendment will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that may reference this regulation for guidance.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply with the amended regulation.

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

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

(a) Initially: There is no cost to the department to implement the proposed amendment beyond current department budgeted funds and staff.

(b) On a continuing basis: There is no cost to the department on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no additional cost to implement and enforce the proposed amendment.

(7) 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: There is no additional cost to implement and enforce the proposed amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? No. Tiering is not applied as all entities who would reference this regulation for guidance will be held to the same criteria.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and KRS 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None. This amendment is merely a department cleanup effort for the Red Tape Reduction Initiative to remove an unneeded reference to 103 KAR 31:040 that was repealed in 2004.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)

103 KAR 31:180. Signature project refunds on construction costs.

RELATES TO: KRS 65.7045, 139.515, 154.030-010[2008 Ky.

Acts ch. 178, secs. 14, 18]

STATUTORY AUTHORITY: KRS 131.130(1), 139.710
NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations necessary for the administration and enforcement of all tax laws in Kentucky. KRS 139.710 authorizes the department to administer the provisions of KRS Chapter 139, relating to the assessment, collection, refund, and administration of taxes. KRS 139.515 requires sales tax refunds for qualified signature projects. This administrative regulation establishes requirements for a sales and use tax refund relating to a signature project.

Section 1. Definitions. (1) "Agency" is defined in KRS 65.7045(2).

(2) "Approved public infrastructure costs" is defined by KRS 154.030-010(3)[2000 Ky. Acts ch. 178, sec. 14(3)].

(3) "Approved signature projects costs" is defined by KRS 154.030-010(4)[2008 Ky. Acts ch. 178, sec. 14(4)].

(4) "Commencement date" is defined in KRS 65.7045(8).

(5) "Fiscal year" means the Commonwealth of Kentucky's accounting period which begins every July 1 and ends on June 30 of the following year.

(6) "Purchaser" means the contractor, subcontractor, or other entity that purchases tangible personal property used in the construction of a signature project.

(7) "Signature project" is defined by KRS 139.515(1)(b) and 154.030-010(26)[2008 Ky. Acts ch. 178, sec. 14(26)].

(8) "Tangible personal property used in the construction of a signature project" is defined in KRS 139.515(1)(c).

(9) "Vendor" means an individual or entity from whom tangible personal property used in the construction of a signature project is purchased.

Section 2. Refund Application Requirements. (1) Requests for refunds shall be filed with the Department of Revenue annually by the agency within the sixty (60) day timeframe as provided for in KRS 139.515 and shall only cover purchases made after the "commencement date" of the project grant agreement.

(2) Refund requests shall be postmarked, electronically submitted or, if delivered by messenger, hand-stamped by the department by the date required and shall include the following:

[(1)](a) Application for Kentucky Signature Project Sales and Use Tax Refund, Form 51A291;

(b) Information Sharing and Assignment Agreement for Designated Refund Claims, Form 51A290. The agency shall cause to be executed a separate Information Sharing and Assignment for Designated Refund Claims for every purchaser and vendor relationship. Each agreement shall be submitted to the Department of Revenue with the first request for refund that includes the purchaser vendor relationship filed after the execution of the agreement. Only one (1) agreement shall be required for each vendor and purchaser relationship for the life of the signature project;

(c) Expenditure Report for Signature Project Refunds, Form 51A292, from each purchaser detailing all "tangible personal property used in the construction of the signature project" and the total corresponding Kentucky sales and use tax paid;

(d) Sample invoices between each purchaser and vendor; and

(e) The percentage of each purchaser's "tangible personal property used in the construction of the signature project" not included in the project grant agreement as approved public infrastructure costs or approved signature project costs.

Section 3. Record-Keeping Requirements. The approved agency shall keep adequate and complete records supporting its refund request for periods not less than four (4) years as provided for in KRS 139.720. The department may audit part or all of the records of all parties involved as necessary to verify the refund request and to ensure compliance with KRS 139.515.

Section 4. Forms. The forms listed herein may be inspected, copied, or obtained, subject to applicable copyright law, at:

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

~~(1) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;~~

~~(2) A Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.; or~~

~~(3) The department Web site at <http://revenue.ky.gov>. [Incorporation by Reference. (1) The following material is incorporated by reference:~~

~~(a) "Application for Kentucky Signature Project Sales and Use Tax Refund", Form 51A291 (October, 2007);~~

~~(b) "Expenditure Report for Signature Project Refunds", Form 51A292 (October, 2007); and~~

~~(c) "Information Sharing and Assignment Agreement for Designated Refund Claims", Form 51A290 (October, 2007).~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Revenue, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. until 5 p.m.]~~

DANIEL P. BORK, Commissioner

APPROVED BY AGENCY: September 12, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 cancelled. 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 through October 31, 2017. 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: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation is an amendment that updates regulatory language to conform to recent statutory language revisions.

(b) The necessity of this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and 131.131.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information contained in the regulation which reduces calls to the department and assists with compliance.

(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: The current version of 103 KAR 31:180 contains unnecessary references to form dates and a previous address for the Department of Revenue as well as outdated contact information. Also, the current version of 103 KAR 31:180 references "2008 Ky. Acts ch 178" several times, which is updated to the correct statutory cite of KRS 154.030-010. This proposed amendment updates regulatory language to address these issues.

(b) The necessity of the amendment to this administrative regulation: To provide taxpayers and affected parties with the most

recent up to date information for guidance.

(c) How the amendment conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to accurately reference the statutes and to conform with KRS 131.130 and 131.131.

(d) How the amendment will assist in the effective administration of the statutes: Providing affected parties with accurate up to date information reduces calls to the department and assists with more efficient compliance of the statutes.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that access the amended regulation.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply with the amended regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

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

(a) Initially: There is no cost to implement the proposed amendment.

(b) On a continuing basis: There is no cost on a continual basis to implement the proposed amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current department budgetary funding.

(7) 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 fees or increase in funding is needed for the cleanup of this regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? No. Tiering is not applied to this administrative regulation as all affected parties will be treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None. This amendment is only cleaning up outdated or incorrect language.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)**

103 KAR 31:190. Alternative fuel, gasification, and renewable energy facility refunds on construction costs.

RELATES TO: KRS 139.517, 139.720, 154.27-010, 154.27-070

STATUTORY AUTHORITY: KRS 131.130(1), 139.517(4)(d), 139.710

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations necessary for the administration and enforcement of all tax laws in Kentucky. KRS 139.710 authorizes the department to administer the provisions of KRS Chapter 139, relating to the assessment, collection, refund, and administration of taxes. KRS 139.517 establishes the sales tax incentive for alternative fuel, gasification and renewable energy facilities. This administrative regulation establishes requirements for a sales and use tax refund relating to the construction, retrofit, or upgrade of an alternative fuel, gasification, or renewable energy facility.

Section 1. Definitions. (1) "Activation date" is defined in KRS 154.27-010(1).

(2) "Alternative fuel facility" is defined by KRS 154.27-010(3).

(3) "Approved company" is defined in KRS 154.27-010(5).

(4) "Authority" is defined in KRS 154.27-010(6).

(5) "Construction period" is defined in KRS 154.27-010(14)(13).

(6) "Eligible project" is defined in KRS 154.27-010(16)(15).

(7) "Facility" is defined in KRS 154.27-010(20)(17).

(8) "Gasification facility" is defined in KRS 154.27-010(22)(19).

(9) "Renewable energy facility" is defined in KRS 154.27-010(26)(24).

(10) "Retrofit" is defined in KRS 154.27-010(28)(26).

(11) "Upgrade" is defined in KRS 154.27-010(32)(30).

Section 2. Refund Application Requirements. (1) The approved company shall file requests for refunds with the Department of Revenue annually within the sixty (60) day deadlines provided for in KRS 139.517(4) and according to the activation date requirements of KRS 154.27-070.

(2) Refund requests shall be postmarked, electronically submitted, or if delivered by messenger, hand-stamped by the department by the date required to qualify for consideration and shall include the following:

(a) Application for Kentucky Alternative Fuel, Gasification, and Renewable Energy Facility Sales and Use Tax Refund, Form 51A301;

(b) Information Sharing and Assignment Agreement for Designated Refund Claims, Form 51A290, ~~which is incorporated by reference in 103 KAR 3:020~~. This agreement shall be completed and signed by the approved company, the subcontractor or contractor (purchaser), and the vendor as applicable;

(c) Expenditure Report for Alternative Fuel, Gasification, and Renewable Energy Facility Refunds, Form 51A302, from each

purchaser detailing all tangible personal property used in the construction, retrofitting, or upgrading of an eligible project and the total corresponding Kentucky sales and use tax paid; and

(d) Sample invoices between each purchaser and vendor.

(3) Failure to file the request for a refund within the sixty (60) day deadlines shall result in the forfeiture of the refund for that year and the amount forfeited shall not be subject to a refund request for any subsequent years.

Section 3. Record-keeping Requirements. The approved company shall keep adequate and complete records supporting its refund request for periods not less than four (4) years as provided for in KRS 139.720. The department may audit the records of all parties involved as necessary to verify the refund request and to ensure compliance with KRS 139.517.

Section 4. Forms. The forms listed herein may be inspected, copied, or obtained, subject to applicable copyright law, at:

(1) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;

(2) A Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(3) The department Web site at <http://revenue.ky.gov>.

~~Incorporation by Reference. (1) The following material is incorporated by reference:~~

~~(a) "Application for Kentucky Alternative Fuel, Gasification, and Renewable Energy Facility Sales and Use Tax Refund", Form 51A301, December 2008; and~~

~~(b) "Expenditure Report for Alternative Fuel, Gasification, and Renewable Energy Facility Refunds", Form 51A302, December 2008.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Revenue, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. until 5 p.m. (35 Ky.R. 1952; 2005; eff. 4-3-2009; TAm 6-22-2016.)~~

DANIEL P. BORK, Commissioner

APPROVED BY AGENCY: September 12, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 cancelled. 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 through October 31, 2017. 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: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation is an amendment that updates regulatory language to conform to recent statutory language revisions.

(b) The necessity of this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation.

(c) How this administrative regulation conforms to the content

of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and 131.131.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation.

(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: The current version of 103 KAR 31:190 contains repealed regulatory references as it relates to forms and prior Department of Revenue address and contact information. The current version also contains prior statutory references related to definitions contained within KRS 154.27-010. The proposed amendment updates the current regulatory language to address and correct these issues.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation. Repealed regulatory form references are removed along with statutory definition references, DOR contact and address information is also updated.

(c) How the amendment conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and 131.131.

(d) How the amendment will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that access the amended regulation.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply with the amended regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

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

(a) Initially: There is no cost to implement the proposed amendment.

(b) On a continuing basis: There is no cost on a continual basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current department budgetary funding and staff will be used to implement and enforce this administrative regulation.

(7) 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 new funding or increase in fees is necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? No. Tiering is not applied as all parties affected by this regulation will be treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)

103 KAR 31:200. Energy efficiency projects.

RELATES TO: KRS 139.010, 139.518

STATUTORY AUTHORITY: KRS 131.130(1), 139.710

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations necessary for the administration and enforcement of all tax laws in Kentucky. KRS 139.170 authorizes the department to administer the provisions of KRS Chapter 139, relating to the assessment, collection, refund, and administration of taxes KRS 139.518 establishes the sales and use tax refund provisions for energy efficiency products used at manufacturing plants. This administrative regulation establishes requirements for a sales and use tax refund relating to an energy efficiency project.

Section 1. Definitions. (1) "Energy efficiency project" is defined by KRS 139.518(1).

(2) "Manufacturing" is defined by KRS 139.010(16)(8).

(3) "Plant facility" is defined by KRS 139.010(21)(44).

Section 2. Efficiency Requirements. To calculate the fifteen (15) percent reduction of energy or energy-producing fuels, the decrease in energy consumption shall be based on the total energy consumed within all combined manufacturing at one (1) plant facility.

Section 3. Refund Application Requirements. (1) The applicant shall file a completed Application for Preapproval for Energy Efficiency Machinery or Equipment, Form 51A300, with the Department of Revenue along with energy and energy producing fuel consumption documentation within the timeframe required under KRS 139.518(4).

(2) Requests for the sales and use tax incentive shall be filed within the timeframe required by KRS 139.518(6)(a). The following

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

completed documentation demonstrating achievement of the fifteen (15) percent energy efficiency threshold shall be submitted:

(a) Application for Energy Efficiency Machinery or Equipment Sales and Use Tax Incentive, Form 51A351;

(b) Information Sharing and Assignment Agreement for Energy Efficiency Project Incentive, Form 51A350. This agreement shall be completed and signed by the manufacturer, the vendor, and the contractor as applicable; and

(c) Purchase invoices for the machinery and equipment for which a refund is being requested.

(3) ~~To be considered valid~~, all applications and other documents required shall be postmarked, electronically submitted or, if delivered by messenger, hand-stamped by the department by the date required ~~[to qualify for consideration]~~.

(4) The applicant shall keep adequate and complete records supporting its refund request for periods not less than four (4) years as provided for in KRS 139.720. The department may audit part or all of the records of all parties involved as necessary to verify the refund request and to ensure compliance with KRS 139.518.

Section 4. Forms. The forms listed herein may be inspected, copied, or obtained, subject to applicable copyright law, at:

(1) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;

(2) A Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(3) The department Web site at <http://revenue.ky.gov>.
~~[Incorporation by Reference. (1) The following material is incorporated by reference:~~

~~(a) "Application for Preapproval for Energy Efficiency Machinery or Equipment", Form 51A300, June 2008;~~

~~(b) "Information Sharing and Assignment Agreement for Energy Efficiency Project Incentive", Form 51A350, June 2008; and~~

~~(c) "Application for Energy Efficiency Machinery or Equipment Sales and Use Tax Incentive", Form 51A351, June 2008.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Revenue, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. until 5 p.m.]~~

DANIEL P. BORK, Commissioner

APPROVED BY AGENCY: September 12, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 cancelled. 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 through October 31, 2017. 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: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation is an amendment that updates regulatory

language to conform to recent statutory language revisions.

(b) The necessity of this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and 131.131.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation.

(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: The current version of 103 KAR 31:200 contains outdated statutory references, outdated and unnecessary forms dates and prior Department of Revenue address and contact information. Verbiage is updated in Section 3(3) to clarify application submission requirement. The proposed amendment updates regulatory language to address these issues

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation. Outdated statutory references are removed and replaced with the updated statutory reference, outdated and unnecessary forms dates are removed and DOR contact and address information is updated. Verbiage is updated in Section 3(3) to clarify application submission requirement.

(c) How the amendment conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and 131.131.

(d) How the amendment will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that access the amended regulation.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply with the amended regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

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

(a) Initially: There is no cost to the department to implement the proposed amendment.

(b) On a continuing basis: There is no cost on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no additional cost to implement and enforce the proposed amendment.

(7) 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: There is no additional cost to implement and enforce the proposed amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No

fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? No. Tiering is not applied to this regulation as all parties affected by this regulation are treated exactly the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None. This amendment updates incorrect or outdated information contained in the regulation.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

**FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)**

103 KAR 44:060. Motor vehicle usage tax valuation.

RELATES TO: KRS 138.450-138.470

STATUTORY AUTHORITY: KRS 131.130(1), 138.460

NECESSITY, FUNCTION, AND CONFORMITY: House Bill 74 enacted by the 1998 Kentucky General Assembly made significant changes in the valuation of motor vehicles for motor vehicle usage tax. KRS 138.460, as amended and effective August 1, 1998, authorizes the Department of Revenue to promulgate administrative regulations prescribing documentation necessary to carry out the provisions of HB 74. [~~KRS 131.130(1) authorizes the department to make administrative regulations for the administration of all tax laws.~~] This administrative regulation establishes the form and procedures required for the implementation of House Bill 74[~~and replaces emergency administrative regulation 103-KAR-44:060E~~].

Section 1. Definitions. (1) "Gift" means the transfer of a motor vehicle from one (1) party to another for no consideration or nominal consideration.

(2) "MSRP" means the manufacturer's suggested retail price.

Section 2. The following special valuation procedures shall be followed:

(1) For purposes of establishing retail price for used motor vehicles when a notarized affidavit signed by both the buyer and the seller is not available, retail price shall be the average retail

value as listed in the appropriate automotive reference manual[manuals] prescribed in Section 3 of this administrative regulation.

(2) For purposes of establishing retail price for used motor vehicles whose values do not appear in the automotive reference manual prescribed by the department, and when a notarized affidavit signed by both the buyer and the seller is not available, retail price shall be determined by the department.

(3) For purposes of establishing retail price for used vehicles of the current model year for which an average retail value has not been published in one of the reference manuals prescribed by the department, retail price shall be eighty-five (85) percent of the MSRP, including the MSRP of all equipment and accessories, standard and optional, and transportation charges.

Section 3. The following automotive reference manuals shall be followed for the valuation of the motor vehicles contained therein for motor vehicle usage tax, listed in order of prescribed use:

- (1) Automobiles and light trucks:
 - (a) NADA Official Used Car Guide®;
 - (b) NADA Official Older Used Car Guide; and
 - (c) NADA Classic Collectible and Special Interest Car Appraisal Guide.
- (2) Other trucks: NADA Official Commercial Truck Guide®.
- (3) Miscellaneous vehicles:
 - (a) NADA Recreational Vehicle Appraisal Guide;
 - (b) NADA Van/Truck Conversion and Limousine Appraisal Guide; and
 - (c) NADA Motorcycle/Snowmobile/ATV/Personal Watercraft Appraisal Guide.
- (4) General use: Automotive Invoice Service New Car Cost Guide.

Section 4. (1) If an affidavit of total consideration given is not available and a retail price based on MSRP is prescribed by statute, a copy of the window sticker or other documentation from the manufacturer showing MSRP and listing the base price, all equipment and accessories, standard and optional, and transportation charges shall be provided to the county clerk when a new automobile is presented for registration.

(2) An itemized statement showing the MSRP of any additional equipment and accessories installed by the dealer and not reflected on the window sticker shall also be provided to the county clerk.

(3) If the manufacturer's documentation does not include complete MSRP information, the department shall obtain MSRP information from available sources.

(4) If the manufacturer's invoice to the dealer does not contain MSRP information, the dealer shall provide the county clerk a copy of the manufacturer's invoice and provide an itemized list of all equipment and accessories whether installed by the manufacturer or dealer, plus transportation charges.

(5) Taxable valuation shall then be determined through the use of MSRP information provided in the price reference manual prescribed in Section 3 of this administrative regulation, or other source of MSRP information.

Section 5. Forms. (1) The department forms applicable to this regulation are:

- (a) Revenue Form 71A100, "Affidavit of Total Consideration Given for a Motor Vehicle"; and
- (b) Revenue Form 71F001, "Kentucky's Taxation of Motor Vehicles for Motor Vehicle Usage Tax".

(2) These forms may be inspected, copied, or obtained, subject to applicable copyright law, at:

- (a) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;
- (b) A Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.; or
- (c) The department Web site at <http://revenue.ky.gov>.

~~[Incorporation by Reference. (1) The following items are incorporated by reference:~~

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

(a) Revenue Form 71A100, "Affidavit of Total Consideration Given for a Motor Vehicle", October 1998.

(b) Revenue Form 71F001, "Kentucky's Taxation of Motor Vehicles for Motor Vehicle Usage Tax", December 1998.

(2) These documents may be inspected, copied, or obtained at the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620, or at any Kentucky Department of Revenue Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.]

DANIEL P. BORK, Commissioner

APPROVED BY AGENCY: September 12, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 cancelled. 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 through October 31, 2017. 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: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation updates regulatory language to conform to recent statutory language revisions.

(b) The necessity of this administrative regulation: To update outdated language in the regulation to the most up to date information now provided in statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It updates the current outdated language to comply with statutory changes made to KRS 131 in SB 129 of the 2016 General Assembly that removed the requirement for the department to file a regulation incorporating applicable forms. This amendment removes references to forms incorporated by reference that are now published solely on the department's website.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It may potentially decrease calls or questions to the department regarding up to date recent versions of the forms previously listed in this regulation.

(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 will remove references to forms previously incorporated by reference in this regulation that are now provided solely on the department's webpage.

(b) The necessity of the amendment to this administrative regulation: To provide the most up to date information for all who would seek guidance from this regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment provides guidance on the location of the forms listed in this regulation.

(d) How the amendment will assist in the effective administration of the statutes: It may decrease questions or calls to the department, allowing staff to focus on revenue generating

tasks.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that may reference this regulation for guidance.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to any entity to comply.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

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

(a) Initially: There is no cost to the department to implement the proposed amendment beyond current department budgeted funds and staff.

(b) On a continuing basis: There is no cost to the department on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no additional cost to implement and enforce the proposed amendment.

(7) 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: There is no additional cost to implement and enforce the proposed amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? No. Tiering is not applied as the provisions of this regulation apply equally to all those affected by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and KRS 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no effect on the revenues of any agency or entity from this administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None. This amendment only provides updated information regarding the location of forms on the department's website.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for

subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

**FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)**

103 KAR 44:070. Taxation of loaner and rental motor vehicles.

RELATES TO: KRS 131.180, 138.450-138.470, 138.990
STATUTORY AUTHORITY: KRS 131.130(1), 138.460

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations for the administration of all tax laws. KRS 138.460 authorizes the department to promulgate administrative regulations prescribing forms and procedures to collect the tax due on loaner or rental motor vehicles. This administrative regulation establishes those forms and procedures.

Section 1. Definitions. (1) "AVIS" means the Automated Vehicle Information System prescribed by KRS Chapter 186A.

(2) "Department" is defined by KRS 131.010(2).

(3) "Due date" means the date by which a report and payment of loaner or rental tax due shall be submitted to the department.

(4) "Eligible taxpayer" means a motor vehicle dealer licensed under KRS 190.010 who in the course of business loans or rents designated motor vehicles exclusively to customers of their service or repair components.

(5) "Loaner or rental motor vehicle" is defined by KRS 138.450(13).

(6) "Month" means a calendar month or any portion of a calendar month.

Section 2. Reporting and Payment Requirements. (1) On or after July 15, 2002, any eligible taxpayer who has vehicles designated as loaner or rental motor vehicles shall:

(a) Register with the department utilizing Revenue Form 73A054;

(b) Provide the county clerk with their dealer number as issued by the Kentucky Motor Vehicle Commission; and

(c) Provide to the department a listing of all vehicles designated as loaner or rental motor vehicles including the vehicle identification number, license plate number, make, model, and model year.

(2) Vehicles registered pursuant to KRS 138.4605 as in effect prior to July 15, 2002 shall automatically become subject to the amended provisions of KRS 138.4605 effective July 15, 2002 unless the dealer:

(a) Immediately transfers the vehicle out of the dealer's name; or

(b) Elects to pay the regular motor vehicle usage tax on the retail price of the vehicle.

(3) On or after July 15, 2002, any registered eligible taxpayer who wishes to designate a vehicle as a loaner or rental motor vehicle shall advise the county clerk of this designation when the vehicle is first registered or transferred to the dealer. The county clerk shall enter the dealer number and appropriate exception code, provided by the department, in the AVIS computer system. The motor vehicle usage tax shall not be collected by the county clerk. The taxpayer shall also notify the department of the addition of the vehicle to the loaner or rental program when the next monthly report is submitted.

(4) If a dealer transfers a vehicle out of inventory to be used in the loaner or rental program, he shall notify the department of the transfer to the loaner or rental program when the next monthly

report is submitted.

(5) On or after July 15, 2002, any registered eligible taxpayer who has vehicles identified to the department as loaner or rental motor vehicles shall submit to the department on a monthly basis a report of the number of these vehicles utilizing Revenue Form 73A055 and remit payment of twenty-five (25) dollars per vehicle with the report, pursuant to KRS 138.4605.

(6) The due date of the report and payment shall be fifteen (15) calendar days after the last day of the reporting month.

(7) Penalties provided in KRS 131.180 and 138.990 shall apply to any late report or payment.

Section 3. Forms. The forms listed herein may be inspected, copied, or obtained, subject to applicable copyright law, at:

(1) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;

(2) A Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(3) The department Web site at <http://revenue.ky.gov>. [~~Incorporation by Reference. (1) The following material is incorporated by reference:~~

~~(a) Revenue Form 73A054 "Kentucky Application For Dealer Loaner/Rental Vehicle Tax", July 2002; and~~

~~(b) Revenue Form 73A055 "Monthly Report For Dealer Loaner/Rental Vehicle Tax", July 2002.~~

~~(2) These forms may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620, or at any Kentucky Revenue Cabinet Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

DANIEL P. BORK, Commissioner

APPROVED BY AGENCY: September 12, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 cancelled. 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 through October 31, 2017. 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: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation updates regulatory language to conform to recent statutory language revisions.

(b) The necessity of this administrative regulation: To update outdated language in the regulation to the most up to date information now provided in statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It updates the current outdated language to comply with statutory changes made to KRS 131 in SB 129 of the 2016 General Assembly that removed the requirement for the department to file a regulation incorporating applicable forms. This amendment removes references to forms incorporated by reference that are now published solely on the department's

website.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It may potentially decrease calls or questions to the department regarding up to date recent versions of the forms previously listed in this regulation.

(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 will remove references to forms previously incorporated by reference in this regulation that are now provided solely on the department's webpage.

(b) The necessity of the amendment to this administrative regulation: To provide the most up to date information for all who would seek guidance from this regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment provides guidance on the location of the forms listed in this regulation.

(d) How the amendment will assist in the effective administration of the statutes: It may decrease questions or calls to the department, allowing staff to focus on revenue generating tasks.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that may reference this regulation for guidance.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to any entity to comply.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

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

(a) Initially: There is no cost to the department to implement the proposed amendment beyond current department budgeted funds and staff.

(b) On a continuing basis: There is no cost to the department on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no additional cost to implement and enforce the proposed amendment.

(7) 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: There is no additional cost to implement and enforce the proposed amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? No. Tiering is not applied as the provisions of this regulation apply equally to all those affected by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation

that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no effect on any state or local entity from this administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None. This amendment only provides updated information regarding the location of forms on the department's website.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None. This amendment only provides updated information regarding the location of forms on the department's website.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)**

103 KAR 44:100. Procedures for refund based on vehicle condition.

RELATES TO: KRS 138.450 -138.470

STATUTORY AUTHORITY: 131.130(1), 138.450, 138.460

NECESSITY, FUNCTION AND CONFORMITY: KRS 138.460(12)(b) requires the Department of Revenue to promulgate administrative regulations to develop the forms and the procedures by which the owner of a motor vehicle may apply for a refund and document the condition of the vehicle under KRS 138.460(12)(a). KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations for the administration of all tax laws. This administrative regulation establishes the procedures required for claiming and documenting a refund request for motor vehicle usage tax when the tax paid was based upon fifty (50) percent of trade-in value as provided in KRS 138.450(16)(a) and the actual condition of the vehicle at the time the usage tax was paid was less than fifty (50) percent of the trade-in value.

Section 1. Definitions. (1) "Adjusted retail price" means, for a motor vehicle subjected to motor vehicle usage tax pursuant to the provisions of KRS 138.450(16)(a), the price based upon the following calculation:

(a) Trade-in value based on the reference guide for the motor vehicle listed on the Vehicle Condition Refund Application (71A010);

(b) Less the trade-in value based on the reference guide for any motor vehicle given in trade; and

(c) Less any repair cost listed in the vehicle condition verification documents submitted to the department.

(2) "Reference manual" is defined by KRS 138.450(23).

(3) "Repair cost" means costs or estimates for parts or labor to return the motor vehicle to trade-in value or drivable condition and does not include upgrading or improving the vehicle beyond trade-in value condition.

(4) "Vehicle condition verification documents" means originals or copies of the following dated items:

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

(a) Photographs of the vehicle indicating the condition of the vehicle supplied by the motor vehicle owner or by Department of Revenue personnel. The photo shall show the vehicle damage and the VIN plate attached to the vehicles. Photos shall be taken by the owner or the Department of Revenue personnel;

(b) Receipts for parts purchased for repair. Copies of receipts shall contain the name of the parts purchase, the price of the parts, the name, address, and telephone number of the business where purchased, and the date of purchase;

(c) Repair cost estimates. Copies of estimates shall contain the VIN of the vehicle being repaired, the date the estimate was prepared, and the name, address, and telephone number of the estimate preparer; or

(d) Repair cost receipts. Copies of receipts shall contain the VIN of the vehicle being repaired, the date the repair was rendered, and the name, address, and telephone number of the vehicle repairer.

(5) "Vehicle Identification Number" or "VIN" means the numbers, letters, or combination of numbers and letters assigned by the manufacturer or a governmental entity and stamped upon or otherwise affixed to a motor vehicle or motor vehicle part for the purpose of identification, but does not include the letters, numbers, or combinations on registration plates issued under KRS Chapter 186.

Section 2. Refund Application Process. (1) The owner of a motor vehicle who has paid the motor vehicle usage tax according to the provisions of KRS 138.450(16)(a) and requests a refund of a portion of the tax paid shall submit to the department a completed Vehicle Condition Refund Application (Form 71A010) with the following documents attached:

(a) A copy of the owner's Kentucky Registration Receipt (Form TC 96-181) for the vehicle;

(b) A copy of the owner's completed Application for Kentucky Certificate of Title/Registration (Form TC 96-182) for the vehicle; and

(c) At least two (2) vehicle condition verification documents.

(2) All documents submitted with the Vehicle Condition Refund Application shall include the VIN to identify the motor vehicle for which the applicant is requesting the refund.

(3) The owner of the motor vehicle may utilize one of the department's Taxpayer Service Centers to obtain photographs of the damaged vehicle and for submittal of the Vehicle Condition Refund Application.

Section 3. Refund Calculation Amount. (1) The department shall consider all refund requests based upon whether the condition of the motor vehicle at the time the motor vehicle usage tax was paid as evidenced by documentation provided to the department merits an adjusted retail price.

(2) Any approved refund shall be the actual amount of tax paid less the tax due based on the greater of the adjusted retail price or the applicant's purchase price as stated on the Kentucky Certificate of Title/Registration (Form TC 96-182).

Section 4. Refund Denial. Any incomplete or erroneous information on the Vehicle Condition Refund Application (Form 71A010) or the associated vehicle condition verification documents shall result in the denial of the refund. If the department has denied a refund request, the applicant may resubmit a refund request if additional information is made available.

Section 5. Forms. (1) The department forms listed herein may be inspected, copied, or obtained, subject to applicable copyright law, at:

(a) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;

(b) A Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(c) The department Web site at <http://revenue.ky.gov>.

(2) Form TC 96-181 and TC 96-182 listed herein may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Transportation Cabinet Forms Library Web site at

<http://transportation.ky.gov/Organizational-Resources/Pages/Forms-Library.aspx>, or by calling (502)564-4610. [Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Kentucky Certificate of Title/Registration," Form TC 96-182, (January 2000);

(b) "Kentucky Registration Receipt," Form TC 96-181, (August 1996); and

(c) "Vehicle Condition Refund Application," Form 71A010, (August 2006).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620, or at a Kentucky Taxpayer Service Center, Monday through Friday, 8 a.m. to 5 p.m.]

DANIEL P. BORK, Commissioner

APPROVED BY AGENCY: September 12, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) weekdays 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 cancelled. 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 through October 31, 2017. 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: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation updates regulatory language to conform to recent statutory language revisions.

(b) The necessity of this administrative regulation: To update outdated language in the regulation to the most up to date information now provided in statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It updates the current outdated language to comply with statutory changes made to KRS 131 in SB 129 of the 2016 General Assembly that removed the requirement for the department to file a regulation incorporating applicable forms. This amendment removes references to forms incorporated by reference in this regulation that are now only provided on the Department of Revenue webpage, or from the Transportation Cabinet on their webpage.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It may potentially decrease calls or questions to the department regarding the most recent versions of the forms listed in this regulation.

(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 will remove references to forms previously provided in this regulation that may be obtained on the Department of Revenue webpage, or from the Transportation Cabinet on their webpage.

(b) The necessity of the amendment to this administrative regulation: To provide the most up to date information for all who

would seek guidance from this regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment provides guidance on the location of the forms listed herein.

(d) How the amendment will assist in the effective administration of the statutes: It may decrease questions or calls to the department, allowing staff to focus on revenue generating tasks.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that may reference this regulation for guidance.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to any entity to comply.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

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

(a) Initially: There is no cost to the department to implement the proposed amendment beyond current department budgeted funds and staff.

(b) On a continuing basis: There is no cost to the department on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no additional cost to implement and enforce the proposed amendment.

(7) 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: There is no additional cost to implement and enforce the proposed amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? No. Tiering is not applied as all entities who would reference this regulation for guidance will be held to the same criteria.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and KRS 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None. This amendment is merely a department cleanup effort for the Red Tape Reduction Initiative to remove unneeded references to forms that are no longer promulgated in a regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities,

counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FINANCE AND ADMINISTRATION CABINET

Department of Revenue

(Amendment)

103 KAR 44:120. Incorrect Statement of Origin or Certificate of Title.

RELATES TO: KRS 138.460

STATUTORY AUTHORITY: KRS 131.130(1)

NECESSITY, FUNCTION AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations necessary for the administration and enforcement of all tax laws in Kentucky. This administrative regulation establishes the requirements relating to taxes paid on a motor vehicle which has been registered under an incorrect statement of origin or other certificate of title.

Section 1. Definitions. (1) "Kentucky Certificate of Title" means a document of ownership issued by the Kentucky Transportation Cabinet as Form TC 96-180 which contains the following minimum vehicle information:

(a) Date the Kentucky title was issued;

(b) Vehicle identification number assigned to the vehicle; and

(c) Make and model of the vehicle.

(2) "Motor vehicle usage tax" means the tax levied upon the transfer of ownership of a motor vehicle pursuant to KRS 138.450 to 138.470.

(3) "Statement of Origin" means a document generated by the manufacturer of a motor vehicle which contains the following minimum vehicle information: (a) Date the vehicle was manufactured;

(b) Vehicle identification number assigned to the vehicle; and

(c) Make and model of the vehicle.

Section 2. Correction of Transfer Record. (1) A motor vehicle registered under an incorrect Statement of Origin issued by a manufacturer or an incorrect Kentucky Certificate of Title issued by the Kentucky Transportation Cabinet shall be registered using the corrected Statement of Origin or the corrected Kentucky Certificate of Title. Upon registration of the correct vehicle, the motor vehicle usage tax shall be paid.

(2) Since the motor vehicle usage tax was paid on both transfers, a written request shall be filed with the Department of Revenue for a refund of the tax paid on the vehicle registered in error.

Section 3. Refund Application Process. The owner of a motor vehicle who has paid the motor vehicle usage tax on a vehicle that has been issued an incorrect Statement of Origin or incorrect Kentucky Certificate of Title shall submit in writing a refund request indicating the reason for the request to the Department of Revenue with the following documents attached:

(1) "Authority to Cancel or Refund", memorandum issued by the Transportation Cabinet;

(2) A copy of the owner's Kentucky Registration Receipt (Form TC 96-181), for the vehicle which was incorrectly registered;

(3) A copy of the owner's completed Application for Kentucky

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

Certificate of Title/Registration (Form TC 96-182), for the vehicle;

(4) If applicable, a copy of the owner's incorrect Kentucky Certificate of Title (Form TC 96-180), under which the vehicle had been previously registered; and

(5) If applicable, a copy of the owner's incorrect Statement of Origin, under which the vehicle had been previously registered.

Section 4. (1) This administrative regulation shall replace Policy 71P110.

(2) Revenue Policy 71P110 is hereby rescinded and shall be null, void, and unenforceable.

Section 5. The forms listed herein may be obtained at the Kentucky Transportation Cabinet Forms Library Web site at <http://transportation.ky.gov/Organizational-Resources/Pages/Forms-Library.aspx>, or by calling (502)564-4610.

~~[Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:~~

~~(a) "Application for Kentucky Certificate of Title/Registration", Form TC 96-182, (January 2000);~~

~~(b) "Kentucky Certificate of Title", Form TC 96-180, (May 2004);~~

~~(c) "Kentucky Registration Receipt", Form TC 96-181, (August 1996); and~~

~~(d) Authority to Cancel or Refund, March 2007.~~

~~(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Department of Revenue, 501 High Street, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 5 p.m.]~~

DANIEL P. BORK, Commissioner

APPROVED BY AGENCY: September 12, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 cancelled. 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 through October 31, 2017. 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: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation updates regulatory language to conform to recent statutory language revisions.

(b) The necessity of this administrative regulation: To update outdated language in the regulation to the most up to date information now provided in statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: It updates the current outdated language to comply with statutory changes made to KRS 131 in SB 129 of the 2016 General Assembly that removed the requirement for the department to file a regulation incorporating applicable forms. This amendment removes references to forms incorporated by reference in this regulation that now only provide on our department website or provided by the Transportation Cabinet on

their website.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It may potentially decrease calls or questions to the department regarding the most recent versions of the forms listed in this regulation.

(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 will remove references to forms previously provided in this regulation that may be obtained by the Transportation Cabinet.

(b) The necessity of the amendment to this administrative regulation: To provide the most up to date information for all who would seek guidance from this regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment provides guidance on the location of the forms listed herein.

(d) How the amendment will assist in the effective administration of the statutes: It may decrease questions or calls to the department, allowing staff to focus on revenue generating tasks.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that may reference this regulation for guidance.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to any entity to comply.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

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

(a) Initially: There is no cost to the department to implement the proposed amendment beyond current department budgeted funds and staff.

(b) On a continuing basis: There is no cost to the department on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no additional cost to implement and enforce the proposed amendment.

(7) 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: There is no additional cost to implement and enforce the proposed amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? No. Tiering is not applied as all entities who would reference this regulation for guidance will be held to the same criteria.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative

regulation. KRS 131.130 and KRS 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None. This amendment is merely a department cleanup effort for the Red Tape Reduction Initiative to remove unneeded references to forms that are provided on our department website and by a different cabinet.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**GENERAL GOVERNMENT CABINET
Board of Licensed Professional Counselors
(Amendment)**

201 KAR 36:030. Continuing education requirements.

RELATES TO: KRS 13B, 194A.540, 210.366, 335.500-335.599

STATUTORY AUTHORITY: KRS 210.366, 335.515(3), (6), 335.535(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 210.366 requires a board licensee to complete a minimum of six (6) hours of continuing education in suicide assessment, treatment, and management every six (6) years. KRS 335.515(3), (6), and 335.535(8) require the board to promulgate an administrative regulation requiring a licensee to complete continuing education requirements as a condition of renewal of his licensee. This administrative regulation delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

Section 1. Accrual of Continuing Education Hours. (1) A minimum of ten (10) continuing education hours shall be accrued by each person holding a license during the annual period for renewal.

(2) All continuing education hours shall be in or related to the field of professional counseling.

(3) A person holding a license shall complete a minimum of three (3) hours of continuing education in domestic violence within three (3) years of initial licensure, as required by KRS 194A.540.

(4) A person holding a license shall complete a minimum of six (6) hours of continuing education in a course in suicide assessment, treatment, and management within the first year of licensure and every six (6) years thereafter as required by KRS 210.366.

(a) A person holding a license shall be exempt from the requirement to complete a continuing education course in suicide assessment, treatment, and management within the first year of licensure if the counselor:

1. Graduated from a Council for Accreditation of Counseling and Related Education Program since 2009; or

2. Completed a three (3) semester hours graduate course in suicide and crisis assessment, prevention, and intervention.

(b) A person holding a license shall be exempt from the requirement to complete a continuing education course in suicide assessment, treatment, and management if the counselor satisfies one (1) of the following at least once per year during the six (6) year periodic requirement:

1. Is employed in a position that requires at least forty (40) hours of counseling in suicide and crisis assessment, prevention, and intervention;

2. Teaches a graduate-level counseling course in suicide and crisis assessment, prevention, and intervention; or

3. Teaches a continuing education course in suicide and crisis assessment, prevention, and intervention.

(c) The continuing education course in suicide assessment, treatment, and management shall be board approved in accordance with Section 2 of this administrative regulation.

(d) An individual asserting an exemption of the suicide assessment, treatment, and management course shall maintain sufficient documentation to establish the exemption. Documentation listed in Section 5(3) of this administrative regulation shall be sufficient to establish the exemption.

(5) A person holding a license shall complete a minimum of three (3) hours of continuing education on the law for regulating professional counseling, KRS 335.500 to 335.599 and 201 KAR Chapter 36, every three (3) years. A person holding a license shall be exempt from this requirement if the person:

(a) Teaches a graduate-level course that includes KRS 335.500 to 335.599 and 201 KAR Chapter 36 during the three (3) year period; or

(b) Teaches a continuing education course on KRS 335.500 to 335.599 and 201 KAR Chapter 36 during the three (3) year period.

Section 2. Methods of Acquiring Continuing Education Hours. Continuing education hours applicable to the renewal of the license shall be directly related to the professional growth and development of the licensee's practice of professional counseling. They may be earned by completing any of the educational activities as established in this section. (1) Programs not requiring board review and approval.

(a) A continuing education program from any of the following providers shall be approved without further review by the board if it is:

1. Sponsored or approved by:

a. The American Counseling Association, or any of its affiliated branches or divisions;

b. The Kentucky Counseling Association, or any of its affiliated chapters or divisions;

c. The American School Counselor Association or any of its affiliated state chapters; or

d. The National Board for Certified Counselors; or

2. An academic course offered by an accredited post-secondary institution directly related to professional counseling or counseling psychology.

(b) A continuing education program not requiring board review and approval shall comply with the requirements of subsection (3) of this section and Section 4 of this administrative regulation.

(2) Programs requiring board review and approval. For approval purposes, the board shall review the following types of programs to determine relevancy:

(a) A program, approved by the board, of a service provider, including a home study course or in-service training provided by another organization or educational institution;

(b) A program or academic course presented by the licensee. A presenter of relevant programs or academic courses may earn full continuing education credit for each contact hour of instruction, except the earned credit shall not exceed one-half (1/2) of the continuing education renewal requirements. Credit shall not be issued for repeated instruction of the same course; or

(c) An article authored by the licensee that was published in a relevant, professionally recognized or juried publication. Credit shall not be granted for an article unless it was published within the one (1) year period immediately preceding the renewal date and a licensee shall not earn more than one-half (1/2) of the continuing education hours required for renewal. More than one (1)

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

publication shall not be counted during a renewal period.

(3)(a) Supervision training under 201 KAR 36:065, Section 1(3), shall be presented by an instructor who is licensed by the board.

(b) The continuing education program on the law for regulating professional counseling, KRS 335.500 to 335.599 and 201 KAR Chapter 36, shall be presented by an instructor who is licensed by the board or an attorney who demonstrates knowledge of KRS 335.500 to 335.599 and 201 KAR Chapter 36 in the Continuing Education Program Application.

(4) Academic credit equivalency for continuing education hours shall be fifteen (15) continuing education hours for every one (1) academic credit hour.

(5) A general education course, whether elective or used to meet degree requirements, shall not be acceptable as continuing education credit.

Section 3. Procedures for Approval of Continuing Education Programs. In order to submit the course to the board for approval, the following shall be submitted:

(1) A published course or similar description;

(2) Names and qualifications of the instructors;

(3) A copy of the program agenda indicating hours of education, coffee, and lunch breaks. The agenda shall state the specific time when each topic of the program is being presented;

(4) Number of continuing education hours requested;

(5) Official certificate of completion or college transcript from the sponsoring agency or college;

(6) The Continuing Education Program Application; and

(7) If a provider is seeking approval for a continuing education course, an application review fee of twenty (20) dollars.

Section 4. Procedures for Preapproval of Continuing Education Sponsors and Programs. (1) Sponsor approval. Any entity seeking to obtain approval:

(a) Of a continuing education program prior to its offering shall apply to the board at least sixty (60) days in advance of the commencement of the program, and shall provide the information required in Section 3 of this administrative regulation on an annual basis for each program; or

(b) As a prior-authorized continuing education provider under Section 2(1) of this administrative regulation, shall satisfy the board that the entity seeking this status:

1. Consistently offers programs that meet or exceed all the requirements set forth in Section 1(2) of this administrative regulation; and

2. Does not exclude a licensee from its programs.

(2) A continuing education activity shall be qualified for approval if the board determines the activity being presented:

(a) Is an organized program of learning;

(b) Pertains to subject matters, which integrally relate to the practice of professional counseling;

(c) Contributes to the professional competency of the licensee; and

(d) Is conducted by individuals who have educational training or experience acceptable to the board.

Section 5. Responsibilities and Reporting Requirements of a Licensee. (1) During the licensure renewal period, up to fifteen (15) percent of all licensees shall be selected at random by the board and required to furnish documentation of the completion of the appropriate number of continuing education hours. Verification of continuing education hours shall not otherwise be reported to the board.

(2) A licensee shall:

(a) Be responsible for obtaining required continuing education hours;

(b) Identify his own continuing education needs and seek activities that meet those needs;

(c) Seek ways to integrate new knowledge, skills, and attitudes;

(d) 1. Select approved activities by which to earn continuing education hours; or

2. Submit to the board a request for approval for continuing education activities not approved as required in Section 2(2) of this administrative regulation;

(e) At the time of renewal, list the continuing education hours obtained during that licensure renewal period;

(f) Document attendance, participation in, and successful completion of continuing education activity for a period of one (1) year from the date of the renewal; and

(g) Maintain records of continuing education hours.

(3) The following items may be used to document continuing education activity:

(a) Transcript;

(b) Certificate;

(c) Affidavit signed by the instructor; or

(d) Receipt for the fee paid to the sponsor.

(4) Compliance with the provisions of this administrative regulation. Failure to comply shall constitute a violation of KRS 335.540(1)(b) and shall result in sanctions in accordance with KRS 335.540(1).

(5) Documentation sent to the board prior to renewal shall be returned to the licensee by regular mail.

Section 6. Responsibilities and Reporting Requirements of Providers and Sponsors. (1) A provider of continuing education not requiring board approval shall be responsible for providing documentation, as established in Section 5(3) of this administrative regulation, directly to the licensee.

(2) A sponsor of continuing education requiring board approval shall be responsible for submitting a course offering to the board for review and approval before listing or advertising that offering as approved by the board.

Section 7. Board to Approve Continuing Education Hours; Appeal of Denial. (1) If an application for approval of continuing education hours is denied, in whole or part, the continuing education course provider or licensee shall have the right to appeal the board's decision.

(2) An appeal shall be:

(a) In writing;

(b) Received by the board within thirty (30) days after the date of the decision denying approval of continuing education hours; and

(c) Conducted in accordance with KRS Chapter 13B.

Section 8. Waiver or Extensions of Continuing Education. (1) On application, the board may grant a waiver of the continuing education requirements or an extension of time within which to fulfill the requirements in the following cases:

(a) Medical disability of the licensee;

(b) Illness of the licensee or an immediate family member; and

(c) Death or serious injury of an immediate family member.

(2) A written request for waiver or extension of time involving medical disability or illness shall be:

(a) Submitted by the person holding a license; and

(b) Accompanied by a verifying document signed by a licensed physician.

(3) A waiver of or extension of time within which to fulfill the minimum continuing education requirements shall not exceed one (1) year.

(4) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the person holding a license shall reapply for the waiver or extension.

Section 9. Continuing Education Requirements for Reinstatement or Reactivation of License. (1)(a) Except as provided by paragraph (b) of this subsection, a person requesting reinstatement or reactivation of a license shall submit evidence of ten (10) hours of continuing education completed within one (1) year of the filing of reinstatement~~[the twelve (12) month period immediately preceding the date on which the request for reinstatement]~~ or reactivation~~[is submitted to the board]~~.

(b) Upon request by the applicant, the board may permit the

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

applicant to resume practice if ten (10) hours of continuing education is obtained within ninety (90) days~~three (3) months~~ of the date on which the applicant is approved to resume practice.

(2) The continuing education hours received in compliance with this section shall be in addition to the continuing education requirements established in Section 1 of this administrative regulation and shall not be used to comply with the requirements of that section.

Section 10. Incorporation by Reference. (1) "Continuing Education Program Application, KBLPC 007", June 2015 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Licensed Professional Counselors, 911 Leewood Drive, Frankfort, Kentucky 40601, Monday through Friday.

MARTIN C. WESLEY, Chairperson

APPROVED BY AGENCY: September 15, 2017

FILED WITH LRC: September 15, 2017 at 11 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 26, 2017, at 11:00 a.m. at the Department for Professional Licensing, 911 Leewood Drive, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing no later than five business days 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 the end of the day on October 31, 2017. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Kayla Mann, Board Administrator, Division of Occupations and Professions, 911 Leewood Drive, Frankfort, Kentucky 40602, phone (502) 782-8803, fax (502) 696-5836, email kayla.mann@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact persons: Kayla Mann; and Brian T. Judy, phone (502) 696-5630, fax (502) 564-6801, email brian.judy@ky.gov.

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation establishes the continuing education requirements for a credential holder.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish a continuing education requirement for a credential holder to maintain competency in the practice.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the continuing education requirement for a credential holder.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist in establishing the continuing education requirements of a credential holder and protect the public seeking alcohol and drug related services.

(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: The amendment makes no substantive change to the existing regulation. The time period language was changed to mirror the reinstatement regulation, 201 KAR 36:075, and to change 3 months to 90 days.

(b) The necessity of the amendment to this administrative

regulation: The amendment is necessary to use matching language related to the same subject matter in two different regulations.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the continuing education requirement for a credential holder and KRS 210.366.

(d) How the amendment will assist in the effective administration of the statutes: The amendment clarifies the time periods and use the same language to describe the time period allowed.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board is unable to determine the exact number of persons who allow their license to terminate by operation of law or fails to renew then later request reactivation or reinstatement of their license. There are presently 1640 licensed professional clinical counselors, 981 licensed professional clinical counselor associates.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: A licensee will have to take no additional action to comply with the amendments.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no new cost associated to the amendments.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment allows more opportunities for licensees to obtain continuing education regarding suicide assessment, treatment, and management, and domestic violence; and removes the continuing education requirement of an individual who obtains an initial license within 120 days of the annual renewal date.

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

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by credential holders and applicants.

(7) 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: There are no increases in fees or funding is required to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no new fees or fee increases associated with the amendments.

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all credential holders. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Licensed Professional Counselors.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 210.366, 335.515(3), (6), 335.535(8).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for

the first full year the administrative regulation is to be in effect.
None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**GENERAL GOVERNMENT CABINET
Board of Licensed Professional Counselors
(Amendment)**

201 KAR 36:050. Complaint management process.

RELATES TO: KRS 335.540, 335.545

STATUTORY AUTHORITY: KRS 335.515(3), (7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.515(3) requires the board to promulgate administrative regulations necessary to carry out and enforce the provisions of KRS 335.500 to 335.599. This administrative regulation establishes the procedures for filing, investigating, and addressing a complaint filed against a professional counselor.

Section 1. Receipt of Complaints. (1) A complaint:

(a) May be submitted by an:

1. Individual;
2. Organization; or
3. Entity;

(b) Shall be:

1. In writing; and
2. Signed by the person offering the complaint; and

(c) May be filed by the board based upon information in its possession.

(2)(a) Upon receipt of a complaint, a copy of the complaint shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint.

(b) The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response.

(3)(a) Upon receipt of the written response of the individual named in the complaint, a copy of his response shall be sent to the complainant.

(b) The complainant shall have seven (7) days from the receipt to submit a written reply to the response.

Section 2. Initial Review. (1) After the receipt of a complaint and the expiration of the period for the individual's response, the complaint screening committee shall consider the individual's response, complainant's reply to the response, and any other relevant material available, and make a recommendation to the board. The board shall determine whether there is enough evidence to warrant a formal investigation of the complaint.

(2) If the board determines before formal investigation that a complaint is without merit, it shall:

(a) Dismiss the complaint; and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a complaint warrants a formal investigation, it shall:

(a) Authorize an investigation into the matter; and

(b) Order a report to be made to the complaint screening committee at the earliest opportunity.

Section 3. Results of Formal Investigation; Board Decision on Hearing. (1) Upon completion of the formal investigation, the investigator shall submit a report to the complaint screening committee of the facts regarding the complaint. The committee shall review the investigative report and make a recommendation to the board. The board shall determine whether there has been a prima facie violation of KRS 335.500 to 335.599 or the administrative regulations promulgated thereunder and a complaint should be filed.

(2) If the board determines that a complaint does not warrant issuance of a formal complaint, it shall:

(a) Dismiss the complaint or take action pursuant to KRS 335.540(3); and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a complaint warrants the issuance of a formal complaint against a respondent, the complaint screening committee shall prepare a formal complaint, which states clearly the charge or charges to be considered at the hearing. The formal complaint shall be reviewed by the board and, if approved, signed by the chairman and served upon the individual as required by KRS Chapter 13B.

(4) If the board determines that a person may be in violation, it shall:

(a) Order the individual to cease and desist from further violations of KRS 335.505;

(b) Forward information to the county attorney of the county of residence of the person allegedly violating KRS 335.505 with a request that appropriate action be taken under KRS 335.599; or

(c) Initiate action in Franklin Circuit Court for injunctive relief to stop the violation of KRS 335.505.

Section 4. Settlement by Informal Proceedings. (1) The board, through counsel and the complaint screening committee, may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter.

(2) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chairman.

(3) The board may employ mediation as a method of resolving the matter informally.

Section 5. If the board accepts the recommendation of the complaint screening committee that a violation has occurred but is not serious, the board shall issue a private written admonishment to the credential holder. (1) A copy of the private written admonishment shall be placed in the permanent file of the credential holder.

(2) Private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l) and shall not constitute disciplinary action, but may be used by the board for statistical purposes or in any subsequent disciplinary action against the credential holder or applicant.

Section 6.~~[5]~~ If the board determines that there is reasonable cause to believe that a license holder or applicant for a license is physically or mentally incapable of practicing professional counseling with reasonable skill and safety to clients, the board may order the license holder or applicant to submit to an examination by a mental health professional or a physician designated by the board to determine the license holder's or applicant's mental health or physical status to practice professional counseling.

Section 7.~~[6]~~ Notice and Service Process. A notice required by KRS 335.500 to 335.599 or this administrative regulation shall be issued pursuant to KRS Chapter 13B and 201 KAR 36:090.

Section 8.~~[7]~~ Notification. The board shall make public:

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

(1) Its final order in a disciplinary action under KRS 335.540 with the exception of a written admonishment issued pursuant to KRS 335.540(3); and

(2) An action to restrain or enjoin a violation of KRS 335.505.

MARTIN C. WESLEY, Chairperson

APPROVED BY AGENCY: September 15, 2017

FILED WITH LRC: September 15, 2017 at 11 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 26, 2017, at 11:00 a.m. at the Department for Professional Licensing, 911 Leawood Drive, Frankfort, Kentucky, 911 Leawood Drive, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing no later than five business days 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 the end of the day on October 31, 2017. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Kayla Mann, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8803, fax (502) 696-5836, email kayla.mann@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact persons: Kayla Mann; and Brian T. Judy, phone (502) 696-5630, fax (502) 564-6801, email brian.judy@ky.gov.

(1) Provide a brief summary of

(a) What this administrative regulation does: This administrative regulation establishes the complaint and administrative hearing process to address alleged violations brought before the board.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish a complaint and administrative hearing process to address alleged violations brought before the board.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the requirements for the administrative hearing process to address alleged violations brought before the board.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will assist in establishing the complaint, investigation, and administrative hearing process of alleged violations brought before the board.

(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: The amendment provides the board with an additional option at its disposal for resolving a violation of KRS 335.500 to 335.599 or 201 KAR Chapter 36 without formal disciplinary action.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary so when there is a violation of KRS 335.500 to 335.599 or 201 KAR Chapter 36 that is not so serious that the board can address it without it being considered discipline and reported to the National Practitioner Data Bank.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute gives the board the ability to promulgate regulations regarding the requirements discipline and investigation by the board.

(d) How the amendment will assist in the effective

administration of the statutes: This amendment will assist the board in resolving complaint.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board is unable to determine the exact number of persons who would be impacted by this regulation since the applications vary from month to month. The board reviews approximately 400 to 500 applications for licensure as a licensed professional clinical counselor annually. There are presently 1,640 licensed professional clinical counselors, 981 licensed professional clinical counselor associates.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: An applicant or licensee would have to submit to an mental or physical examination if there is a reasonable basis to believe an applicant or licensee may have a mental or physical impairment that affects the practice professional counseling.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no new cost associated to the amendment related to the amendment of this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): An applicant or licensee does not incur the cost of the mental or physical impairment.

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

(a) Initially: No new costs will be incurred by the changes.

(b) On a continuing basis: No new costs will be incurred by the changes.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The board's operations are funded by fees paid by credential holders and applicants.

(7) 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: There are no increases in fees or funding is required to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no new fees or fee increases associated with the amendments.

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all credential holders. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Licensed Professional Counselors.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 335.515(3), (7).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent

years? None.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**GENERAL GOVERNMENT CABINET
Board of Licensed Professional Counselors
(Amendment)**

201 KAR 36:060. Qualifying experience under supervision.

RELATES TO: KRS 335.500(4), 335.505(4), 335.525(1)(e)

STATUTORY AUTHORITY: KRS 335.515(1), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.505(4) allows a student intern or trainee in professional counseling to use the title of "professional counselor intern" or "student in training" if the activities are performed under the supervision or direction of an approved supervisor and the activities are a part of a supervised program of study. KRS 335.525(1)(e) provides that an applicant for a professional clinical counselor license shall have acquired 4,000 hours of experience in the practice of counseling under approved supervision. KRS 335.515(3) requires the board to promulgate administrative regulations to implement KRS 335.500 to 335.599, relating to licensed professional counselors. This administrative regulation establishes the requirements relating to supervision and the requirements for experience under supervision.

Section 1. Requirements for the Practice of Professional Counseling. (1) The practice of professional counseling shall be based on knowledge of areas including interpersonal, cognitive, cognitive behavioral, psychodynamics, human relations, crisis intervention, psychopathology, group dynamics, and effective methods and strategies necessary to help the client achieve mental, vocational, emotional, physical, social, moral, and spiritual development and adjustment throughout the client's life span.

(2) In providing counseling services, a licensee shall possess and utilize skills in the following areas:

- (a) The helping relationship, including counseling theory and practice;
- (b) Human growth and development;
- (c) Lifestyle and career development;
- (d) Group dynamics, process, counseling, and consulting;
- (e) Assessment, appraisal, and testing of individuals;
- (f) Social and cultural foundation, including multicultural issues;
- (g) Principles of etiology, diagnosis, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;
- (h) Research and evaluation; and
- (i) Professional orientation and ethics.

Section 2. Supervision. (1) A supervisor of record shall be licensed by the board as a licensed professional clinical counselor supervisor, except as established in this section.

(2) An LPCA Supervision Agreement that has been approved prior to the effective date of this administrative regulation may continue to be in effect until termination.

(3)(a) An applicant may submit a hardship request for the ability to utilize one (1) of the licensees listed in paragraph (b) of this subsection if the nature of the circumstances shows that the ability to obtain supervision from a licensed professional clinical counselor is prohibited by the difficulty to do so. Circumstances showing difficulty in obtaining supervision may include engaging in the practice of counseling in a rural area where there is not a licensed professional clinical counselor within a fifty (50) mile

radius, or active-duty military deployment. The submittal for a hardship exemption shall be accompanied by the LPCA Supervision Agreement.

(b) An applicant who demonstrates a hardship may request a supervisor who is properly credentialed under Kentucky law as a member of one (1) of the following professions:

- 1. A licensed professional clinical counselor that does not qualify as a supervisor under 201 KAR 36:065;
- 2. A licensed psychologist, licensed psychological practitioner, or a certified psychologist with autonomous functioning;
- 3. A licensed clinical social worker; or
- 4. A licensed marriage and family therapist.

Section 3. LPCA Supervision Agreement. (1) A supervisee shall enter into a written supervision agreement with an approved supervisor. The supervision agreement shall contain:

- (a) The name and address of the supervisee;
- (b) The name, address, license or certification number, and number of years of practice of the supervisor of record;
- (c) The name, address, license or certification number, and number of years of practice of other supervisors;
- (d) The agency, institution, or organization where the experience will be received;
- (e) A detailed description of the nature of the practice including the type of:
 - 1. Clients that will be seen;
 - 2. Therapies and treatment modalities that will be used including the prospective length of treatment; and
 - 3. Problems that will be treated;
- (f) The nature, duration, and frequency of the supervision, including the:
 - 1. Number of hours of supervision per week;
 - 2. Number of hours of individual supervision;
 - 3. Methodology for transmission of case information; and
 - 4. Number of hours of face-to-face supervision that meet the requirements of KRS 335.525(1)(e);
- (g) A statement that supervision:
 - 1. Shall occur a minimum of:
 - a. Three (3) times per month and one (1) hour per meeting for a full time practice that consists of twenty-five (25) clock hours or greater per week; or
 - b. One (1) hour for every thirty (30) hours of client contact for a part time practice that consists of less than twenty-five (25) clock hours per week; and
 - 2. May include interactive, simultaneous video and audio media with a minimum of one (1) direct meeting per month that is in person where the supervisor and supervisee are physically present in the same room;
 - (h) The conditions or procedures for termination of the supervision;
 - (i) A statement that:
 - 1. The supervisor of record understands that the supervisor shall be held accountable to the board for the care given to the supervisee's clients; and
 - 2. The supervisor of record meets the criteria established in Section 2 of this administrative regulation; and
 - (j) The signatures of both the supervisor and the supervisee. If a supervisee changes his or her supervisor of record as identified in the supervision agreement, the supervisee shall submit a new supervision agreement, which sets forth the information required by this subsection and identifies the new supervisor of record.

(2) The supervision agreement shall be approved by the board before the licensed professional counselor associate begins the practice of professional counseling.

Section 4. Experience Under Supervision. (1) Experience under supervision shall consist of:

- (a) Direct responsibility for a specific individual or group of clients; and
 - (b) Broad exposure and opportunity for skill enhancement with a variety of developmental issues, dysfunctions, diagnoses, acuity levels, and population groups.
- (2) The board may, for extenuating circumstances beyond the

supervisor's or supervisee's control, grant a limited waiver from the requirement of one (1) monthly direct in person meeting to satisfy the face-to-face supervision requirements upon written request by the supervisor and supervisee. Extenuating circumstances include situations such as death or serious illness of the board-approved supervisor, a leave of absence by the supervisor, or the termination of the supervisor's employment.

(3) The board may approve an applicant's supervision hours obtained in another jurisdiction if:

(a) The supervision hours were approved by the jurisdiction's regulatory board who issued a license to be a licensed professional clinical counselor or its equivalent;

(b) The regulatory board for the jurisdiction who issued a license to be a licensed professional clinical counselor or its equivalent shall have approved the supervisor to supervise the applicant prior to the applicant obtaining supervision hours;

(c) The regulatory board for the jurisdiction where the supervision hours were obtained shall certify that the supervision hours were approved and the supervisor of the application was board approved; and

(d) The supervision hours shall be obtained after the applicant received a master's, specialist, or doctoral degree in counseling or a related field used to satisfy KRS 335.025(1)(c).

Section 5. Supervision Requirements. (1) Supervision shall relate specifically to the qualifying experience and shall focus on:

(a) The appropriate diagnosis of a client problem leading to proficiency in applying professionally recognized clinical nomenclature;

(b) The development and modification of the treatment plan;

(c) The development of treatment skills suitable to each phase of the therapeutic process;

(d) Ethical problems in the practice of professional counseling; and

(e) The development and use of the professional self in the therapeutic process.

(2) A supervisee shall not continue to practice professional counseling if:

(a) The conditions for supervision set forth in the LPCA Supervision Agreement required by Section 3 of this administrative regulation are not followed; or

(b) The supervision agreement is terminated for any reason other than the extenuating circumstances that allow temporary supervision in Section 7 of this administrative regulation.

(3) If the terms of the supervision agreement are not being met by the supervisee, the supervisor shall immediately notify this board in writing.

Section 6. Evaluation by Board. The period of supervised experience required by KRS 335.525(1)(e) shall be evaluated by the board according to one (1) of the following methods:

(1) A candidate who seeks to obtain experience in the Commonwealth of Kentucky shall submit the supervision agreement required by Section 3 of this administrative regulation for the experience prior to beginning to accrue the required experience; or

(2) A candidate who obtained the experience in another state shall submit documentation of the hours of supervision with the Application for Licensed Professional Clinical Counselor required by 201 KAR 36:070. The documentation shall also:

(a) Provide information that verifies that the requirements for the license or certificate of the supervisor from the state in which the license or certificate was held are substantially equivalent to the requirements for that license or certificate in Kentucky;

(b) Provide information that verifies that the supervisor is in good standing with the certifying or licensing state; and

(c) Demonstrate that the practice and supervision requirements in the state from which the candidate is applying are substantially equivalent to the requirements established under this administrative regulation.

Section 7. Temporary Supervision. (1) In extenuating circumstances, if a licensed professional counselor associate is

without supervision, the associate may continue working up to sixty (60) calendar days under the temporary supervision of a qualified mental health provider as defined by KRS 202A.011(12) while an appropriate board-approved supervisor is sought and a new supervision agreement is submitted to the board. Extenuating circumstances include situations such as death or serious illness of the board-approved supervisor, a leave of absence by the supervisor, or the termination of the supervisor's employment.

(2)(a) Within ten (10) days of the occurrence, the supervisee shall notify the board of the extenuating circumstances that have caused the supervisee to require temporary supervision.

(b) The supervisee shall submit, in writing, a plan for resolution of the situation within thirty (30) calendar days of the change in status of board-approved supervision.

(c) The written plan shall include:

1. The name of the temporary supervisor;

2. Verification of the credential held by the temporary supervisor;

3. An email address and a postal address for the temporary supervisor and the supervisee; and

4. A telephone number for the temporary supervisor.

(d) The temporary supervision arrangement shall expire after sixty (60) days of the establishment of the temporary supervision arrangement with a qualified mental health provider. The temporary supervision arrangement shall not be extended beyond the sixty (60) days.

Section 8. Incorporation by Reference.(1) The "LPCA Supervision Agreement", September, 2016, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Licensed Professional Counselors, 911 Leewood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARTIN C. WESLEY, Chairperson

APPROVED BY AGENCY: September 15, 2017

FILED WITH LRC: September 15, 2017 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 26, 2017, at 11:00 a.m. at the Department for Professional Licensing, 911 Leewood Drive, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing no later than five business days 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 the end of the day on October 31, 2017. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Kayla Mann, Board Administrator, Division of Occupations and Professions, 911 Leewood Drive, Frankfort, Kentucky 40602, phone (502) 782-8803, fax (502) 696-5836, email kayla.mann@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kayla Mann; and Brian T. Judy, phone (502) 696-5630, fax (502) 564-6801, email brian.judy@ky.gov.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the supervision requirements to qualify for licensure.

(b) The necessity of this administrative regulation: This administrative regulation enables the board to evaluate applications by establishing the supervision experience requirements for licensure.

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

KRS 335.525(1)(e) provides that an applicant for a professional counselor license must have acquired 4,000 hours of experience in the practice of counseling under the general supervision of an approved supervisor. This administrative regulation establishes the requirements relating to supervision and the requirements for experience under supervision.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation specifies the types of experience that is acceptable for licensure.

(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: The amendment allows the board to accept supervision received out-of-state and approved by the other jurisdiction.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to allow individuals who have obtained supervision experience in another state and allow the supervision to be transferred to Kentucky.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment is in conformity with the delegated authority of the board.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will allow those competent and qualified individuals to be more easily licensed in Kentucky.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are presently 1,640 licensed professional clinical counselors, 981 licensed professional clinical counselor associates. The board reviews approximately 400 to 500 applications for licensure as a licensed professional clinical counselor annually.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: This amendment does not require supervisors or supervisees to take any action to be in compliance.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Supervisees will have the opportunity to have a supervisor who is not a Licensed Professional Counselor under extenuating circumstances.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: None

(a) Initially: None

(b) On a continuing basis: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds.

(7) 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 fee increase is necessary to implement this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees or directly or indirectly increase any fees

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all credential holders. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Licensed Professional Counselors.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 335.515(1), (3).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)**

301 KAR 3:022. License, tag, and permit fees.

RELATES TO: KRS 150.025, 150.180, 150.183, 150.240, 150.275, 150.280, 150.290, 150.450, 150.485, 150.520, 150.525, 150.600, 150.603, 150.660, 150.720

STATUTORY AUTHORITY: KRS 150.175, 150.195(4)(f), 150.225, 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.175 authorizes the types of licenses, permits and tags. KRS 150.195(4)(f) requires the department to promulgate an administrative regulation establishing the license and permit terms and the expiration date of licenses and permits. KRS 150.225 authorizes the department to promulgate administrative regulations establishing reasonable license fees relating to hunting, fishing, and trapping. KRS 150.620 authorizes the department to charge reasonable fees for the use of lands and waters it has acquired for wildlife management and public recreation. This administrative regulation establishes fees and terms for licenses, permits, and tags.

Section 1. Licenses, tags, and permits listed in this section shall be valid from March 1 through the last day of February the following year. (1) Sport fishing licenses:

(a) Statewide annual fishing license (resident): twenty-three (23)~~twenty (20)~~ dollars;

(b) Statewide annual fishing license (nonresident): fifty (50) dollars;

(c) Joint statewide fishing license (resident): forty-two (42)~~thirty-six (36)~~ dollars;

(d) Statewide three (3) year fishing license (resident): fifty-five (55) dollars; and

(e) Trout permit (resident or nonresident): ten (10) dollars.

(2) Commercial fishing licenses:

(a) Commercial fishing license (resident) plus ten (10) resident commercial gear tags: \$150; and

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

- (b) Commercial fishing license (nonresident) plus ten (10) nonresident commercial gear tags: \$600.
- (3) Commercial fishing gear tags (not to be sold singly):
 - (a) Commercial fishing gear tags (resident) block of ten (10) tags: fifteen (15) dollars; and
 - (b) Commercial fishing gear tags (nonresident) block of ten (10) tags: \$100.
- (4) Hunting licenses:
 - (a) Statewide hunting license (resident): ~~twenty-seven (27)~~twenty (20) dollars;
 - (b) Statewide hunting license (nonresident): \$140;
 - (c) Statewide junior hunting license (resident): six (6) dollars;
 - (d) Statewide junior hunting license (nonresident): ten (10) dollars;
 - (e) Shooting preserve hunting license (resident or nonresident): five (5) dollars; and
 - (f) Migratory game bird and waterfowl permit (resident or nonresident): fifteen (15) dollars.
- (5) Combination hunting and fishing license (resident): ~~forty-two (42)~~thirty (30) dollars.
- (6) Senior or disabled combination hunting and fishing license (resident): ~~eighteen (18)~~five (5) dollars.
- (7) Trapping licenses:
 - (a) Trapping license (resident): twenty (20) dollars;
 - (b) Trapping license (resident landowner/tenant): ten (10) dollars;
 - (c) Trapping license (nonresident): \$130; and
 - (d) Junior trapping license (resident): five (5) dollars.
- (8) Game permits:
 - (a) Resident bear: thirty (30) dollars;
 - (b) Resident youth bear: ten (10) dollars;
 - (c) Nonresident bear: \$250;
 - (d) Resident bear chase: thirty (30) dollars;
 - (e) Resident youth bear chase: ten (10) dollars;
 - (f) Resident quota cow elk permit: sixty (60) dollars;
 - (g) Nonresident quota cow elk permit: \$400;
 - (h) Resident quota bull elk permit: \$100;
 - (i) Nonresident quota bull elk permit: \$550;
 - (j) Resident out-of-zone elk permit: thirty (30) dollars;
 - (k) Nonresident out-of-zone elk permit: \$400;
 - (l) Resident deer permit: thirty-five (35) dollars;
 - (m) Nonresident deer permit: \$120;
 - (n) Resident youth deer: ten (10) dollars;
 - (o) Nonresident youth deer: fifteen (15) dollars;
 - (p) Bonus antlerless deer permit (two (2) tags per permit) (resident or nonresident): fifteen (15) dollars;
 - (q) Bonus quota hunt deer permit (resident or nonresident): thirty (30) dollars;
 - (r) Resident spring turkey: thirty (30) dollars;
 - (s) Nonresident spring turkey: seventy-five (75) dollars;
 - (t) Resident fall turkey: thirty (30) dollars;
 - (u) Nonresident fall turkey: seventy-five (75) dollars;
 - (v) Resident youth turkey: ten (10) dollars;
 - (w) Nonresident youth turkey: fifteen (15) dollars;
 - (x) Resident youth elk: thirty (30) dollars; and
 - (y) Nonresident youth elk: forty (40) dollars.
- (9) Peabody individual permit: fifteen (15) dollars.
- (10) Sportsman's license (resident), which includes a resident hunting and fishing license, spring turkey permit, fall turkey permit, trout permit, state migratory game bird and waterfowl permit, and deer permit: ninety-five (95) dollars.
- (11) Junior sportsman's license (resident), which includes a junior hunting license, two (2) junior deer permits, and two (2) junior turkey permits: thirty (30) dollars.
- (12) Land Between the Lakes hunting permit: twenty (20) dollars.
- (13) Conservation permit: five (5) dollars.

Section 2. Licenses, tags, and permits listed in this section shall be valid for the calendar year issued. (1) Live fish and bait dealer's licenses:

- (a) Live fish and bait dealer's license (resident): fifty (50) dollars; and

- (b) Live fish and bait dealer's license (nonresident): \$150.
- (2) Commercial taxidermist license: \$150.
- (3) Commercial guide licenses:
 - (a) Commercial guide license (resident): \$150; and
 - (b) Commercial guide license (nonresident): \$400.
- (4) Shooting area permit: \$150.
- (5) Dog training area permit: fifty (50) dollars.
- (6) Collecting permits:
 - (a) Educational wildlife collecting permit: twenty-five (25) dollars; and
 - (b) Scientific wildlife collecting permit: \$100.
- (7) Nuisance wildlife control operator's permit: \$100.
- (8) Pay lake license:
 - (a) First two (2) acres or less: \$150; and
 - (b) Per additional acre or part of acre: twenty (20) dollars.
- (9) Commercial captive wildlife permit: \$150.
- (10) Commercial fish propagation permit: fifty (50) dollars.
- (11) Wildlife rehabilitator's permit: twenty-five (25) dollars.
- (12) Annual wildlife transportation permit: \$250.
- (13) Peabody Wildlife Management Area annual event permit: \$250.
- (14) Fish transportation permit: twenty-five (25) dollars.

Section 3. Licenses, tags, and permits listed in this section shall be valid for three (3) years from the date of issue. (1) Falconry permit: seventy-five (75) dollars.

- (2) Noncommercial captive wildlife permit: seventy-five (75) dollars.

Section 4. Licenses, tags, and permits listed in this section shall be valid for the date or dates specified on each. (1) Short-term licenses:

- (a) One (1) day resident fishing license: seven (7) dollars;
- (b) One (1) day nonresident fishing license: ten (10) dollars;
- (c) Seven (7) day nonresident fishing license: thirty (30) dollars;
- (d) Fifteen (15) day nonresident fishing license: forty (40) dollars;
- (e) One (1) day resident hunting license (not valid for deer, elk, or turkey hunting): seven (7) dollars;
- (f) One (1) day nonresident hunting license (not valid for deer, elk, or turkey hunting): fifteen (15) dollars;
- (g) Seven (7) day nonresident hunting license (not valid for deer, elk, or turkey hunting): fifty-five (55) dollars; and
- (h) Three (3) day fur bearer's license: fifty (50) dollars.
- (2) Individual wildlife transportation permit: twenty-five (25) dollars.
- (3) Special resident commercial fishing permit: \$600.
- (4) Special nonresident commercial fishing permit: \$900.
- (5) Commercial waterfowl shooting area permit: \$150.
- (6) Shoot to retrieve field trial permits:
 - (a) Per trial (maximum four (4) days): seventy-five (75) dollars; and

- (b) Single day: twenty-five (25) dollars.
- (7) Boat dock permit: \$100 per ten (10) year permit period beginning January 1, 2008, except that the fee shall be pro-rated for the number of years remaining in the ten (10) year period.

(8) Shoreline use permit: Valid for a fifteen (15) year permit period beginning January 1, 2010 and shall contain three (3) tiers:

- (a) Tier I: \$100;
- (b) Tier II: \$200;
- (c) Tier III: \$300; and
- (d) The fees shall be pro-rated to the nearest five (5) year interval remaining in the fifteen (15) year permit period.
- (9) Peabody individual event permit: twenty-five (25) dollars.
- (10) Commercial roe-bearing fish buyer's permit:
 - (a) Commercial roe-bearing fish buyer's permit (resident): \$500; and
 - (b) Commercial roe-bearing fish buyer's permit (nonresident): \$1,000.

- (11) Commercial roe-bearing fish harvester's permit:
 - (a) Commercial roe-bearing fish harvester's permit (resident): \$500; and

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

(b) Commercial roe-bearing fish harvester's permit (nonresident): \$1,500.

(12) Otter Creek Outdoor Recreation Area:

(a) Daily Entry Permit: three (3) dollars, with children under twelve (12) free; and

(b) Daily Special Activities Permit: seven (7) dollars.

(13) Commercial foxhound training enclosure permit: \$150.

Section 5. Licenses, tags, and permits listed in this section shall be valid on a per unit basis as specified. (1) Ballard waterfowl hunt (per person, per day): fifteen (15) dollars.

(2) Pheasant hunt permit (per person, per day): twenty-five (25) dollars.

(3) Horse stall rental (per space, per day): two (2) dollars.

(4) Dog kennel rental (per dog, per day): fifty (50) cents.

(5) Commercial captive cervid permit (per facility, per year): \$150.

(6) Noncommercial captive cervid permit (per facility; per three (3) years): seventy-five (75) dollars.

Section 6. The following licenses listed in this section shall be valid from April 1 through March 31 of the following year:

(1) Fur processor's license (resident): \$150;

(2) Fur buyer's license (resident): fifty (50) dollars; and

(3) Fur buyer's license (nonresident): \$300.

Section 7. The following Otter Creek Outdoor Recreation Act permits shall be valid from July 1 through June 30 of the following year:

(1) Annual Entry Permit: thirty (30) dollars, with children under twelve (12) free; and

(2) Annual Special Activities Permit: seventy (70) dollars. Approved by the Fish and Wildlife Commission

GREGORY K. JOHNSON, Commissioner

DON PARKINSON, Secretary

APPROVED BY AGENCY: September 12, 2017

FILED WITH LRC: September 14, 2017 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017 at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation through October 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Mark Cramer, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mark Cramer

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes fees and terms for licenses, permits, and tags sold by the Department of Fish and Wildlife Resources.

(b) The necessity of this administrative regulation: This administrative regulation is necessary for the department to establish reasonable license fees, permit terms, and the expiration dates of licenses and permits.

(c) How this administrative regulation conforms to the content

of the authorizing statutes: KRS 150.175 authorizes the types of licenses, permits, and tags that the department can issue. KRS 150.195(4)(f) requires the department to promulgate an administrative regulation establishing the license and permit terms and the expiration date of licenses and permits. KRS 150.225 requires the Department to prescribe reasonable fees for licenses, permits, and registrations authorized by Chapter 150. KRS 150.620 authorizes the department to charge reasonable fees for the use of lands and waters it has acquired for wildlife management and public recreation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation fulfills the requirements and purposes of the statutes identified in (1)(c) by establishing reasonable fees and terms for licenses, permits, and tags issued by the Department.

(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 establishes new fees for 6 different resident licenses. Resident hunting: \$27 (from \$20); resident fishing: \$23 (from \$20); resident combination hunting/fishing: \$42 (from \$30); resident senior combination hunting/fishing (which includes all permits): \$18 (from \$5); resident disabled combination hunting/fishing (which includes all permits): \$18 (from \$5); resident joint (spouses) statewide fishing: \$42 (from \$36).

(b) The necessity of the amendment to this administrative regulation: The Department is dependent upon license, permit, and registration fees along with the Federal Funds leveraged through license sales numbers in order to operate. As such, regular fee updates are required to keep pace with inflation, maintain financial stability for the Department, and to provide quality hunting, fishing, recreational, and educational opportunities into the future. Although non-resident licenses were last increased in 2014, resident licenses have not been increased in a decade. This fee increase is of particular importance to programs that are funded primarily through license sales, such as Conservation Camps, the Salato Center, and the Law Enforcement Division. The existing Senior and Disabled license is the only license that has not been altered in the last 18 years, and is currently offered at a 95% discount. Over 4,500 Senior/Disabled users responded to a study in April 2017 with the majority stating they would continue to purchase the license if the fee was increased. The increase will still offer Senior and Disabled license holders an 80% discount and the Sportsman's license will remain at \$95, continuing to offer an outstanding discount to users who purchase multiple licenses and permits.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: During the 2016-2017 license year, the department sold 77,854 resident hunting licenses, 221,223 resident fishing licenses, 42,533 resident combination (hunting/fishing) licenses, 84,183 resident senior sportsman's licenses, 36,238 resident disabled sportsman's licenses, and 50,897 resident joint (spouses) statewide fishing licenses.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: Purchasers of the above resident licenses will be required to pay higher fees.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): It will depend on the particular license that is purchased. The increased fees are listed in (2)(a) above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Resident license holders will benefit from the department's continued ability to provide continued hunting, fishing, outdoor recreational, and educational opportunities, and

continued quality service and enforcement of fish and wildlife regulations.

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

(a) Initially: There will be minimal cost to the department to implement this administrative regulation.

(b) On a continuing basis: There should be no additional cost to the department on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the State Game and Fish Fund.

(7) 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: Yes, this amendment establishes an increase in fees for the reasons listed in (2)(b) above.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: Yes, this administrative regulation directly increases 6 resident license fees as listed in (2)(a) above.

(9) TIERING: Is tiering applied? No. Tiering is not applied because every person will have to pay the same price for each particular license issued.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department's Division of Administrative Services will be impacted by this amendment.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.175, 150.195, 150.225, and 150.620.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? License sales fluctuate from year to year, and license fee increases usually result in slightly reduced license sales during the first few years; however, this license fee increase is expected to generate approximately \$2.5 million in additional revenue for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment should generate at least \$2.5 million in additional revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? There will be a minimal cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There should be no additional costs incurred for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division for Air Quality
(Amendment)

401 KAR 59:015. New indirect heat exchangers.

RELATES TO: KRS 224.10, 40 C.F.R. Part 60, Subparts D,

Da, Db, Dc, Appendices A and B, Part 63, Subparts DDDDD, UUUUU, JJJJJ

STATUTORY AUTHORITY: KRS 224.10-100(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(5) requires the cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides for the control of emissions from new indirect heat exchangers.

Section 1. Definitions. (1) "Affected facility" means an indirect heat exchanger having a heat input capacity greater than one (1) million BTU per hour (MMBTU/hr).

(2) [~~"CEMS" means continuous emissions monitoring system.~~

(3) "Classification date" means:

(a) August 17, 1971, for an affected facility with a capacity greater than 250 MMBTU/hr(~~MMBTU/hr~~) heat input; and[:

1. ~~For particulate emissions;~~

2. ~~For sulfur dioxide emissions; and~~

3. ~~For nitrogen oxide emissions if fuels other than lignite are burned;]~~

(b) April 9, 1972, for an affected facility with a capacity of 250 MMBTU/hr heat input or less.

(3) "Fuel" means any material combusted for the purpose of creating useful heat.

(4) "GCV" means gross calorific value[~~for particulate emissions and sulfur dioxide emissions; and~~

(c) ~~December 22, 1976, for an affected facility with a capacity greater than 250 MMBTU/hr. heat input for nitrogen oxides if lignite fuel is burned.~~

(4) [~~"COMS" means continuous monitoring system for opacity].~~

(5) "Indirect heat exchanger" means a piece of equipment, apparatus, or contrivance used for the combustion of fuel in which the energy produced is transferred to its point of usage through a medium that does not come in contact with or add to the products of combustion.

(6) "Shutdown period" means the period:

(a) Beginning when, whichever occurs first:

1. The affected facility no longer supplies useful thermal energy for heating, cooling, process purposes, or generation of electricity; or

2. Fuel is not being combusted in the affected facility; and

(b) Ending when:

1. The affected facility no longer supplies useful thermal energy for heating, cooling, process purposes, or generation of electricity; and

2. Fuel is not being combusted in the affected facility.

(7) "Startup period" means the period:

(a) Beginning with either:

1. The combustion of any fuel in an affected facility for the purpose of supplying useful thermal energy for heating, cooling, process purposes, or generation of electricity; or

2. The combustion of fuel in an affected facility for any purpose after a shutdown event; and

(b) Ending after the longest manufacturer-recommended time required to engage all control devices utilized by the affected facility applicable to the pollutant, not to exceed four (4) hours after any of the useful thermal energy from the affected facility is supplied for any purpose.

(8) "Useful thermal energy" means energy that meets the minimum operating temperature, flow, or pressure required by an energy use system that uses energy provided by the affected facility["PM CEMS" means a particulate matter continuous emissions monitoring system].

Section 2. Applicability. (1) This administrative regulation shall apply to an affected facility[~~facilities~~] commenced on or after the applicable classification date.

(2) An affected facility subject to 40 C.F.R. 60.40 to 60.46 (Subpart D),[:] 60.40Da to 60.52Da (Subpart Da),[:] 60.40b to 60.49b (Subpart Db),[:] or 60.40c to 60.48c (Subpart Dc) shall be exempt from Sections 3 through 6 of this administrative regulation for each pollutant covered under this administrative regulation with a specific emission standard in the applicable New Source

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

Performance Standard (NSPS) codified at 40 C.F.R. Part 60.

Section 3. Method for Determining Allowable Emission Rates.

(1) Except as ~~established~~provided in subsection (3) of this section, the total rated heat input capacity of all affected facilities at a source, including those for which an application to construct, modify, or reconstruct has been submitted to the cabinet, shall be used as ~~established~~specified in Sections 4 and 5 of this administrative regulation to determine the allowable emission rate in terms of ~~lb/MMBTU~~pounds per million BTU (lb/MMBTU) heat input.

(2) The permitted allowable emissions rate of an affected facility shall not be changed due to inclusion or shutdown of another affected facility at the source.

(3) A source[sources] may submit a request to [petition] the cabinet for approval of [to approve] an allowable emission rate apportioned independently from individual heat input pursuant to this subsection, as follows:

(a) The following equation shall be used to determine the

$$F = (AB + DE) / C$$

allowable emissions rate: F = (AB + DE) / C, in which:

1. A = allowable emission rate (in lb/MMBTU heat input) determined pursuant to subsection (1) of this section;

2. B = total rated heat input (in MMBTU/hr) of all affected facilities at the source commenced on or after the applicable classification date, including those for which an application to construct, modify, or reconstruct has been submitted to the cabinet;

3. C = total rated heat input (in MMBTU/hr) of all affected facilities at the source, including those for which an application to construct, modify, or reconstruct has been submitted to the cabinet;

4. D = allowable emission rate (in lb/MMBTU heat input) determined pursuant to 401 KAR 61:015, Section 3(1);

5. E = total rated heat input (in MMBTU/hr) of all affected facilities at the source commenced before the applicable classification date; and

6. F = alternate allowable emission rate in lbs per actual MMBTU heat input.;

(b) In determining an alternative allowable emission rate for sulfur dioxide, the formula established in paragraph (a) of this subsection shall utilize values for allowable emissions rates for an affected facility stated in terms of total rated heat input capacity based on the use of the same fuel category (solid, liquid, or gaseous fuel), which shall be determined by utilizing the formulas established in Section 5 of this administrative regulation.

(c) The total emissions in (lb/hr) from all affected facilities at the source subject to this administrative regulation divided by the total actual heat input (in MMBTU/hr) of the affected facilities shall not exceed the alternate allowable emission rate as determined in paragraph (a) of this subsection.;

(d)[(e)] A source operating an affected facility that is not subject to a federal NSPS codified at 40 C.F.R. Part 60 only because the affected facility commenced construction prior to the NSPS classification date, shall not allow emissions of the affected facility to exceed the allowable emission rate determined pursuant to Sections 4 and 5 of this administrative regulation.;

(e)[(d)] The source shall demonstrate compliance with this subsection by conducting a performance test pursuant to 401 KAR 50:045 for each affected facility subject to this administrative regulation.;~~and~~

(f)[(e)] The source shall demonstrate that compliance with this subsection shall be maintained on a continuous~~continual~~ basis.

Section 4. Standard for Particulate Matter. Except as ~~established~~provided in Sections~~Section~~ 3(3) and 7 of this administrative regulation, an affected facility subject to this administrative regulation shall not cause emissions of particulate matter in excess of:

(1)(a) 0.56 lb/MMBTU actual heat input for sources with total heat input capacity totaling ten (10) MMBTU/hr or less for all affected facilities at the source;

(b) 0.10 lb/MMBTU actual heat input for sources with total heat

input capacity totaling 250 MMBTU/hr or more for all affected facilities at the source; and

(c) 0.9634 multiplied by the quantity obtained by raising the total heat input capacity (in MMBTU/hr) to the -0.2356 power for sources with heat input values totaling greater than ten (10) MMBTU/hr and less than 250 MMBTU/hr for all affected facilities at the source; and

(2) Twenty (20) percent opacity, except:

(a) For a source~~sources~~ with heat input capacity totaling 250 MMBTU/hr or more for all affected facilities at the source, a maximum of twenty-seven (27) percent opacity shall be allowed for one (1) six (6) minute period in any sixty (60) consecutive minutes;

(b) For a source~~sources~~ with total heat input capacity of less than 250 MMBTU/hr for all affected facilities at the source, a maximum of forty (40) percent opacity shall be allowed for a maximum of six (6) consecutive minutes in any sixty (60) consecutive minutes during fire box cleaning or soot blowing; and

(c) For emissions from an affected facility caused by building a new fire, emissions during the period required to bring the boiler up to operating conditions shall be allowed, if the method used is recommended by the manufacturer and the time does not exceed the manufacturer's recommendations.

Section 5. Standard for Sulfur Dioxide. (1) Except as ~~established~~provided in Sections~~Section~~ 3(3) and 7 of this administrative regulation, an affected facility subject to this administrative regulation shall not cause emissions of gases that contain sulfur dioxide in excess of:

(a) For a source~~sources~~ with heat input capacity totaling ten (10) MMBTU/hr or less for all affected facilities at the source:

1. Three and zero-tenths (3.0) lb/MMBTU actual heat input for combustion of liquid and gaseous fuels; and

2. Five and zero-tenths (5.0) lb/MMBTU actual heat input for combustion of solid fuels;

(b) For sources with heat input capacity totaling 250 MMBTU/hr or more for all affected facilities at the source:

1. Eight-tenths (0.8) lb/MMBTU actual heat input for combustion of liquid and gaseous fuels; and

2. One and two-tenths (1.2) lb/MMBTU actual heat input for combustion of solid fuels; and

(c) For a source~~sources~~ with total heat input values greater than ten (10) MMBTU/hr and less than 250 MMBTU/hr for all affected facilities at the source, the standard, in lb/MMBTU actual heat input, shall be equal to:

1. For an affected facility combusting liquid fuels, the lesser of:

a. Three and zero-tenths (3.0) lb/MMBTU; or

b. The value of 7.7223 multiplied by the quantity obtained by raising to the -0.4106 power the total heat input capacity (in MMBTU/hr) of the affected facilities combusting liquid fuels;

2. For an affected facility combusting gaseous fuels, the lesser

of:

a. Three and zero-tenths (3.0) lb/MMBTU; or

b. The value of 7.7223 multiplied by the quantity obtained by raising to the -0.4106 power the total heat input capacity (in MMBTU/hr) of the affected facilities combusting gaseous fuels; and

3. For an affected facility combusting solid fuels, the lesser of:

a. Five and zero-tenths (5.0) lb/MMBTU; or

b. The value of 13.8781 multiplied by the quantity obtained by raising to the -0.4434 power the total heat input capacity (in MMBTU/hr) of the affected facility~~facilities~~ combusting solid fuels.

(2) For simultaneously combusting~~burning~~ different fuels in combination, the applicable standard shall be determined by prorating BTUs pursuant to the following equation: Allowable sulfur dioxide emission in lb/MMBTU~~[/hr—heat—input]~~ =

$$\frac{x(a) + y(b) + z(c)}{x + y + z}$$

[(y(a) + z(b))/(y + z)], in which:

(a) x[y] = percent total heat input derived from liquid~~or gaseous~~ fuel;

(b) y[z] = percent total heat input derived from gaseous~~solid~~ fuel;

(c) z = percent total heat input derived from solid fuel;

(d) a = allowable sulfur dioxide emission in lb/MMBTU~~[/hr—heat~~

input] derived from liquid[or gaseous] fuel;[and]

(e)[(d)] b = allowable sulfur dioxide emission in lb/MMBTU[hr] derived from gaseous[solid] fuel; and

(f) c = allowable sulfur dioxide emission in lb/MMBTU derived from solid fuel.

(3) Compliance shall be based on the total heat input from all fuels combusted[burned].

Section 6. [Standard for Nitrogen Oxides. (1) An affected facility with heat input capacity of 250 MMBTU/hr or more shall not cause emissions of gases that contain nitrogen oxides expressed as nitrogen dioxide in excess of:

(a) 0.20 lb/MMBTU heat input (0.36 grams per million calories (g/MMCal)) derived from gaseous fuel;

(b) 0.30 lb/MMBTU heat input (0.54 g/MMCal) derived from liquid fuel;

(c) 0.70 lb/MMBTU heat input (1.26g/MMCal) derived from solid fuel except lignite;

(d) 0.60 lb/MMBTU heat input (1.08 g/MMCal) derived from lignite or lignite and wood residue except as provided in paragraph (e) of this subsection; and

(e) 0.80 lb/MMBTU derived from lignite that is mined in North Dakota, South Dakota, or Montana and that is burned in a cyclone-fired unit.

(2) Except as provided in subsections (3) and (4) of this section, if different fuels are burned simultaneously in any combination, the allowable nitrogen dioxide emission shall be prorated using the following equation: Allowable nitrogen dioxide emission in lb/MMBTU/hr heat input $\{x(0.20) + y(0.30) + w(0.60)\} + \{(x + y + z + w)\}$ in which:

(a) x = percent of total heat input derived from gaseous fuel;

(b) y = percent of total heat input derived from liquid fuel;

(c) z = percent of total heat input derived from solid fuel (except lignite); and

(d) w = percent of total heat input derived from lignite.

(3) For fossil fuel containing at least twenty-five (25) percent by weight coal refuse burned in combination with gaseous, liquid, or other solid fossil fuel; wood residue; or biomass, the standard for nitrogen oxides shall not apply.

(4) A cyclone-fired unit burning fuel containing at least twenty-five (25) percent lignite mined in North Dakota, South Dakota, or Montana shall be subject to subsection (1)(e) of this section for all types of fuel combusted in combination with the lignite.

Section 7. Emission and Fuel Monitoring. (1) Except as provided in subsection (2) of this section, sources shall install, calibrate, maintain, and operate a continuous monitoring system for measuring:

(a) Opacity of emissions;

(b) Sulfur dioxide emissions;

(c) Nitrogen oxides emissions; and

(d) Oxygen or carbon dioxide emissions.

(2) Subsection (1) of this section shall not apply as follows:

(a) For an affected facility burning only gaseous fuel, a continuous monitoring system for opacity (COMS) shall not be required.

(b) For an affected facility burning only natural gas, wood, wood residue, or biomass; or a combination of natural gas, wood, wood residue, or biomass, a continuous emissions monitoring system (CEMS) for sulfur dioxide emissions shall not be required.

(c) 1. For nitrogen oxides, installation of CEMS may be delayed until after the initial performance tests required by 401 KAR 59:005, Sections 2 and 4(2); and

2. If the initial performance test results show nitrogen oxide emissions:

a. Are less than seventy (70) percent of the applicable standard in Section 6 of this administrative regulation, CEMS for nitrogen oxides shall not be required; or

b. Are equal to or greater than seventy (70) percent of the applicable standard in Section 6 of this administrative regulation, the source shall install CEMS for nitrogen oxides within one (1) year after the date of the initial performance tests.

(d) For a source exempt from installing CEMS for sulfur oxides

and nitrogen oxides pursuant to paragraphs (b) and (c) of this subsection, a continuous monitoring system for measuring oxygen or carbon dioxide shall not be required.

(e) For an affected facility not using a flue gas desulfurization device, CEMS for sulfur dioxide emissions shall not be required if the source monitors sulfur dioxide emissions by fuel sampling and analysis pursuant to subsection (5) of this section.

(3) For performance evaluations subject to 401 KAR 59:005, Section 4(3), and calibration checks subject to 401 KAR 59:005, Section 4(4):

(a) Reference Methods 6-6C or 7-7E, incorporated by reference in 401 KAR 50:015, as applicable, shall be used for conducting performance evaluations of CEMS for sulfur dioxide and nitrogen oxides;

(b) Sulfur dioxide or nitric oxide, as applicable, shall be used for preparing calibration gas mixtures pursuant to 40 C.F.R. Part 60, Appendix B, Performance Specification 2;

(c) The span value for a continuous monitoring system:

1. For an affected facility burning fossil fuels, shall be eighty (80), ninety (90), or 100 percent; and

2. For systems measuring sulfur oxides or nitrogen oxides, shall be determined pursuant to the following table:

DETERMINATION OF SPAN VALUE (in parts per million)		
Fossil Fuel	Span Value for Sulfur Dioxide	Span Value for Nitrogen Oxides
Gas	*	500
Liquid	1,000	500
Solid	1,500	500
Combinations	$1,000y + 1,500z$	$500(x + y) + 1,000z$

In which:

a. * shall indicate that a value shall not be applicable;

b. x = fraction of total heat input derived from gaseous fossil fuel;

c. y = fraction of total heat input derived from liquid fossil fuel; and

d. z = fraction of total heat input derived from solid fossil fuel;

(d) Span values computed pursuant to paragraph (c) of this subsection for burning combinations of fuels shall be rounded to the nearest 500 parts per million (ppm); and

(e) The source shall submit the proposed CEMS span value for cabinet approval pursuant to 40 C.F.R. 60.13(d) and this subsection, for all affected facilities that simultaneously burn fossil fuel and non-fossil fuel.

(4) For continuous monitoring systems installed pursuant to subsection (1) of this section, the following conversion procedures shall be used to convert the continuous monitoring data into units of the applicable requirement in nanograms/joule (ng/J) or lb/MMBTU:

(a) For continuous monitoring systems measuring oxygen, the pollutant concentration and oxygen concentration shall be measured on a consistent wet or dry basis as follows:

1. Procedures approved by the cabinet and the U. S. EPA pursuant to 40 C.F.R. Part 60, Appendix B, shall be used for wet-basis measurements; and

2. For dry-basis measurements, the following conversion procedure shall be used:

$E = (20.9CF)/(20.9 - \text{percent oxygen})$ in which E, C, F, and percent oxygen shall be determined pursuant to subsection (5) of this section; and

(b) For continuous monitoring systems measuring carbon dioxide, the pollutant concentration and carbon dioxide concentration shall be measured on a consistent wet or dry basis and the following conversion procedure shall be used: $E = (100 CF_e)/(\text{percent carbon dioxide})$, in which E, C, F_e, and percent carbon dioxide shall be determined pursuant to subsection (5) of this section.

(5) The values used in the equations in subsection (4)(a) and (b) of this section shall be derived as follows:

(a) E = pollutant emissions in grams per million calorie (g/MMCal) or lb/MMBTU;

(b) C = pollutant concentration in grams per dry cubic meter at standard conditions (g/dscm) or pounds per dry cubic feet at standard conditions (lb/dscf) determined by multiplying the average

concentration (ppm) for each one (1) hour period by 0.0000415 M (g/dscm)/ppm or (lb/dscf)/ppm; multiplied by two and five-tenths (2.5) multiplied by ten (10) raised to the negative ninth (9) power; and multiplied by M (g/dscm)/ppm or (lb/dscf)/ppm in which M equals:

1. Pollutant molecular weight in grams per gram-mole (g/g-mole) or pounds/pound-mole (lb/lb-mole); or

2. 64.07 for sulfur dioxide and 46.01 for nitrogen oxides;

(c) F, Fc = a factor representing a ratio of the volume of dry flue gases generated to the calorific value of the fuel combusted (F), and a factor representing a ratio of the volume of carbon dioxide generated to the calorific value of the fuel combusted (Fc), respectively, pursuant to the applicable American Society for Testing and Materials (ASTM) standard from the Book of ASTM Standards incorporated by reference in 401 KAR 50:015 as follows:

1. For anthracite coal as classified according to ASTM D388-66(72), F equals 10,140 dscf/MMBTU and Fc equals 1,980 standard cubic feet (scf) CO₂/MMBTU;

2. For subbituminous and bituminous coal as classified according to ASTM D388-66(72), F equals 9,820 dscf/MMBTU and Fc equals 1,810 scf CO₂/MMBTU;

3. For liquid fossil fuels including crude, residual, and distillate oils, F equals 9,220 dscf/MMBTU and Fc equals 1,430 scf CO₂/MMBTU;

4a. For gaseous fossil fuels, F equals 8,740 dscf/MMBTU;

b. For natural gas, Fc equals 1,040 scf CO₂/MMBTU; for propane, Fc equals 1,200 scf CO₂/MMBTU; and for butane Fc equals 1,260 scf CO₂/MMBTU;

5a. For bark, F equals 9,575 dscf/MMBTU and Fc equals 1,927 scf CO₂/MMBTU;

b. For wood residue other than bark, F equals 9,233 dscf/MMBTU, and Fc equals 1,842 scf CO₂/MMBTU; and

6. For lignite coal as classified according to ASTM D388-66(72), F equals 9,900 dscf/MMBTU and Fc equals 1,920 scf CO₂/MMBTU;

(d) The source may use the equation given in subparagraph 1 of this paragraph to determine an F factor (dscm/MMC_{cal}, or dscf/MMBTU) on a dry basis or Fc factor (standard cubic meters (scm) CO₂/MMC_{cal}, or standard cubic feet (scf) CO₂/MMBTU) on either wet or dry basis in lieu of the F or Fc factors specified in paragraph (c) of this subsection; where

1. The F or Fc Factor shall be determined by the following:

a. $F = \{227.2 (\%H) + 95.5 (\%C) + 35.6 (\%S) + 8.7 (\%N) - 28.7 (\%O)\} / GCV$ (metric units);

b. $F = 10^6 \{3.64 (\%H) + 1.53 (\%C) + 0.57 (\%S) + 0.14 (\%N) - 0.46 (\%O)\} / GCV$ (English units);

c. $F_c = \{2.0 \times 10^6 (\%C)\} / GCV$ (metric units); and

d. $F_c = \{3.21 \times 10^6 (\%C)\} / GCV$ (English units);

2. H, C, S, N, and O shall be content by weight of hydrogen, carbon, sulfur, nitrogen, and oxygen (expressed as percent), respectively, as determined on the same basis as GCV by ultimate analysis of the fuel fired using ASTM method D3178-73 or D3176-74 (solid fuels) or computed from results using ASTM methods D1137-53(75), D1945-64(73), or D1946-67(72) (gaseous fuels) as applicable; and

3. GCV shall be the gross calorific value (Cal/g or BTU/lb) of the fuel combusted determined by ASTM test methods D2015-66(72) for solid fuels and D1826-64(70) for gaseous fuels as applicable; and

(e) For an affected facility firing a combination of fuels, the F or Fc factors determined by paragraphs (c) and (d) of this subsection shall be prorated in accordance with the applicable formula as follows:

1. $F = xF_1 + yF_2 + zF_3$, where:

a. x, y, z = the fraction of total heat input derived from gaseous, liquid, and solid fuels, respectively; and

b. F₁, F₂, F₃ = the value of F for gaseous, liquid, and solid fuels, respectively, pursuant to subsection (5)(c) and (d) of this section; or

$$F_c = \sum_{i=1}^n X_i (F_c)_i$$

where:

a. X_i = fraction of total heat input derived from each type fuel; and
b. (F_c)_i = applicable Fc factor for each fuel type determined pursuant to subsection (5)(c) and (d) of this section.

(6) For reports required pursuant to 401 KAR 59:005, Section 3(3), periods of excess emissions required to be reported shall be as follows:

(a) Excess emissions shall be any six (6) minute period during which the average opacity of emissions exceeds twenty (20) percent opacity, except that one (1) six (6) minute average per hour of up to twenty-seven (27) percent opacity shall not be required to be reported;

(b) For sulfur dioxide, excess emissions shall be any three (3) hour period during which the average emissions (arithmetic average of three (3) contiguous one (1) hour periods) of sulfur dioxide as measured by a continuous monitoring system exceed an applicable standard in Section 5 of this administrative regulation; and

(c) For nitrogen oxides, excess emissions shall be any three (3) hour period during which the average emissions (arithmetic average of three (3) contiguous one (1) hour periods) of nitrogen oxides as measured by a continuous monitoring system exceed an applicable standard in Section 6 of this administrative regulation.

(7) The source may request approval to install a Particulate Matter Continuous Emissions Monitoring System (PM-CEMS) as an alternative to subsection (1)(a) of this section as follows:

(a) The request for approval shall be made in writing to the cabinet;

(b) if the PM-CEMS request is approved, the source:

1. Shall be subject to a federally enforceable PM limit of 0.030 lb/MMBTU/hr or less;

2. Shall comply with 40 C.F.R. 60.42Da(a); and

3. Shall follow the compliance and monitoring provisions of 40 C.F.R. 60.48Da and 60.49Da that are applicable to particulate matter, excluding 40 C.F.R. 60.48Da(c) and (g)(3);

(c) Excess emissions for an affected facility using PM-CEMS shall be determined by a boiler operating day, as defined by 40 C.F.R. 60.41Da, in which the average emissions (arithmetic average of all operating one (1) hour periods) exceed the applicable standard pursuant to 40 C.F.R. 60.42Da; and

(d) For calculating average emissions and determining compliance:

1. The boiler operating day shall have at least eighteen (18) hours of unit operation during which the standard shall apply; and

2. All valid hourly emission rates of the boiler operating day not meeting the minimum eighteen (18) hours valid data daily average requirement shall be averaged with the valid hourly emission rates of the next boiler operating day with eighteen (18) hours or more of valid PM-CEMS data.

Section 8.— Test Methods and Procedures. (1) Except as established[provided] in 401 KAR 50:045, the reference methods established[specified] in 40 C.F.R. Part 60, Appendix A, shall be used to determine compliance with Sections 4 and 5[, 5, and 6] of this administrative regulation as follows:

(a) Reference Method 1 shall be used for the selection of sampling site and sample traverses;

(b) Reference Method 3 shall be used for gas analysis in applying Reference Methods 5 and 6[, 6, and 7];

(c) Reference Method 5 shall be used for concentration of particulate matter and the associated moisture content;

(d) Reference Method 6 shall be used for the concentration of sulfur dioxide; and

(e)[Reference Method 7 shall be used for the concentration of nitrogen oxides; and

(f)] Reference Method 9 shall be used for visible emissions.

(2) For Reference Method 5:

(a) Reference Method 1 shall be used to select the sampling site and the number of traverse sampling points;

(b) The sampling time for each run shall be at least sixty (60) minutes, and the minimum sampling volume shall be 0.85 dscm (thirty (30) dscf), except smaller sampling times or volumes, if necessitated by process variables or other factors, may be requested by the source; and

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

(c) The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature not greater than 160 degrees Centigrade (320 degrees Fahrenheit).

(3) For Reference Method 6 [Methods 6 and 7]:

(a) The sampling site shall be the same as the site selected for Reference Method 5;

(b) The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than one (1) meter (3.28 ft); and

(c) [For Reference Method 6,] The sample shall be extracted at a rate proportional to the gas velocity at the sampling point; and

(4) For Reference Method 6:

(d) [(a)] The minimum sampling time shall be twenty (20) minutes, and the minimum sampling volume shall be 0.02 dscm (0.71 dscf) for each sample;

(e) [(b)] The arithmetic mean of two (2) samples shall constitute one (1) run; and

(f) [(c)] Samples shall be taken at approximately thirty (30) minute intervals.

(4) [(5) For Reference Method 7:

(a) Each run shall consist of at least four (4) grab samples taken at approximately fifteen (15) minute intervals; and

(b) The arithmetic mean of the samples shall constitute the run value.

(6) For each run using the methods established [specified] by subsection (1) [(a), (b), and (c)] of this section, the emissions expressed in g/MMcal [g/MMCal] (lb/MMBTU) shall be determined by the following procedure:

$$E = \frac{20.9CF}{20.9 - \%O_2}$$

[E = 20.9CF / (20.9 - percent oxygen)], in which:

(a) E = pollutant emission, g/MMcal [g/MMCal] (lb/MMBTU);

(b) C = pollutant concentration, g/dscm (lb/dscf), as determined by Reference Methods 5 or 6 [7, 6, or 7];

(c) Percent oxygen:

1. Shall equal oxygen content by volume (expressed as a percent), dry basis; and

2. Shall be determined using the integrated or grab sampling and analysis procedures of Reference Method 3; and

a. For determination of sulfur dioxide [and nitrogen oxides] emissions, the oxygen sample shall be obtained simultaneously at the same point in the duct as used to obtain the samples for Reference Method 6 [Methods 6 and 7] determinations; respectively, with the oxygen sample for reference Method 7 obtained using the grab sampling and analysis procedures of Reference Method 3; and

b. For determination of particulate emissions, the oxygen sample shall be obtained simultaneously by traversing the duct at the same sampling location used for each run of Reference Method 5 pursuant to subsection (2) of this section, using Reference Method 1 for selection of the number of traverse points, except that not more than twelve (12) points shall be required; and

(d) F = a factor as determined in 40 C.F.R. 60.45(f) [Section 7(5) of this administrative regulation].

(5) [(7)] If an affected facility fires a combination of [fossil] fuels, the heat input, expressed in cal/hr [Cal/hr] (BTU/hr), shall be determined during each testing period by multiplying the GCV [gross calorific value] of each fuel fired by the rate of each fuel combusted [burned], in which:

(a) GCV [Gross calorific value] shall be determined in accordance with the applicable ASTM methods D2015-66(72) (solid fuels), D240-76 (liquid fuels), or D1826-64(75) [D1826-64(70)] (gaseous fuels), incorporated by reference in 401 KAR 50:015 [as applicable]; and

(b) The rate of fuels combusted [burned] during each testing period shall be determined by the applicable method and shall be confirmed by a material balance over the steam generation system.

Section 7. Standards during a startup period or a shutdown period. During a startup period or a shutdown period, an owner or operator shall comply with the work practice standards established in this section. (1)(a) At all times, the owner or operator of each

affected facility shall operate the affected facility and all applicable control devices in a manner consistent with good air pollution control practices for minimizing emissions;

(b) The frequency and duration of startup periods or shutdown periods shall be minimized by the affected facility;

(c) All possible steps shall be taken by the owner or operator to minimize the impact of emissions on ambient air quality from the affected facility during startup periods and shutdown periods;

(d) The actions, including duration of the startup period, of the owner or operator of each affected facility during startup periods and shutdown periods, shall be documented by signed, contemporaneous logs or other relevant evidence; and

(e) Startups and shutdowns shall be conducted according to either:

1. The manufacturer's recommended procedures; or

2. Recommended procedures for a unit of similar design, for which manufacturer's recommended procedures are available, as approved by the cabinet based on documentation provided by the owner or operator of the affected facility; and

(2)(a) An affected facility subject to 40 C.F.R. 63.7500 shall meet the work practice standards established in Table 3 to Subpart DDDDD of 40 C.F.R. Part 63, as established in 401 KAR 63:002, Section 2(4)(iii);

(b) An affected facility subject to 40 C.F.R. 63.9991 shall meet the work practice standards established in Table 3 to Subpart UUUUU of 40 C.F.R. Part 63, as established in 401 KAR 63:002, Section 2(4)(vvyv); or

(c) An affected facility subject to 40 C.F.R. 63.11201 shall meet the work practice standards established in Table 2 to Subpart JJJJJ of 40 C.F.R. Part 63, as established in 401 KAR 63:002, Section 2(4)(iiii).

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: September 1, 2017

FILED WITH LRC: September 14, 2017 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation and the SIP Revision package for the amended administrative regulation will be held on October 30, 2017, at 10:00 a.m. (Eastern Time) in Conference Room 111 at 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by October 24, 2017, 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 shall be cancelled, and notification of the cancellation shall be posted at <http://air.ky.gov/pages/publicnoticesandhearings.aspx>. 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 October 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person. This administrative regulation is contained in Kentucky's State Implementation Plan approved by US EPA. The SIP revision package for the amended regulation will be submitted to US EPA once the proposed amendments to this administrative regulation become effective. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Cassandra Jobe, Supervisor, Division for Air Quality, 300 Sower Blvd., Frankfort, Kentucky 40601, phone (502) 782-6670, fax (502) 564-4245, email Cassandra.Jobe@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Cassandra Jobe

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides for the control of emissions of

criteria pollutants from new indirect heat exchangers.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to control the emissions of criteria pollutants from new indirect heat exchangers. This administrative regulation is necessary for the Energy and Environment Cabinet (Cabinet) to protect human health and the environment by establishing emission limits for criteria pollutants for new indirect heat exchangers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(5) authorizes the Cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides for the control of emissions from new indirect heat exchangers. This administrative regulation is part of the Kentucky State Implementation Plan (SIP).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will enable the Cabinet to continue to implement and enforce the control of emissions from new indirect heat exchangers, resulting in the protection of human health and the environment and attainment of the National Ambient Air Quality Standards (NAAQS).

(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 establishes work practice standards for indirect heat exchangers, makes technical corrections to formulas, and removes duplicative requirements already covered by federal regulations.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to control the emissions from new indirect heat exchangers. The amendment provides clarity for regulated entities and removes duplicative requirements covered by federal regulations.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statute by providing for the control of emissions from new indirect heat exchangers and removing duplicative requirements. The amendment also conforms to the content of the authorizing statute by establishing work practice standards for new indirect heat exchangers.

(d) How the amendment will assist in the effective administration of statutes: The amendment establishes work practice standards for new indirect heat exchangers and makes technical corrections to formulas within the administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation. Owners and operators of new indirect heat exchangers will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: Regulated entities will use the corrected formulas and meet the work practice standards.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost to the regulated entities to comply with this amendment. This amendment will allow regulated entities to use the corrected formulas and comply with work practice standards.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, the sources will be able to show they are meeting the work practice standards and will calculate emissions more accurately.

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

(a) Initially: The Division for Air Quality will not incur any additional costs for the implementation of this administrative regulation initially.

(b) On a continuing basis: The Division for Air Quality will not incur any additional costs for the implementation of this administrative regulation on a continual basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Division for Air Quality's current operating budget will be used for the implementation and enforcement of the amendment to this administrative regulation.

(7) 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 necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees. This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Yes. Emission limits for affected facilities apply based on the capacity of the new indirect heat exchanger.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation has the potential to affect any unit, part, or division of state or local government operating a new indirect heat exchanger. The Division for Air Quality will continue to permit sources in accordance with this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes action taken by the administrative regulation.

KRS 224.10-100(5), 224.20-120, 42 U.S.C. 7410, 7411, and 40 C.F.R. Part 60

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The proposed administrative regulation will not generate revenue in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The proposed administrative regulation will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? The Division for Air Quality's current operating budget will be used to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? The Division for Air Quality's operating budget will be used to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impacts of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no further explanation.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

The federal mandate for this administrative regulation is in 40 C.F.R. Part 60 and 42 U.S.C. 7411.

2. State compliance standards. This administrative regulation provides for the control of emissions from new indirect heat exchangers.

3. Minimum or uniform standards contained in the federal

mandate. 42 U.S.C. 7411 requires that the U.S. EPA promulgate emission standards for new stationary sources.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Yes. This administrative regulation establishes work practice standards that are not part of the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The work practice standards were requested as an alternative way to address emissions during periods of startup and shutdown.

ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division for Air Quality
(Amendment)

401 KAR 61:015. Existing indirect heat exchangers.

RELATES TO: KRS Chapter 224, 40 C.F.R. Part 60, Subpart D, Da, Db, Dc, Part 63, Subparts DDDDD, UUUUU, JJJJJ

STATUTORY AUTHORITY: KRS 224.10-100

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(5) requires the [Environmental and Public Protection] cabinet to promulgate[prescribe] administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides for the control of emissions from existing indirect heat exchangers.

Section 1. [Applicability. The provisions of this administrative regulation shall apply to each affected facility commenced before the applicable classification date defined below.

Section 2.] Definitions. As used in this administrative regulation, all terms not defined in this section[herein] shall have the meaning given them in 401 KAR 50:010 and 401 KAR 50:025.

(1) "Affected facility" means an indirect heat exchanger having a heat input capacity of more than one (1) MMBTU/hr[million BTU per hour].

(2) ["Indirect heat exchanger" means any piece of equipment, apparatus, or contrivance used for the combustion of fuel in which the energy produced is transferred to its point of usage through a medium that does not come in contact with or add to the products of combustion.

(3)] "Classification date" means:

(a) August 17, 1971, for affected facilities with a capacity of more than 250 MMBTU/hr[million BTU per hour] heat input; or

(b) April 9, 1972, for affected facilities with a capacity of 250 MMBTU/hr[million BTU per hour] heat input or less.

(3) "Fuel" means any material combusted for the purpose of creating useful heat.

(4) "GCV" means gross calorific value.

(5) "Indirect heat exchanger" means a piece of equipment, apparatus, or contrivance used for the combustion of fuel in which the energy produced is transferred to its point of usage through a medium that does not come in contact with or add to the products of combustion.

(6) "Shutdown period" means the period:

(a) Beginning when, whichever occurs first:

1. The affected facility no longer supplies useful thermal energy for heating, cooling, process purposes, or generation of electricity; or

2. Fuel is not being combusted in the affected facility; and

(b) Ending when:

1. The affected facility no longer supplies useful thermal energy for heating, cooling, process purposes, or generation of electricity; and

2. Fuel is not being combusted in the affected facility.

(7) "Startup periods" means:

(a) Beginning with either:

1. The combustion of any fuel in an affected facility for the purpose of supplying useful thermal energy for heating, cooling,

process purposes, or generation of electricity; or

2. The combustion of fuel in an affected facility for any purpose after a shutdown event; and

(b) Ending after the longest manufacturer-recommended time required to engage all control devices utilized by the affected facility applicable to the pollutant, not to exceed (4) four hours after any of the useful thermal energy from the affected facility is supplied for any purpose.

(8) "Useful thermal energy" means energy that meets the minimum operating temperature, flow, or pressure required by any energy use system that uses energy provided by the affected facility.

Section 2. Applicability. The provisions of this administrative regulation shall apply to each affected facility commenced before the applicable classification date.

Section 3. Method for Determining Allowable Emission Rates. (1) Except as established[provided] in subsection (3) of this section, the total rated heat input capacity of all affected facilities at a source, commenced before the applicable classification date within a source, shall be used as established[specified] in Sections 4 and 5 of this administrative regulation to determine the allowable emission rate in terms of lb/MMBTU[pounds of effluent per million BTU] heat input.

(2) The permitted allowable emission rate of an affected facility shall not be changed due to inclusion or shutdown of another affected facility at the source.[At such time as any affected facility is assigned an allowable emission rate by the cabinet, at no time thereafter shall that rate be changed due to inclusion or shutdown of any affected facility at the source].

(3) A source may submit a request to the cabinet for approval of an allowable emission rate apportioned independent from individual heat input pursuant to this subsection.

(a) The following equation shall be used to determine the allowable emissions rate: [(a) A source may petition the cabinet to establish an allowable emission rate which may be apportioned without regard to individual affected facility heat input provided that the conditions specified in paragraphs (b), (c), (d), and (e) of this subsection are met. Such allowable emission rate shall be determined according to the following equation:]

$$F = (AB + DE)/C$$

Where:

1. A = the allowable emission rate (in lb/MMBTU/hr heat[pounds per million BTU] input), as determined according to 401 KAR 59:015, Section 3(1);

2. B = the total rated heat input (in MMBTU/hr[millions of BTU per hour]) of all affected facilities commenced on or after the applicable classification date within a source, including those for which an application to construct, modify, or reconstruct has been submitted to the cabinet;

3. C = the total rated heat input (in MMBTU/hr[millions of BTU per hour]) of all affected facilities within a source, including those for which an application to construct, modify, or reconstruct has been submitted to the cabinet;

4. D = the total emission rate (in lb/MMBTU[pounds per million BTU] input) as determined according to subsection (1) of this section;

5. E = the total rated heat input (in MMBTU/hr[millions of BTU per hour]) of all affected facilities commenced before the applicable classification date; and

6. F = the alternate allowable emission rate (in lb/MMBTU[pounds per actual million BTU] input).

(b) In determining an alternative allowable emission rate for sulfur dioxide, the formula established in paragraph (a) of this subsection shall utilize values for allowable emissions rates for affected facilities stated in terms of total rated heat input capacity based on the use of the same fuel category (solid, liquid, or gaseous fuel) which shall be determined by utilizing the formulas established in Section 5 of this administrative regulation.

(c) The total emissions in lb/hr from all affected facilities at the source subject to this administrative regulation divided by the total actual heat input expressed in MMBTU/hr of the affected facilities

shall not exceed the alternate allowable emission rate as determined in paragraph (a) of this subsection.

~~(d)(b) At no time shall the owner or operator of the source allow the total emissions (in pounds per hour) from all affected facilities within the source divided by the total actual heat input (in millions of BTU per hour) of all affected facilities within the source to exceed the alternate allowable emission rate as determined by paragraph (a) of this subsection.~~

(e) At no time shall the owner or operator of any source subject to federal new source performance standards allow the emissions from any affected facility commenced on or after the applicable classification date to exceed the allowable emission rate determined by use of that affected facility's rated heat input (instead of the heat input as determined by subsection (1) of this section) as established~~specified~~ in 401 KAR 59:015, Sections 4 and 5.

e1. The source shall demonstrate compliance with this subsection by conducting a performance test pursuant to 401 KAR 50:45 for each affected facility subject to this administrative regulation.

2. The source shall demonstrate that compliance with this subsection shall be maintained on a continuous basis.~~(d) The owner or operator of the source must demonstrate compliance with this subsection by conducting a performance test according to 401 KAR 50:045 on each affected facility under such conditions as may be specified by the cabinet.~~

~~(e) Upon petition, the cabinet will establish an alternate emission rate in accordance with this subsection if the owner or operator demonstrates to the cabinet's satisfaction that the source will maintain compliance with this subsection on a continual basis.~~

Section 4. Standard for Particulate Matter. (1) Except as established~~provided for~~ in Sections~~Section~~ 3(3) and 9 of this administrative regulation, an affected facility subject to this administrative regulation shall not cause emissions of particulate matter in excess of~~no owner or operator of an affected facility subject to the provisions of this administrative regulation shall cause to be discharged into the atmosphere from that affected facility~~:

(a)(1) Particulate matter in excess of That established~~specified~~ in Appendix A of this administrative regulation;

(b)(2) Emissions which exhibit Greater than twenty (20) percent opacity in regions classified as Priority I, pursuant to Appendix A of this administrative regulation, with respect to particulate matter, except that, for:

1.(a) That, for Cyclone or pulverized fired indirect heat exchangers, a maximum of forty (40) percent opacity shall be permissible for not more than one (1) six (6) minute period in any sixty (60) consecutive minutes;

2.(b) That, for Stoker fired indirect heat exchangers, a maximum of forty (40) percent opacity shall be permissible for not more than six (6) consecutive minutes in any sixty (60) consecutive minutes during cleaning the fire box or blowing soot and, for indirect heat exchangers with stationary grates, a maximum of forty (40) percent opacity shall be permissible during cleaning of the grates for not more than three (3) consecutive minutes in any sixty (60) consecutive minutes for each section of grates that are cleaned; and

3.(c) For Emissions from an indirect heat exchanger during building a new fire for the period required to bring the boiler up to operating conditions provided the method used is that recommended by the manufacturer and the time does not exceed the manufacturer's recommendations;~~[-]~~

(c)(3) Emissions which exhibit Greater than forty (40) percent opacity in regions classified as Priority II or III with respect to particulate matter except that, for:

1.(a) That, for Cyclone or pulverized fired indirect heat exchangers, a maximum of sixty (60) percent opacity shall be permissible for not more than one (1) six (6) minute period in any sixty (60) consecutive minutes;

2.(b) That, for Stoker fired indirect heat exchangers, a maximum of sixty (60) percent opacity shall be permissible for not

more than six (6) consecutive minutes in any sixty (60) consecutive minutes during cleaning the fire box or blowing soot and, for indirect heat exchangers with stationary grates, a maximum of sixty (60) percent opacity shall be permissible during cleaning of the grates for not more than three (3) consecutive minutes in any sixty (60) consecutive minutes for each section of grates that are cleaned; and

3.(c) For Emissions from an indirect heat exchanger during building a new fire for the period required to bring the boiler up to operating conditions provided the method used is that recommended by the manufacturer and the time does not exceed the manufacturer's recommendations.

(2)(4) The emission limitations contained in subsection (1) ~~other subsections~~ of this section shall not apply to any affected facility (with more than 250 MMBTU/hr~~million BTU per hour~~) heat input capacity, which was in being or under construction before August 17, 1971, or any affected facility with 250 MMBTU/hr~~million BTU per hour~~ capacity or less, which was in being or under construction prior to April 9, 1972) if that affected facility was in compliance prior to April 9, 1972, with, or has a valid permit to operate within the provisions of the previous Kentucky Air Pollution Control Commission Regulation No. 7 [entitled "Prevention and Control of Emissions of Particulate Matter from Combustion of Fuel in Indirect Heat Exchangers."] These affected facilities shall comply with the emission limitations in that administrative regulation except that replacement of the particulate emissions control device associated with the affected facility shall subject it to the standard contained in this section.

Section 5. Standard for Sulfur Dioxide. (1) Except as established in Sections~~provided for in Section~~ 3(3) and 9 of this administrative regulation and subsection (5) of this section, an affected facility subject to this administrative regulation shall not cause emissions of gases that~~no owner or operator of an affected facility subject to the provisions of this administrative regulation shall cause to be discharged into the atmosphere from that affected facility, any gases which~~ contain sulfur dioxide in excess of that established~~specified~~ in Appendix B of this administrative regulation.

(2) If~~When~~ different fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration using the following formula:

$$\frac{lb}{MMBTU} = \frac{[x(a) + y(b) + z(c)]}{x + y + z}$$

$$\left[\frac{lb}{MMBTU} = \frac{y(a) + z(b)}{(y + z)} \right]$$

Where:

(a) x is the percent of total heat input derived from liquid fuel;
(b) y is the percent of total heat input derived from ~~liquid or~~ gaseous fuel;

(c) z is the percent of total heat input derived from solid fuel;
(d) a is the allowable sulfur dioxide emission in ~~lb/MMBTU~~pounds per million BTU heat input derived from liquid ~~or gaseous~~ fuel; and

(e) b is the allowable sulfur dioxide emissions in ~~lb/MMBTU~~pounds per million BTU heat input derived from ~~gaseous~~solid fuel; and

(f) c is the allowable sulfur dioxide emissions in ~~lb/MMBTU~~heat input derived from solid fuel.

(3) Compliance shall be based on the total heat input from all fuels burned, including gaseous fuels.

(4) In counties classified as VA with respect to sulfur dioxide, for a source~~sources~~ having a total heat input greater than 1500 MMBTU/hr~~1,500,000,000 BTU per hour (1500 MM BTU/hr.)~~ as determined by Section 3(1) of this administrative regulation, an~~no~~ owner or operator shall not allow the annual average sulfur dioxide emission rate from all existing and new affected facilities combined at the source to exceed six-tenths (0.60) pounds per million BTU.

(5) In counties classified as IA with respect to sulfur dioxide, at a source~~sources~~ having a total rated heat input greater than 1500 MMBTU/hr~~1,500,000,000 BTU per hour (1500 MM BTU/hr.)~~ as

determined by Section 3(1) of this administrative regulation, the cabinet shall allow one (1) affected facility, as ~~stated~~[specified] on the operating permit, to emit sulfur dioxide at a rate not to exceed a twenty-four (24) hour average of eight (8.0) ~~lb/MMBTU~~[pounds per million BTU], during those periods of time when the affected facility is being operated for the purpose of generating high sulfur dioxide content flue gases for use in any experimental sulfur dioxide removal system.

Section 6. Monitoring of Operations. (1) The sulfur content of solid fuels, as burned, shall be determined in accordance with the methods specified by the cabinet.

(2) The sulfur content of liquid fuels, as burned, shall be determined in accordance with the methods specified by the cabinet.

(3) The rate of fuel burned for each fuel shall be measured daily or at shorter intervals and recorded. The heating value and ash content of fuels shall be ascertained at least once per week and recorded. ~~If~~[where] the indirect heat exchanger is used to generate electricity, the average electrical output and the minimum and maximum hourly generation rate shall be measured and recorded daily.

(4) The owner or operator of ~~an~~[any] indirect heat exchanger of more than 250 MMBTU/hr [million BTU per hour] heat input subject to the provisions of this administrative regulation shall maintain a file of all measurements required by this administrative regulation and summarized monthly. The record of all measurements[any such measurement(s)] and summary shall be retained for at least two (2) years following the date of [such] measurements and summaries.

(5) The cabinet may require for ~~an~~[any] indirect heat exchanger of less than 250 MMBTU/hr [million BTU per hour] heat input any or all the fuel monitoring required by this section.

(6) For an indirect heat exchanger that does not use a flue gas desulfurization device, a continuous monitoring system as ~~established~~[specified] in 401 KAR 61:005 for measuring sulfur dioxide emissions is not required if the owner or operator monitors ~~the~~[such] emissions by fuel sampling and analysis [pursuant to Section 7(6) of 401 KAR 59:015].

Section 7. Test Methods and Procedures. (1) Except as ~~established~~[provided] in 401 KAR 50:045, performance tests used to demonstrate compliance with Sections 4 and 5 of this administrative regulation shall be conducted according to the following methods, incorporated [~~filed~~] by reference in 401 KAR 50:015[]:

(a) Reference Method 1 for the selection of sampling site and sample traverses;

(b) Reference Method 3 for gas analysis to be used when applying Reference Methods 5 ~~and 6~~[-6 and-7];

(c) Reference Method 5 for the concentration of particulate matter and the associated moisture content;

(d) Reference Method 6 for the concentration of sulfur dioxide; and

(e) Reference method 9 for visible emissions[~~Reference Method 7 for the concentration of nitrogen oxides~~].

(2) For Reference Method 5:

~~(a)~~[-] Reference Method 1 shall be used to select the sampling site and the number of traverse sampling points.

~~(b)~~ The sampling time for each run shall be at least sixty (60) minutes and the minimum sampling volume shall be 0.85 dscm (thirty (30) dscf), ~~except that smaller sampling times or volumes, if~~[when] necessitated by process variables or other factors, may be requested by the source[~~approved by the Cabinet~~].

~~(c)~~ The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature ~~not~~[to] greater than 160°C (320°F).

(3) For Reference Methods 6:

~~(a)~~ [-and-7,] The sampling site shall be the same as that selected for Reference Method 5.

~~(b)~~ The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than one (1) m (3.28 ft.).

~~(c)~~ [~~For Reference Method 6,~~] The sample shall be extracted at

a rate proportional to the gas velocity at the sampling point.

~~(d)~~[(4) ~~For Reference Method 6,~~] The minimum sampling time shall be twenty (20) minutes and the minimum sampling volume shall be 0.02 dscm (0.71 dscf) for each sample.

~~(e)~~ The arithmetic mean of two (2) samples shall constitute one (1) run.

~~(f)~~ Samples shall be taken at approximately thirty (30) minute intervals.

~~(5)(a)~~ [~~For Reference Method 7, each run shall consist of at least four (4) grab samples taken at approximately fifteen (15) minute intervals. The arithmetic mean of the samples shall constitute the run value.~~

~~(6)~~ For each run using the methods ~~established~~[specified] by subsection (1)[~~(c), (d), and (e)~~] of this section, the emissions expressed in g/million cal (~~lb/MMBTU~~[lb/million BTU]) shall be determined by the following equation:

$$E = CF \frac{20.9}{20.9 - \%O_2}$$

Where:

1. E = pollutant emission, g/million cal (~~lb/MMBTU~~[lb/million BTU]).

2. C = pollutant concentration, g/dscm (~~lb~~[-]/dscf) determined by Reference Method 5, ~~or 6~~[-or-7].

3. F = a factor as determined in 40 C.F.R. 60.45(f)[~~401 KAR 59:015, Section 7~~].

4. %O₂ = oxygen content by volume (expressed as percent), dry basis.

Percent oxygen shall be determined by using the integrated or grab sampling and analysis procedures for Reference Method 3 as applicable. The sample shall be obtained as follows:

~~(b)~~[(a)] For determination of sulfur dioxide and nitrogen oxides emissions, the oxygen sample shall be obtained simultaneously at the same point for Reference Method 6 [~~and-7~~] determinations[-, respectively. For Reference Method 7, the oxygen sample shall be obtained using the grab sampling and analysis procedures for Reference Method 3].

~~(c)~~[(b)] For determination of particulate emissions, the oxygen sample shall be obtained simultaneously by traversing the duct at the same sampling location used for each run of Reference Method 5 under subsection (2) of this section. Reference Method 1 shall be used for selection of the number of traverse points except that no more than twelve (12) sample points ~~shall be~~[are] required.

~~(6)~~ ~~If~~[(7) ~~When~~] combinations of fossil fuels are fired, the heat input, expressed in cal/hr. (BTU/hr.), shall be determined during each testing period by multiplying the gross calorific value of each fuel fired by the rate of each fuel burned. GVC[~~Gross-calorific value~~] shall be determined in accordance with ASTM methods D2015-66(72) (solid fuels), D240-64(73) (liquid fuels), or D1826-64(70) (gaseous fuels), as applicable (ASTM designations incorporated[~~filed~~] by reference in 401 KAR 50:015). The rate of fuels burned during each testing period shall be determined by suitable methods and shall be confirmed by a material balance over the steam generation system.

Section 8. Compliance Timetable. (1) An affected ~~facility~~[~~facilities~~] located in an area[~~areas~~] designated as attainment for sulfur dioxide ~~or~~[~~and/or~~] particulate matter shall be in compliance as of June 6, 1979.

(2)(a) In Class IA counties, the owner or operator of any affected facility in any source with a[~~whose~~] total rated capacity of 16,000 MMBTU/hr[~~is sixteen thousand million BTU per hour (16,000 MM BTU/hr)~~] or more shall be required to [complete the following]:

1. Submit a final control plan for achieving compliance with this administrative regulation no later than May 1, 1978;

2. Award contracts for complying coal by January 1, 1979;

3. Initiate use of [such] complying coal on or before December 1, 1979; and

4. Demonstrate compliance by performance tests on or before October 1, 1981.

(b) In Class IVA counties designated as nonattainment for sulfur dioxide, the owner or operator of any affected facility in any source with a total rated capacity of greater than 1,500

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

~~MMBTU/hr [1,500,000,000 BTU per hour (1,500 MM BTU/hr)] but less than 21,000 MMBTU/hr [twenty-one thousand million BTU per hour (21,000 MM BTU/hr)] shall be required to [complete the following]:~~

1. Submit a final control plan for achieving compliance with this administrative regulation no later than May 1, 1979;
2. Award contracts for complying coal by August 1, 1979;
3. Initiate use of ~~[such]~~ complying coal on or before January 1, 1980; ~~and~~
4. Demonstrate compliance by performance tests on or before March 1, 1980.

~~(c) In Class IVA counties designated as nonattainment for sulfur dioxide, the owner or operator of any affected facility in any source with a total rated capacity of greater than 21,000 MMBTU/hr [twenty-one thousand million BTU per hour (21,000 MM BTU/hr)] shall be required to [complete the following]:~~

1. Submit a control plan for flue gas desulfurization and initiate construction of a coal washing plant on or before June 1, 1978;
2. Issue invitations for bids for construction and installation of flue gas desulfurization equipment on or before October 1, 1978;
3. Award contract for construction and installation of flue gas desulfurization equipment on or before March 1, 1979;
4. Initiate construction of flue gas desulfurization equipment on or before December 1, 1979;
5. Complete construction of coal washing plant on or before December 1, 1980;
6. Complete construction of flue gas desulfurization equipment on or before June 1, 1982; ~~and~~
7. Demonstrate compliance by performance tests on or before September 1, 1982.

Section 9. Standards During a Startup Period or a Shutdown Period. During a startup period or a shutdown period, an owner or operator shall comply with the work practice standards established in this section.

(1)(a) At all times, the owner or operator of each affected facility shall operate the affected facility and all applicable control devices in a manner consistent with good air pollution control practices for minimizing emissions;

(b) The frequency and duration of startup periods or shutdown periods shall be minimized by the affected facility;

(c) All possible steps shall be taken by the owner or operator to minimize the impact of emissions on ambient air quality from the affected facility during startup periods and shutdown periods;

(d) The actions, including duration of the startup period, of the owner or operator of each affected facility during startup periods and shutdown periods, shall be documented by signed, contemporaneous logs or other relevant evidence; and

(e) Startups and shutdowns shall be conducted according to either:

1. The manufacturer's recommended procedures; or
2. Recommended procedures for a unit of similar design, for which manufacturer's recommended procedures are available, as approved by the cabinet based on documentation provided by the owner or operator of the affected facility; ~~and~~

(2)(a) An affected facility subject to 40 C.F.R. 63.7500 shall meet the work practice standards established in Table 3 to Subpart DDDDD of 40 C.F.R. Part 63, as established in 401 KAR 63:002, Section 2(4)(iiii);

(b) An affected facility subject to 40 C.F.R. 63.9991 shall meet the work practice standards established in Table 3 to Subpart UUUUU of 40 C.F.R. Part 63, as established in 401 KAR 63:002, Section 2(4)(vyyv); or

(c) An affected facility subject to 40 C.F.R. 63.11201 shall meet the work practice standards established in Table 2 to Subpart JJJJJ of 40 C.F.R. Part 63, as established in 401 KAR 63:002, Section 2(4)(jjjj).

Section 10. Incorporation by Reference. (1) "Kentucky Air Pollution Control Commission Regulation No. 7 Prevention and Control of Emissions of Particulate Matter from Combustion of Fuel in Indirect Heat Exchangers" (November 1969), is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Air Quality, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

APPENDIX A TO 401 KAR 61:015 ALLOWABLE PARTICULATE EMISSION RATES			
For sources having a total heat input capacity (as determined by Section 3(1) of:	The standard (in pounds per million BTU actual heat input) is (based upon the Priority classification with respect to particulates of the region in which the source is located):		
(MM BTU/Hr.)	Priority I	Priority II	Priority III
10 or less	0.56	0.75	0.80
50	0.38	0.52	0.57
100	0.33	0.44	0.49
250	0.26	0.35	0.40
500	0.22	0.30	0.34
1000	0.19	0.26	0.30
2500	0.15	0.21	0.24
5000	0.13	0.18	0.21
7500	0.12	0.16	0.19
10000 or more	0.11	0.15	0.18

Interpolation of allowable emissions for intermediate heat input values not specified above may be accompanied by use of the equations shown below for the appropriate heat input range specified. In all equations X = millions of BTU per hour heat input as determined by Section 3(1), and Y = allowable particulate emissions in pounds per million BTU actual heat input.

Region Classification with respect to Particulate Matter	Range (MM BTU/Hr)	Allowable (Pounds/MM BTU)
Priority I	10 to 10,000	$Y = 0.9634 X^{-0.2356}$
Priority II	10 to 10,000	$Y = 1.2825 X^{-0.2330}$
Priority III	10 to 10,000	$Y = 1.3152 X^{-0.2159}$

APPENDIX B
 TO
 401 KAR 61:015
 All Standards are twenty-four (24) hour averages

The standard (in pounds per million BTU actual heat input) is
 (based upon the classification with respect to sulfur dioxide of the county in which the source is located):

For sources having a total heat input (as determined by Section 3(1)) of: (MM BTU/Hr.)	CLASS I		CLASS IA		CLASS II		CLASS III		CLASS IV		CLASS IVA		CLASS V		CLASS VA	
	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel
10 or less	3.0	5.0	3.0	5.0	4.0	6.0	4.6	7.0	5.4	8.0	5.4	8.0	6.0	9.0	6.0	9.0
50	1.5	2.4	1.5	3.9	2.4	3.7	3.2	4.8	4.3	6.4	4.3	6.4	4.9	7.3	4.9	7.3
100	1.2	1.8	1.2	3.6	2.0	3.0	2.7	4.1	4.0	5.9	4.0	5.9	4.5	6.7	4.5	6.7
150	1.0	1.5	1.0	3.3	1.8	2.7	2.5	3.7	3.7	5.6	3.7	5.6	4.3	6.4	4.3	6.4
200	0.9	1.3	0.9	3.2	1.6	2.5	2.3	3.5	3.6	5.4	3.6	5.4	4.1	6.2	4.1	6.2
250-1500	0.8	1.2	0.8	3.1	1.5	2.3	2.2	3.3	3.5	5.2	3.5	5.2	4.0	6.0	4.0	6.0
greater than 1,500 but less than 21,000	0.8	1.2	0.8	1.2	1.5	2.3	2.2	3.3	3.5	5.2	2.3	3.5	4.0	6.0	1.1	1.1
21,000 or more	0.8	1.2	0.8	1.2	1.5	2.3	2.2	3.3	3.5	5.2	2.1	3.1	4.0	6.0	1.1	1.1

Interpolation of allowable emissions for rated capacity values between 10 and 250 million BTU heat input may be accomplished by use of the equations shown below for the appropriate fuel specified. In all equations Y = allowable sulfur dioxide emission in pounds per million BTU actual heat input, X = millions of BTU per hour heat input capacity rating as determined by Section 3(1).

COUNTY CLASS	FUEL	ALLOWABLE (POUNDS/MM BTU)
I	Liquid/Gaseous	Y = 7.7223 X - 0.4106
	Solid	Y = 13.8781 X - 0.4454
IA	Liquid/Gaseous	Y = 7.7223 X - 0.4106
	Solid	Y = 7.0382 X - 0.1485
II	Liquid/Gaseous	Y = 8.0681 X - 0.3047
	Solid	Y = 11.9134 X - 0.2979
III	Liquid/Gaseous	Y = 7.7966 X - 0.2291
	Solid	Y = 11.9872 X - 0.2336
IV	Liquid/Gaseous	Y = 7.3639 X - 0.1347
	Solid	Y = 10.8875 X - 0.1338
IVA	Liquid/Gaseous	Y = 7.3639 X - 0.1260
	Solid	Y = 10.8875 X - 0.1338
V	Liquid/Gaseous	Y = 8.0189 X - 0.1260
	Solid	Y = 12.0284 X - 0.1260
VA	Liquid/Gaseous	Y = 8.0189 X - 0.1260
	Solid	Y = 12.0284 X - 0.1260

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: September 14, 2017

FILED WITH LRC: September 14, 2017 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation and the SIP Revision package for the amended administrative regulation will be held on October 30, 2017, at 10:00 a.m. (Eastern Time) in Conference Room 111 at 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by October 24, 2017, 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 shall be cancelled, and notification of the cancellation shall be posted at <http://air.ky.gov/pages/publicnoticesandhearings.aspx>. 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 October 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

This administrative regulation is contained in Kentucky's State Implementation Plan approved by US EPA. The SIP revision package for the amended regulation will be submitted to US EPA once the proposed amendments to this administrative regulation become effective.

The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Cassandra Jobe, Supervisor Division for Air Quality, 300 Sower Blvd., Frankfort, Kentucky 40601, phone (502) 782-6670, fax (502) 564-4245, e-mail Cassandra.Jobe@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Cassandra Jobe

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides for the control of emissions of criteria pollutants from existing indirect heat exchangers.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to control the air emissions of criteria pollutants from existing indirect heat exchangers. This administrative regulation is necessary for the Energy and Environment Cabinet (Cabinet) to protect human health and the environment by establishing emission limits for criteria pollutants for existing indirect heat exchangers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(5) authorizes the Cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides for the control of emissions from existing indirect heat exchangers. This administrative regulation is part of the Kentucky State Implementation Plan (SIP).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will enable the Cabinet to continue to implement and enforce the control of emissions from existing indirect heat exchangers, resulting in the protection of human health and the environment and attainment of the National Ambient Air Quality Standards (NAAQS).

(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 establishes work practice standards for indirect heat exchangers, makes technical corrections to formulas, and removes duplicative requirements already covered by federal regulations.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to control the emissions from existing indirect heat exchangers. The amendment provides

clarity for regulated entities and removes duplicative requirements covered by federal regulations.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statute by providing for the control of emissions from existing indirect heat exchangers and removing duplicative requirements. The amendment also conforms to the content of the authorizing statute by establishing work practice standards for existing indirect heat exchangers.

(d) How the amendment will assist in the effective administration of statutes: The amendment establishes work practice standards for existing indirect heat exchangers and makes technical corrections to formulas within the administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation. Owners and operators of existing indirect heat exchangers will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: Regulated entities will use the corrected formulas and meet the work practice standards.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost to the regulated entities to comply with this amendment. This amendment will allow regulated entities to use the corrected formulas and comply with work practice standards.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, the sources will be able to show they are meeting the work practice standards and will calculate emissions more accurately.

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

(a) Initially: The Division for Air Quality will not incur any additional costs for the implementation of this administrative regulation initially.

(b) On a continuing basis: The Division for Air Quality will not incur any additional costs for the implementation of this administrative regulation on a continual basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Division for Air Quality's current operating budget will be used for the implementation and enforcement of the amendment to this administrative regulation.

(7) 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 necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees. This administrative regulation does not establish any fees, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Yes. Emission limits for affected facilities apply based on the capacity of the existing indirect heat exchanger.

FISCAL NOTE ON STATE AND LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation has the potential to affect any unit, part, or division of state or local government operating an existing indirect heat exchanger. The Division for Air Quality will continue to permit sources in accordance with this administrative regulation.

2. Identify each state or federal statute or federal regulation that requires or authorizes action taken by the administrative

regulation. KRS 224.10-100(5), 224.20-120, 42 U.S.C. 7410, 7411, and 40 C.F.R. Part 60

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The proposed administrative regulation will not generate revenue in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The proposed administrative regulation will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? The Division for Air Quality's current operating budget will be used to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? The Division for Air Quality's operating budget will be used to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impacts of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no further explanation.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice
(Amendment)

505 KAR 1:170. Department of Juvenile Justice Policies and Procedures: Prison Rape Elimination Act of 2003 (PREA).

RELATES TO: KRS 15A.065, 15A.067, Chapters 600-645, 42 U. S. C. 15601-15609, 28 C.F. R. 115.311-115.393

STATUTORY AUTHORITY: KRS 15A.065, 15A.067, 15A.160, 15A.210, 200.115, 605.100, 605.150, 635.095, 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.210, 15A.305(5), 605.100, 605.150, 635.095, 640.120, and 645.250 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation incorporates by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program.

Section 1. Incorporation by Reference. (1) The "Department of Juvenile Justice Policies and Procedures: "Prison Rape Elimination Act of 2003 (PREA)", September 24, 2017~~[February 10, 2014]~~, is incorporated by reference and includes the following:

- 900 Definitions (Amended 8/24/17~~[February 10, 2014]~~);
- 901 Zero Tolerance of Any Type of Sexual Misconduct (Amended 8/24/17~~[January 15, 2014]~~);
- 902 Personnel Procedures (Amended 8/24/17~~[January 15, 2014]~~);
- 903 Prohibited Conduct of Staff, Interns, Volunteers, and Contractors (Amended 8/24/17~~[January 15, 2014]~~);
- 904 Contracted Residential Entities (Amended 8/24/17~~[October 14, 2013]~~);
- 905 Juvenile Vulnerability Assessment Procedure (Amended 8/24/17~~[January 15, 2014]~~);
- 906 Reporting and Investigating PREA Violations (Amended 8/24/17~~[February 10, 2014]~~);
- 907 Resident PREA Education (Amended 8/24/17~~[January 15, 2014]~~);
- 908 DJJ Response to a Report of a PREA Violation (Amended 8/24/17~~[January 15, 2014]~~);
- 909 Data Collection and Review (Amended 8/24/17~~[January~~

~~15, 2014]~~);

910 Facility Security Management (Amended 8/24/17~~[February 10, 2014]~~);

911 DJJ Staff PREA Education and Training (Amended 8/24/17~~[October 14, 2013]~~); and

912 Sexual Orientation and Gender Identity (Amended 8/24/17~~[January 15, 2014]~~).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Juvenile Justice, Office of the Commissioner, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, or at any department field office, Monday through Friday, 8 a.m. to 4:30 p.m.

CAREY D. COCKERELL, Commissioner

APPROVED BY AGENCY: August 24, 2017

FILED WITH LRC: August 24, 2017 at 1:15 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 25, 2017 at 10:00 a.m. Eastern Time, at the Department of Juvenile Justice, 1025 Capital Center Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. The hearing is open to the public. A transcript of this 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 through October 31, 2017. 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: William Codell, Assistant General Counsel, Department of Juvenile Justice, 1025 Capital Center Drive, Frankfort, Kentucky 40601, phone (502) 573-2738, fax (502) 573-0836, email William.Codell@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: William Codell

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures governing the Kentucky Department of Juvenile Justice, including the rights and responsibilities of employees and the juvenile population as it relates to the Prison Rape Elimination Act of 2003 (PREA).

(b) The necessity of this administrative regulation: To comply with the requirements of 28 C.F.R. §115, Subpart D.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation governs the operations of the Kentucky Department of Juvenile Justice.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amended administrative regulation and material incorporated by reference establishes policies and procedures that govern the operations of the Kentucky Department of Juvenile Justice and its facilities. It provides direction and information to departmental employees and juveniles concerning the operations of the department.

(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: The amendment shall bring the Kentucky Department of Juvenile Justice into compliance with the federal requirements of the Prison Rape Elimination Act of 2003 (PREA) and updates current practices for the department, employees, and juveniles in the care and custody of the department.

(b) The necessity of the amendment to this administrative regulation: To comply with the requirements of 28 C.F.R. §115, Subpart D.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation governs the operations of the Kentucky Department of Juvenile Justice.

(d) How the amendment will assist in the effective

administration of the statutes: The amendment and material incorporated by reference establishes policies and procedures that govern the operations of the Kentucky Department of Juvenile Justice and its facilities. It provides direction and information to departmental employees and juveniles concerning the operations of the department as it relates to the Prison Rape Elimination Act of 2003 (PREA).

(3) List type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation affects the Kentucky Department of Juvenile Justice, fourteen hundred (1400) employees, all juveniles committed to the care and custody of the department, visitors, volunteers, interns, and contractors.

(4) Provide analysis of how the entities identified in question (3) will be impacted by the implementation of this 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 (3) will have to take to comply with this administrative regulation or amendment. Staff, volunteers, interns, and contractors will be required to follow the incorporated policies and procedures. Juveniles in the care and custody of the Kentucky Department of Juvenile Justice will have the rights established by the policy.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that this amended administrative regulation will increase current costs significantly.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The impact of the policies and procedures will protect rights of juveniles in the care and custody of the dept. and further ensure safety and protection of youth.

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

(a) Initially: The Prison Rape Elimination Act of 2003 (PREA) 28C.F.R. 115.313 (c) mandates that secure juvenile facilities shall maintain staff ratios of a minimum of 1:8 during resident waking hours and 1:16 during resident sleeping hours by October 1, 2017, to achieve compliance with the PREA standards. Currently, the staff to youth ratio is 1:12 during resident waking hours, and each secure facility is under staffed causing the department to be noncompliant with federal standards. In order to come into compliance, the department would have to hire a minimum of 80-90 staff, which roughly yields four million dollars (\$4,000,000) in addition to the current staffing budget. The department anticipates that any additional costs will be related to training staff, volunteers, interns, and contractors on the new policies and the requirements of PREA.

(b) On a continuing basis: The additional cost of staff to youth ratios being lowered to 1:8 in accordance with federal standards will result in a an estimated cost of a least four million (\$4,000,00) dollars. The cost of audits for the PREA audit cycle will be up to seventy thousand (\$70,000) dollars.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Kentucky Department of Juvenile Justice budgeted funds for the biennium.

(7) 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 is anticipated. The department has determined that an increase in funding will be necessary to cover the cost of the staff to youth ratio reduction from 1:12 to 1:8. The estimated cost of this staffing modification is anticipated to be an additional four million dollars (\$4,000,000). Furthermore, it is necessary to maintain the appropriate funding to complete the audits required by federal standards for each DJJ residential and secure facility.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amended administrative regulation does not establish additional fees or increase any existing fees.

(9) Tiering: Is tiering applied? No. Tiering is not appropriate in this amended administrative regulation because the administrative

regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Response: This regulation impacts operation of the Kentucky Department of Juvenile Justice and its facilities.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. Response: KRS 15A.065, 15A.067, 15A.160, 15A.160, 200.115, 605.11, 605.150, 640.120, 645.450, 28 C.F.R. §115, Subpart D.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Response: Not applicable.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Response: Not applicable.

(c) How much will it cost to administer this program for the first year? The department anticipates that the initial cost to comply with the federal Prison Rape Elimination Act of 2003 (PREA) standards that require the staff to youth ratio to be 1:8 is four million dollars (\$4,000,000) above the current staffing budget. Response: The department anticipates that any initial cost will be related to training staff, volunteers, interns, and contractors on the new policies and the requirements of PREA.

(d) How much will it cost to administer this program for subsequent years? Response: In order to maintain compliance with the federal PREA standards, the department must maintain the appropriate staff to youth ratio which is 1:8 and any staffing costs associated with maintaining that ratio. In order to come into compliance, the department would have to hire a minimum of 80-90 staff, which roughly yields four million dollars (\$4,000,000) in addition to the current staffing budget. As a result, it will be imperative for the department to increase its budget regarding staffing costs. The cost of audits for the PREA audit cycle will be up to seventy thousand dollars (\$70,000).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): No revenue will be generated from this regulation.

Expenditures (+/-): Expenditures relate to training staff and auditing programs to ensure compliance.

Other Explanation:

**PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing, Boiler Section
(Amendment)**

815 KAR 15:010. Definitions for 815 KAR Chapter 15.

RELATES TO: KRS Chapter 236

STATUTORY AUTHORITY: KRS 236.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.030 authorizes the commissioner[~~through the Board of Boiler and Pressure Vessel Rules,~~] to promulgate administrative regulations that establish[~~to fix~~] reasonable standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and pressure piping. This administrative regulation establishes the definitions for terms used in 815 KAR Chapter 15[~~the boiler and pressure vessel safety rules~~].

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

Section 1. Definitions. (1) ~~"Act" means the Kentucky Boiler and Pressure Vessel Safety Act, KRS Chapter 236.~~

~~(2) "ANSI" means the American National Standards Institute.~~

~~(3) "ASME" is defined by KRS 236.010(5).~~

~~(2)(4) "ASME Boiler and Pressure Vessel Code" or "ASME Code" means the American Society of Mechanical Engineers Boiler and Pressure Vessel Codes as follows, including all cited code cases, appendices, and addenda, which are incorporated by reference in ~~of~~ 815 KAR 15:025 and 815 KAR 15:026:~~

~~(a) Section I, rules for construction of power boilers;~~

~~(b) Section II, material specifications:~~

~~1. Part A specifications for ferrous materials;~~

~~2. Part B specifications for nonferrous materials;~~

~~3. Part C specifications for welding rods, electrodes, and filler metals; and~~

~~4. Part D Properties (Customary);~~

~~(c) ~~Section III, Nuclear Vessel Code;~~~~

~~(d) ~~Section IV, Rules for construction of heating boilers;~~~~

~~(e) ~~Section V, nondestructive examination;~~~~

~~(e)(f) ~~Section VIII, rules for construction of pressure vessels, Division 1, Division 2, and Division 3;~~~~

~~(f)(g) ~~Section IX, welding and brazing qualifications; and~~~~

~~(g)(h) ~~Section X, Fiber-Reinforced Plastic Pressure Vessels.~~~~

~~(3)(5) "Authorized inspector" means an inspector holding the appropriate endorsement on the National Board Commission to perform new construction shop inspections.~~

~~(4)(6) "Board" is defined by KRS 236.010(6).~~

~~(7) "Boiler" is defined by KRS 236.010(1).~~

~~(5) "Boiler and pressure vessel contractor" means the holder of a boiler and pressure vessel contractor license as issued by the department pursuant to KRS 236 and 815 Chapter 8.~~

~~(6)(8) "Boiler Inspection Section" means the section within the Division of Plumbing, Department of Housing, Buildings and Construction.~~

~~(7)(9) "Boiler inspector" is defined by KRS 236.010(14).~~

~~(8)(40) "Certificate inspection" is defined by KRS 236.010(7).~~

~~(9)(11) "Chief boiler inspector" is defined by KRS 236.010(13).~~

~~(10)(12) "Code boiler or pressure vessel ~~(or standard boiler or pressure vessel)~~" means a boiler or pressure vessel ~~that~~ ~~(which)~~ bears the ASME Code Symbol stamp and designator, ~~and the National Board stamp~~. (See also "state special,"[.])~~

~~(11)(13) "Commission" means the written credential issued by the department to a boiler inspector, special boiler inspector, or owner-user inspector pursuant ~~to~~ ~~under the provisions of~~ KRS 236.070, 236.080, or 236.095.~~

~~(12)(14) "Commissioner" is defined by KRS 236.010(3).~~

~~(13) "Deaerator tank" means a pressure vessel in which water is heated, usually by steam, so that any dissolved oxygen is removed from the water.~~ (15) "Condemned boiler or pressure vessel" means a boiler or pressure vessel that has been inspected and declared unsafe or disqualified by legal requirements by a commissioned inspector who has applied a stamping or marking designating its rejection.

~~(14)(16) "Department" is defined by KRS 236.010(4).~~

~~(15)(17) "Electric boiler" means a power boiler, heating boiler, high or low-temperature water boiler in which the source of heat is electricity.~~

~~(18) "Existing installations" means any boilers and associated piping systems completed and approved for operation prior to July 1, 1970, or pressure vessels and associated piping systems completed and approved for operation prior to July 15, 1980.~~

~~(16)(19) "Expansion tank" means a pressure vessel, unfired but directly connected to a hot water heating boiler, to absorb or cushion expansion therein and subject to comparable pressure with the boiler itself.~~

~~(20) "External inspection" means an inspection made ~~while~~ ~~when~~ a boiler or pressure vessel is in operation and under pressure.~~

~~(17)(21) "Fired Jacketed steam kettle" means a vessel in which steam pressure is generated and shall be classified as a boiler.~~

~~(22) "Heat recovery boiler" means a boiler in which the source~~

~~of heat is from another process~~ ~~"process steam generator" as defined by this administrative regulation].~~

~~(18)(23) "Heating boiler" is defined by KRS 236.010(1)(c).~~

~~(19)(24) "High pressure, high temperature water boiler" is defined by KRS 236.010(1)(b).~~

~~(20)(25) "Hot water heating boiler" means a ~~nonsteam generating~~ boiler from which hot water is circulated for heating purposes and returned to the boiler, ~~and~~ ~~that~~ ~~(which)~~ operates at a pressure not exceeding 160 psig or a temperature of 250 degrees Fahrenheit at or near the boiler outlet.~~

~~(21)(26) "Hot water storage tank" means a pressure vessel, unfired but ~~directly~~ connected to and subject to the same pressures as a companion hot water supply boiler, the combination being used to heat and store hot water for use externally to itself.~~

~~(22)(27) "Hot water supply boiler" means a boiler completely filled with water that furnishes hot water to be used externally to itself at pressures not exceeding 160 psig or at temperatures not exceeding 210 degrees Fahrenheit at or near the boiler outlet.~~

~~(23)(28) "Hydrostatic test" means the activity of filling a boiler, pressure vessel, or ~~and~~ associated piping with water and raising the pressure within the system to check for tightness or mechanical integrity ~~safety~~.~~

~~(24)(29) "Internal inspection" means an inspection made under circumstances that the boiler or pressure vessel is not operating, ~~and~~ hand holes or manways are open for inspection of internal portions of the boiler or pressure vessel as construction permits.~~

~~(25) "Jacketed kettle" means a pressure vessel with inner and outer walls that is subject to water or steam pressure and is used to boil or heat liquids and to cook food.~~

~~(26)(30) "Lined potable water boiler ~~(heater)~~" means a water boiler ~~(heater)~~ with a corrosion resistant lining used to supply potable hot water.~~

~~(27) "MAWP" is defined by KRS 236.010(23).~~

~~(28)(31) "Miniature boiler" means a power boiler or high temperature water boiler not exceeding any of the following:~~

~~(a) Sixteen (16) inches inside diameter of shell (not applicable to electric boilers);~~

~~(b) Twenty (20) square foot heating surface;~~

~~(c) Five (5) cubic feet gross exclusive of casing and insulation; or~~

~~(d) 100 pounds PSI maximum allowable working pressure.~~

~~(32) "National Board (NB)" means the National Board of Boiler and Pressure Vessel Inspectors, ~~1055 Crupper Avenue, Columbus, Ohio, 43229, which group has also issued a National Board Inspection Code.~~~~

~~(29)(33) "Noncode boiler or pressure vessel ~~(or nonstandard boiler or pressure vessel)~~" means a boiler or pressure vessel that does not bear the ASME code symbol stamp and designator ~~(or the National Board stamp)~~. (See also "state special,"[.])~~

~~(30)(34) "Nuclear energy system" means that portion of a power plant that serves the purpose of producing and controlling output of thermal energy from nuclear fuel.~~

~~(35) "Nuclear power plant" means a nuclear power plant consisting of one (1) or more nuclear power systems and containment systems.~~

~~(36) "Nuclear power systems" means a system which serves the purpose of producing and controlling an output of thermal energy from nuclear fuel and those associated systems essential to the functions of the power system. The components of the system include such items as pressure vessels, piping system, pumps, valves, and storage tanks.~~

~~(37) "Nuclear vessel" means a pressure vessel designed and constructed in accordance with Section III of ASME Boiler and Pressure Vessel Code.~~

~~(38) "Owner-user inspector" means an inspector commissioned by the department and employed by a company operating a pressure vessel within the Commonwealth and meeting the requirements established ~~(set forth)~~ in KRS 236.095(1).~~

~~(31)(39) "Owner's piping inspector" is defined by KRS 236.010(25).~~

~~(32)(40) "Owner or user" means any person, firm, or corporation owning or operating a boiler or pressure vessel within this Commonwealth.~~

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

~~(33)~~~~(41)~~ "Power boiler" is defined by KRS 236.010(1)(a).

~~(34)~~~~(42)~~ "Pressure piping" means the ~~boiler and pressure vessel external and~~ connecting piping emanating from the associated boiler or pressure vessel and includes ~~code~~ piping as covered pursuant to ~~under~~ the ASME Boiler and Pressure Vessel Code, Sections I and IV; Pressure Vessel Code, Section VIII, Division I, 2, or 3. These piping codes include:

(a) Power Piping Code ASME B31.1;

(b) Process Piping Code ASME B31.3;

(c) Refrigeration Piping and Heat Transfer Components Code ASME B31.5;

(d) Building Services Piping Code ASME B31.9; and

(e) Hydrogen Piping and Pipelines Code ASME B31.12.

~~(35)~~~~(43)~~ "Pressure vessel" is defined by KRS 236.010(2).

~~(36)~~~~(44)~~ "Pressure vessels for human occupancy" or "PVHO" means all pressure vessels that enclose a human within its pressure boundary while under internal or external pressure exceeding a differential pressure of 2 psi. PVHOs include decompression or recompression chambers, high altitude chambers, hypobaric or hyperbaric chambers, hyperbaric stretchers, medical hyperbaric oxygenation facilities, and personnel transfer capsules.

~~(37)~~~~(45)~~ "Process steam generator" means a vessel or system of vessels comprised of one (1) or more drums and one (1) or more heat exchange surfaces as used in waste heat or heat recovery type steam boilers.

~~(46)~~ "PSI (psi)" means pounds per square inch.

~~(38)~~~~(47)~~ "PSIG (psig)" means pounds per square inch gauge.

~~(39)~~~~(48)~~ "Reinstalled boiler or pressure vessel" means a boiler or pressure vessel removed from its original setting and re-erected at the same location or erected at a new location without change of ownership.

~~(40)~~~~(49)~~ "Repair" means the work necessary to restore pressure-retaining items to a safe and satisfactory operating condition to comply with the National Board Inspection Code incorporated by reference in 815 KAR 15:026.

~~(41)~~~~(50)~~ "Secondhand boiler or pressure vessel" means a boiler or pressure vessel in which both the location and ownership have been changed after initial use.

~~(42)~~~~(51)~~ "Special boiler inspector" is defined by KRS 236.010(15).

~~(43)~~~~(52)~~ "State special" means a boiler or pressure vessel ~~that~~~~which~~ carries neither the ASME Boiler and Pressure Vessel Code symbol nor National Board ~~registration~~~~stamping~~ but has been accepted by the department ~~of Housing, Buildings and Construction~~ pursuant to 815 KAR 15:025, ~~Section 4~~~~Section 5~~.

~~(44)~~~~(53)~~ "Unfired steam boiler" means a vessel or system of vessels intended for operation at a pressure in excess of fifteen (15) psig for the purpose of producing and controlling an output of thermal energy.

~~(54)~~ "V-R stamp holder" means the holder of a certificate issued by the National Board to repair pressure relief valves. ~~(55)~~ "Water heater" means a closed vessel in which water is heated by the combustion of fuels, electricity or any other source and withdrawn for use external to the system at pressures not exceeding 160 psig and shall include all controls and devices necessary to prevent water temperatures from exceeding 210 degrees Fahrenheit.

~~(56)~~ "Waste heat boiler" means "unfired steam boiler" as defined by this administrative regulation.]

STEVEN A. MILBY, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: September 14, 2017

FILED WITH LRC: September 14, 2017 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 9:00 a.m., EDT, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five working days 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. The 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 October 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: David R. Startzman, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057, email david.startzman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: David R. Startzman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides the definitions for terms needed in the interpretation of other sections of the subsequent administrative regulations in 815 KAR Chapter 15.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to define terms used in implementing the Division of Plumbing, Boiler Section's statutory duty to establish administrative regulations that govern standards for boilers, pressure vessels, and associated pressure piping.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 236.030 requires the commissioner of the Department of Housing, Buildings and Construction to promulgate administrative regulations for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation defines terms present in the administrative regulations in 815 KAR Chapter 15.

(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 removes defined terms that are not present in 815 KAR Chapter 15. The amendment adds definitions for "boiler and pressure vessel contractor," "deaerator tank," and "MAWP." The amendment also edits and clarifies definitions to reflect current use.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to eliminate definitions of terms that are not present in 815 KAR Chapter 15.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment clarifies the other boiler and pressure vessel regulations established by the Department pursuant to KRS 236.030.

(d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies the other boiler and pressure vessel regulations established by the Department pursuant to KRS 236.030.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals engaged in the boiler and pressure vessel industry, and Department of Housing, Buildings and Construction personnel.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to comply with this administrative regulation or amendment: This amendment imposes no new requirements on the affected parties.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The entities will encounter no additional costs based on the amendment.

(c) As a result of compliance, what benefits will accrue to the

entities identified in question (3): 815 KAR Chapter 15 as a whole will be more clear and concise.

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

(a) Initially: There are no anticipated additional costs to administer this administrative regulation as amended.

(b) On a continuing basis: There are no anticipated additional costs to administer this administrative regulation as amended on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Any department costs of implementation will be met with existing department funds.

(7) 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: This amendment will not necessitate an increase in fees or require funding from the Department for implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees increased by this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied as all individuals in the boiler and pressure vessel industry and Department personnel are affected by this amendment.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Section.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is authorized and required by KRS 236.030.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment is not anticipated to generate additional revenue for the department.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to generate additional revenue for the department.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral
Expenditures (+/-): Neutral
Other Explanation: Neutral

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing, Boiler Section
(Amendment)

815 KAR 15:025. New installations, general design, construction, and inspection criteria for boilers, pressure vessels, and pressure piping.

RELATES TO: KRS Chapter 236

STATUTORY AUTHORITY: KRS 236.030, 236.040, 236.110, 236.120, 236.240

NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.030 ~~authorizes[and 236.120 authorize] the commissioner[, through the Board of Boiler and Pressure Vessel Rules,] to promulgate administrative regulations that establish[to fix reasonable fees and] standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping. KRS 236.040 requires all boiler and pressure vessels to conform to the rules and regulations formulated by the commissioner and establishes the standards for pressure piping and pressure vessels for human occupancy. KRS 236.110 establishes the inspection requirements for boilers, pressure vessels, and pressure piping. This administrative regulation establishes the design, construction, and inspection[eritēia] requirements of the boiler inspection section for all boilers and pressure vessels not exempted by KRS 236.060.~~

Section 1. Minimum Standards. (1) Boilers and pressure vessels. All new boilers and new pressure vessels shall comply with applicable provisions of 815 KAR Chapter 15 and the ASME Boiler and Pressure Vessel Code, 2013 Edition or subsequent editions, as established by KRS 236.040(2), except new boilers and new pressure vessels approved as state specials pursuant to Section 4 of this administrative regulation. All pressure vessels for human occupancy shall comply with the ASME Safety Standard for Pressure Vessels for Human Occupancy, 2012 Edition or subsequent editions, as established by KRS 236.040(3).

(2) ASME stamps. New boilers and new pressure vessels shall be stamped with the applicable certification mark of the ASME Boiler and Pressure Vessel Code.

(3) Installation standard. Installation of all boilers and pressure vessels shall conform to the National Board Inspection Code Part 1, 2015 edition or subsequent editions.

(4) Pressure piping.

(a) All new pressure piping installations connected to the boiler or pressure vessel shall conform to the National Board Inspection Code Part 1, 2015 edition, and the applicable standards referenced in this subsection, as established by KRS 236.040(2):

1. ASME Code for Power Piping, B31.1, 2012 edition or subsequent editions;

2. ASME Code for Process Piping, B31.3, 2012 edition or subsequent editions;

3. ASME Code for Refrigeration Piping and Heat Transfer Components, B31.5, 2013 edition or subsequent editions;

4. ASME Code for Building Services Piping, B31.9, 2011 edition or subsequent editions; and

5. ASME Code for Hydrogen Piping and Pipelines, B31.12, 2014 edition or subsequent editions.

(b) The maximum allowable design temperature and pressure of the piping system and all of its component parts shall meet or exceed the operating control settings of the boiler or pressure vessel.

(c) If the maximum allowable design temperature or pressure of the boiler exceeds the maximum design limits of the piping system or any of its component parts, the pipe and its components shall not be used unless the following conditions are met:

1. The temperature and pressure controls on the boiler are permanently set to prevent operation in excess of the design limits of the piping system; and

2. Safety valve or valves shall be installed on the boiler, pressure vessel, or the piping system to protect the system from excess pressure or temperature.

(5) Welded piping joints. Welded joints in pressure piping shall be installed by qualified welders in accordance with the ASME Code, Section IX, as required by the standards referenced in subsection (4) of this section.

Section 2. Manufacturer's Data Report. (1) A manufacturer's data report on all boilers of steel construction and all pressure vessels constructed in accordance with the ASME Boiler and Pressure Vessel Code shall be filed with the National Board of Boiler and Pressure Vessel Inspectors unless the boiler or

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

pressure vessel is exempted by KRS 236.060 or the pressure vessel has an ASME "UM" certification mark. A pressure vessel with an ASME "UM" certification mark may be registered with the National Board of Boiler and Pressure Vessel Inspectors.

(2) The boilers and pressure vessels required to be filed with the National Board in subsection (1) of this section shall include the National Board registration number on the manufacturer's date plate.

Section 3. Installation Inspection or First Inspection and State Registration of New Boilers and Pressure Vessels. (1) Installation inspection. New installations of boilers, pressure vessels, and associated pressure piping shall be inspected by the department for compliance with applicable ASME Boiler and Pressure Vessel Code requirements, the National Board Inspection Code, and this administrative regulation.

(2) Notification of inspection.

(a) If an inspection is required by this administrative regulation, the owner or user shall prepare each boiler, pressure vessel, and pressure piping system for inspection pursuant to this administrative regulation and the National Board Inspection Code, Part I.

(b) The owner or user shall prepare for and apply a hydrostatic pressure or other leak test on the date if requested by the boiler inspector, special boiler inspector, or owner-user inspector.

(c) Inspections shall be conducted within seven (7) days of the date of notification.

(3) Inspection times. Inspections made by boiler inspectors shall be conducted during normal business hours of the department between 8:00 a.m. and 4:30 p.m. Monday through Friday.

(4) Contractor availability. The boiler and pressure vessel contractor shall be available to the boiler inspector, physically or electronically, at the time of the inspections.

(5) State registration. Upon completion of the installation or at the time of first inspection, a Commonwealth of Kentucky registration number shall be assigned to the boiler or pressure vessel and shall be applied to the boiler or pressure vessel with a metal tag showing the registration number. This tag shall be securely affixed near the manufacturer's name plate or data plate.

(6) Non-registered boilers and non-registered pressure vessels. Boiler inspectors, special boiler inspectors, and owner-user inspectors shall notify the department within thirty (30) days of locating any non-registered boiler or non-registered pressure vessel.

(7) General welding.

(a) If welded assembly has been used, the installing boiler and pressure vessel contractor shall produce the following for the boiler inspector's, special boiler inspector's, or owner's piping inspector's review:

1. The welding procedures; and

2. Proof of qualification and continuity records for the welders and welding operators.

(b) The boiler and pressure vessel contractor shall be responsible for the quality of the welding.

(8) Welded piping joints. Welded joints in pressure piping shall be visually inspected for complete and full root penetration, soundness of the weld and freedom from undercutting, cracking, or other surface imperfections in accordance with the requirements of the applicable ASME B31 Code section. If the visual inspection reveals a potential defect, the boiler inspector, special boiler inspector, or owner's piping inspector may require other nondestructive tests, such as radiography, to be performed by the contractor to verify the soundness of the weld. All tests or retests required by the boiler inspector, special boiler inspector, or owner's piping inspector shall be at the owner's or boiler and pressure vessel contractor's expense.

(9) Hydrostatic pressure test for boilers and pressure vessels.

(a) A hydrostatic pressure test, when applied to a boiler or pressure vessel, shall conform to the testing procedures and pressures as specified in the original code of construction. The pressure shall be under proper control so that in no event shall the required test pressure exceed the testing requirements listed in the

original code of construction.

(b) During the hydrostatic pressure test, the safety valve or valves shall be removed. If the safety valve or valves cannot be removed, then each valve disc shall be held down by means of a testing clamp and not by screwing down the compression screw upon the spring.

(c) The minimum temperature of the water used to apply a hydrostatic test shall not be less than ambient temperature, but in no case less than seventy (70) degrees Fahrenheit, and the maximum temperature shall not exceed 120 degrees Fahrenheit.

(d) If the only purpose of the test is to determine tightness, the test pressure shall be equal to the relieving pressure of the safety valve having the lowest relief setting.

(10) Pressure test for pressure piping. Pressure piping systems installed in association with the boiler or pressure vessel shall be inspected for proper materials, adequate pressure, and temperature ranges for the boiler or pressure vessel operation and for adequate support and tightness as established in this subsection.

(a) Hydrostatic and pressure leak tests.

1. Except as stated in paragraph (b), hydrostatic or other leak tests shall be performed on the pressure piping system connected to the boiler or pressure vessel and shall conform to the procedures and test pressures outlined in the original code of construction.

2. Non-destructive testing shall be used if hydrostatic or leak testing cannot be performed.

3. Original mill material stencils and markings used to verify material shall be legible at the time of inspection. Pipe, including welding joints, shall not be painted or covered prior to inspection.

(b) Alternative testing.

1. The following piping systems shall be inspected visually under in-service conditions:

a. Compressed air systems with a MAWP of 200psi or less, a pipe diameter of two (2) inches or less, and no welded joints;

b. Hydronic heating or process systems with a MAWP of 100psi or less, a pipe diameter of two (2) inches or less, and no welded joints;

c. Steam condensate systems with a MAWP of 50psi or less, a pipe diameter of two (2) inches or less, and no welded joints;

d. Non-ammonia refrigeration with a pipe diameter of two (2) inches or less and no welded joints; and

e. Cryogenic piping with a pipe diameter of two (2) inches or less and no welded joints.

2. Sufficient openings shall be made in any insulation to determine pipe material. Welded piping joints shall not be covered with insulation prior to inspection.

3. Pipe may be painted prior to inspection if the owner or user provides documentation of materials that make up the pipe to the inspector. Welded joints shall not be painted prior to inspection.

(c) Code compliance. Pressure piping inspections shall include determining compliance with applicable ASME B31 Code including material specifications for the piping and component parts. The boiler and pressure vessel contractor shall provide documentation to the boiler inspector, special boiler inspector, owner's piping inspector, or owner-user inspector showing that:

1. The materials used and method of construction meets the manufacturer's procedures and specifications; and

2. The system is utilizing the materials and equipment specified within the temperature and pressure ranges set forth in the design and as required by this administrative regulation.

Section 4. State Special. (1) Boilers and pressure vessels of special design, which are equivalent to but are not eligible to be stamped to the ASME Code, shall meet the requirements of this section. The prospective owner or user who desires approval of the boiler installation or pressure vessel installation as a state special shall comply with the procedures established in this administrative regulation for each case.

(a) Prior to installation and operation of the boiler or pressure vessel, the proposed owner, user, or the owner's authorized agent shall make written application for permission to install the boiler or pressure vessel. The application shall be submitted to the

commissioner.

(b) To establish ASME Boiler and Pressure Vessel Code equivalency, the following data, material, and information shall be submitted with the application for state special approval:

1. Detailed shop drawings and welding details of the proposed construction. All materials shall be in the English language and United States units of measurements listed in the ASME Code;

2. Design calculations and supporting data, which shall include pressure (psi), temperature (deg. F.), use, and other service conditions;

3. Specifications for all construction materials shall conform to the applicable ASME Code standards or their suitable equivalent. If reference is made to a standard or specification of a country other than the United States, a copy shall be attached to indicate how the material is considered equivalent;

4. Copies of the welding procedures to be used and welding qualification test reports for each welding operator or welder to be used. The procedures and tests required in this paragraph shall be made in accordance with the ASME Boiler and Pressure Vessel Code, Section IX, "Welding Qualifications;"

5. If the design exceeds ASME Boiler and Pressure Vessel Code limitation, then API 579/ASME FFS-1, 2007 or later edition shall be used to determine equivalency of the submission;

6. Design drawings and calculations shall be certified by a mechanical engineer holding a professional engineer certification with a background in boilers and pressure vessels;

7. The manufacturer of the vessel shall identify the inspection agency responsible for the shop inspections and shall submit an equivalent ASME manufacturer's data report for the proposed vessel; and

8. The shop inspection agency shall furnish the qualifications of the authorized inspector assigned to make the shop inspections.

(2) Upon completion of the boiler or pressure vessel, a manufacturer's data report, signed by the manufacturer and authorized inspector, shall be submitted to the jurisdictional authorities containing the equivalent type data required by the ASME Boiler and Pressure Vessel Code. ASME Boiler and Pressure Vessel Code data report forms shall not be used.

(3) Upon arrival in the Commonwealth of Kentucky, the boiler or pressure vessel shall be inspected before installation by a boiler inspector to verify compliance with this section.

Section 5. General Requirements. (1) Safety appliances. The safety appliances required by these administrative regulations shall not be removed or tampered with except for the purpose of making repairs. The resetting of safety valves shall be done by a V-R stamp holder.

(2) Additional Hazards. If an additional hazard is possible by exposure of a pressure vessel to fire or other unexpected sources of external heat, supplemental pressure relieving devices shall be installed capable of protecting against excessive pressure. These supplemental pressure relieving devices shall be capable of preventing the pressure from rising more than twenty-one (21) percent above the MAWP.

(3) Pressure relieving device.

(a) A pressure relieving device shall be constructed, located, and installed so that the device is readily accessible for inspection and repair and cannot be readily rendered inoperative; and

(b) A pressure relieving device shall be selected so that the intended service of the pressure relieving device corresponds with the boiler or pressure vessel the pressure relieving device is installed.

(4) Relieving capacity. The minimum relieving capacity of the safety valve(s) or safety relief valve(s) shall be equal to or exceed the maximum output of the boiler.

(5) Omission or removal of pressure relieving device.

(a) If a pressure relieving device is omitted or removed, the device shall be omitted or removed in accordance with ASME Section VIII, Division 1, UG-140, Appendix M and ASME Section VIII, Division 2, Part 9, or Division 3, Part KR.

(b) If a pressure relieving device is omitted or removed pursuant to the standards established in subparagraph 1. of this paragraph, except ASME Section VIII, Division 1, Appendix M., the

Boiler Inspection Section shall be notified prior to the omission or removal, and prior to the pressure vessel being placed in service.

(c) The required documentation of calculations pursuant to paragraph (a) in this subsection shall be submitted to the Boiler Inspection Section for review and acceptance or rejection of the proposed omission or removal.

(6) Location of discharges to atmosphere. The discharge of safety valves, blowoff pipes, and other outlets shall be located to prevent injury to persons and property.

(7) Boiler external piping. (a) Boiler external piping shall be attached in accordance with ASME Section I and B31.1.

(b)1. If two (2) or more boilers with manholes are connected to a common steam or high temperature water main or header, all welded external piping from the boiler out to the second stop valve shall be installed by a manufacturer or contractor authorized to use any one (1) of the ASME Code symbol stamps for pressure piping, power boilers, or assembly stamps.

2. The piping or fittings, adjacent to the welded joint farthest from the boiler, shall be stamped with the pressure piping, power boiler, or assembly code symbol stamp of the ASME when approved by the boiler inspector, special inspector, or owner-user inspector.

(8) Manually fired boilers.

(a) Gauge cocks. Each manually fired boiler shall comply with ASME Section I, except a manually fired boiler built before the publication of the 1991 Addenda to ASME Section I (1989 Edition), shall have three (3) or more gauge cocks located within the range of the visible length of the water glass, except if the boiler has two (2) water glasses with independent connections to the boiler located on the same horizontal lines and not less than two (2) feet apart. Two (2) gauge cocks shall be sufficient for boilers not over thirty-six (36) inches in diameter in which the heating surface does not exceed 100 square feet.

(b) Fusible plugs. A fire-actuated fusible plug, if used, shall conform to the requirements of ASME Section I, Paragraphs A-19, A-20 and A-21.

(9) Clearance.

(a) If boilers or pressure vessels are replaced or new boilers or new pressure vessels installed in either existing or new buildings, a minimum of two (2) feet shall be provided on all service sides. Boiler and pressure vessels having manholes shall have five (5) feet clearance between the manhole opening and any wall, ceiling, or piping that will prevent a person from entering the boiler or pressure vessel.

(b) Boilers shall be installed to:

1. Allow adequate space for their proper operation and their appurtenances;

2. Allow inspection of all surfaces, tubes, water walls, economizer, piping, valves, and other equipment; and

3. Allow for necessary maintenance and repair.

(c) A boiler or pressure vessel subject to external corrosion shall be installed so that there is sufficient access to all parts of the exterior to permit proper inspection of the exterior surfaces, or the boiler or pressure vessel shall have a connection so that the vessel can be readily removed from its location for inspection.

(d) If a cylindrical vessel is installed in a vertical position and subject to corrosion, the bottom head, if dished, shall be concave to pressure to facilitate proper drainage.

(e) The installed boiler or pressure vessel shall be located so that the data plate shall be accessible to the boiler inspector, special inspector, or owner-user inspector and shall not be obstructed by insulation or other covering not readily removable.

(10) Emergency shutdown switches.

(a) 1. Installations of power boilers, heating boilers, or hot water supply boilers shall have a manually operated remote boiler shutdown switch or circuit breaker located near the boiler room door, inside or outside of the boiler room, and marked for easy identification. Consideration shall also be given to the type and location of the switch to safeguard against tampering.

2. If there is more than one (1) door to or from the boiler room, a switch shall be located at each door.

3. A cover plate may be used to prevent accidental activation of the shutdown switch, if the cover plate is easily opened or

removed.

4. If a shutdown switch is activated, the shutdown switch shall require a manual reset.

5. The shutdown switch shall cause the display or indicator lights on a boiler to turn off, or otherwise indicate that the boiler has been shut down.

6. If a new boiler is installed in an existing boiler room, all existing boilers shall be connected to the emergency shutdown switch.

(b) A power boiler or heating boiler installed prior to July 1, 2015 shall be exempt from paragraph (a) of this subsection unless the power boiler or heating boiler installed prior to July 1, 2015 is located in a hospital, rest home, school, day care, jail, mental institution, or similar institutional facility.

(c) Paragraph (a) of this subsection shall not apply to manufacturing and power generating facilities.

Section 6. Incorporation by Reference. (1) The "National Board Inspection Code," 2015 Edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Section, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m. [Section 1. Minimum Standards. (1) Boiler and pressure vessels. All new boilers and pressure vessels, except those approved pursuant to Section 5 of this administrative regulation as "state specials," shall comply with applicable provisions of 815 KAR Chapter 15 and the ASME Boiler and Pressure Vessel Code, 2013 Edition, as established by KRS 236.040(2). All pressure vessels for human occupancy shall comply with the ASME Safety Standard for Pressure Vessels for Human Occupancy, 2012 Edition, as established by KRS 236.040(3).

(a) The ASME Boiler and Pressure Vessel Code is published by and available from the American Society of Mechanical Engineers (ASME), Two Park Avenue, New York, New York 10017.

(b) A copy is also available to be inspected, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, Monday through Friday from 8 a.m. to 4:30 p.m.

(c) Compliance with a later edition of this code shall be deemed equivalent and may be used in lieu of the edition specified.

(2) Installation of all boilers and pressure vessels shall conform to the National Board Inspection Code Part 1, 2013 edition.

(3) Details of vessels of special design not covered by the code or not fully complying with the ASME Code shall be submitted to the Boiler Section of the Division of Plumbing and approval secured before field erection or construction shall begin.

(4) Pressure piping.

(a) All new pressure piping installations connected to the boiler or pressure vessel shall conform to the National Board Inspection Code Part 1, 2013 edition, and the applicable standards referenced in this subsection, as established by KRS 236.040(2):

1. ASME Code for Power Piping, B31.1, 2012 edition;
2. ASME Code for Process Piping, B31.3, 2012 edition;
3. ASME Code for Refrigeration Piping and Heat Transfer Components, B31.5, 2013 edition;
4. ASME Code for Building Services Piping, B31.9, 2011 edition; and
5. ASME Code for Hydrogen Piping and Pipelines, B31.12, 2014 edition.

(b) The Piping Codes are published by and available from the American Society of Mechanical Engineers, Two Park Avenue, New York, New York 10017.

(c) Copies are also available to be inspected at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, Monday through Friday from 8 a.m. to 4:30 p.m.

(d) Compliance with a later edition of a code referenced in this subsection shall be deemed equivalent and may be used in lieu of

the edition specified.

(e) The maximum allowable design temperature and pressure of the piping system and all of its component parts shall meet or exceed the operating control settings of the boiler or pressure vessel.

(f) If the maximum allowable design temperature or pressure of the boiler exceeds the maximum design limits of the piping system or any of its component parts, the pipe or its components shall not be used unless the temperature and pressure controls on the boiler are permanently set to prevent operation in excess of the design limits of the piping system and safety valves are added to activate at the maximum design limits of the piping system.

(5) Welded joints. Welded joints shall be installed by qualified welders in accordance with the ASME Code, Section IX, as required by the standards referenced in subsection (4) of this section. Welded joints shall be visually inspected for complete and full root penetration, soundness of the weld and freedom from undercutting, cracking and other surface imperfections in accordance with Section 3(6) of this administrative regulation.

Section 2. Manufacturer's Data Report. A manufacturer's data report on all boilers of steel construction and all pressure vessels constructed in accordance with the ASME Boiler and Pressure Vessel Code shall be filed with the National Board of Boiler and Pressure Vessel Inspectors unless the boiler or pressure vessel is exempted by KRS 236.060.

Section 3. Installation Inspection or First Inspection and Stamping of New Boilers and Pressure Vessels. (1) Stamping. Upon completion of the installation or at the time of first inspection, a Commonwealth of Kentucky serial number shall be assigned to the boiler or pressure vessel and shall be applied to the boiler or pressure vessel as follows:

(a) Steel boilers and pressure vessels shall be stamped with the letters "KY" followed by the state serial number assigned. The stamping shall be accomplished as established in subparagraphs 1. and 2. of this paragraph.

1. Stamping shall be applied in the immediate area of code stamping on the boiler or pressure vessel and shall be in letters and numbers not less than five-sixteenths (5/16) inch in height.

2. A metal tag shall be used showing identical lettering and serial number as used in the stamping. This tag shall be securely affixed in the area of the manufacturer's name plate or data plate.

(b) Cast iron boilers shall have securely attached to the boiler (preferably adjacent to the manufacturer's data plate or in the most conspicuous area) a metal tag not less than one (1) inch in height on which the letters "KY" and the state serial number shall be stamped.

(c) Hot water supply boilers shall have securely attached to the heater (preferably adjacent to the manufacturer's data plate or in the most conspicuous area) a metal tag not less than one (1) inch in height on which the letters "KY" and the state serial number shall be stamped.

(d) A boiler or pressure vessel having the standard stamping of another state that has adopted a standard of construction equivalent to the standard of the Commonwealth of Kentucky may be accepted by the department if the person desiring to install the boiler or pressure vessel shall make application for the installation and shall file with this application the manufacturer's data report covering the construction of the boiler in question.

(2) Shop or field inspection. Any new power boiler, steel heating boiler, pressure vessel or piping being constructed for installation in the Commonwealth of Kentucky shall be shop or field inspected in accordance with the provisions of the applicable section of the ASME Boiler and Pressure Vessel Code and shall be stamped with the applicable ASME code stamp and the applicable national board registration number. Upon request, copies of the data sheets shall be supplied to the Boiler Inspection Section.

(3) Installation inspection. New installations of boilers and of pressure vessels and associated pressure piping shall be inspected by the department for compliance with applicable ASME Boiler and Pressure Vessel Code requirements and this administrative regulation. The owner may inspect B31.3 piping

systems. The inspector shall notify the department as established in subsection (4) of this section.

(4) Non-registered boilers and non-registered pressure vessels. Boiler inspectors, special boiler inspectors, and owner-user inspectors shall notify the department within thirty (30) days of locating any non-registered boiler or non-registered pressure vessel.

(5) General welding. If welded assembly has been used, the installing contractor shall present for the boiler inspector's, special inspector's, or owner's piping inspector's review the installing contractor's welding procedures and proof of qualification and continuity records of the welders and welding operators. The contractor shall be responsible for the quality of the welding done by the contractor's organization.

(6) Welded joints. If applicable codes or engineering specifications require additional tests or if the visual inspection reveals a potential defect or if joints have been insulated prior to inspection, the boiler inspector, special inspector, or owner's piping inspector may require other nondestructive tests, such as radiography, to be performed by the contractor to verify the soundness of the weld. All tests or retests required by the boiler inspector, special inspector, or owner's piping inspector shall be at the owner's or contractor's expense.

(7) Hydrostatic pressure test.

(a) A hydrostatic pressure test, when applied to a boiler or pressure vessel of riveted or welded construction, shall conform to the testing procedures and pressures as specified in the original code of construction. The pressure shall be under proper control so that in no case shall the required test pressure exceed the testing requirements listed in the original code of construction.

(b) During the hydrostatic pressure test, the safety valve or valves shall be removed or each valve disc shall be held down by means of a testing clamp (hand tight) and not by screwing down the compression screw upon the spring.

(c) The minimum temperature of the water used to apply a hydrostatic test shall not be less than ambient temperature, but in no case less than seventy (70) degrees Fahrenheit and the maximum temperature shall not exceed 120 degrees Fahrenheit.

(d) If the only purpose of the test is to determine tightness, the test pressure shall be equal to the relieving pressure of the safety valve having the lowest relief setting.

(8) Pressure piping systems installed in association with the boiler or pressure vessel shall be inspected for proper materials, adequate pressure and temperature ranges for the boiler operation and for adequate support and tightness as established in paragraphs (a) and (b) of this subsection.

(a) Hydrostatic tests. Hydrostatic or other leak tests shall be performed on the pressure piping system connected to the boiler or pressure vessel and shall conform to the procedures and test pressures outlined in the original code of construction.

(b) Code compliance. Pressure piping inspection shall include determining compliance with design plans, material specifications and ASME Code for the piping and component parts. The contractor shall document to the boiler inspector, special inspector, owner's piping inspector, or owner-user inspector that:

1. The piping installation and each of its component parts conforms to the design;
2. The materials used and method of construction meets the manufacturer's procedures and specifications; and
3. The system is utilizing the materials and equipment specified within the temperature and pressure ranges set forth in the design and as required by Section 1(4)(f) of this administrative regulation.

Section 4. Notification of Inspection. If an inspection is required by this administrative regulations, the owner or user shall prepare each boiler, pressure vessel, and pressure piping system for inspection and shall prepare for and apply a hydrostatic pressure or other leak test on the date specified by the boiler inspector, special inspector, or owner-user inspector. The inspection shall not be less than seven (7) days after the date of notification.

Section 5. State Special. (1) Boilers and pressure vessels of

special design that are equivalent to, but are not eligible to be stamped to, the ASME Code shall meet the requirements of this section. The prospective owner or user who desires approval of the boiler installation as a state special shall pursue in each individual case the procedures established in this section.

(a) Prior to installation and operation of the boiler or pressure vessel, the proposed owner, user, or the owner's authorized agent shall make written application for permission to install the boiler or pressure vessel in the state of Kentucky. The application shall be directed to the Chief Boiler Inspector, Division of Plumbing, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412.

(b) To establish ASME Boiler and Pressure Vessel Code equivalency, the following data, material and information shall be submitted with the application for state special approval to the Boiler Inspection Section, Department of Housing, Buildings and Construction for review by the Board of Boiler and Pressure Vessel Rules:

1. Detailed shop drawings and welding details of the proposed construction. All materials shall be in the English language and United States units of measurements listed in the ASME Code.

2. Design calculations and supporting data which shall include pressure (psi), temperature (deg. F.), use, and other service conditions.

3. Specifications for all construction materials. The specifications shall conform to the applicable ASME Code standards or their suitable equivalent. If reference is made to a standard or specification of a country other than the United States, a copy shall be attached to indicate how the material is considered equivalent.

4. Copies of the welding procedures to be used and welding qualification test reports for each welding operator or welder to be used. The procedures and tests required in this paragraph shall be made in accordance with the ASME Boiler and Pressure Vessel Code, Section IX, "Welding Qualifications."

5. If the design exceeds ASME Boiler and Pressure Vessel Code limitation, API 579/ASME FFS-1, 2007 or later edition shall be identified in the submittal.

6. Design drawings and calculations shall be certified by a professional engineer holding a license acceptable to the boiler inspection section.

7. The manufacturer of the vessel shall identify the inspection agency responsible for the shop inspections and shall submit an equivalent ASME manufacturer's data report for the proposed vessel.

8. The shop inspection agency shall furnish the qualifications of the authorized boiler inspector or special inspector assigned to make the shop inspections.

(2) Upon completion of the boiler or pressure vessel, a manufacturer's data report, signed by the manufacturer and shop inspector, shall be submitted to the jurisdictional authorities containing the equivalent type data required by the ASME Boiler and Pressure Vessel Code. ASME Boiler and Pressure Vessel Code data report forms shall not be used.

(3) Upon arrival in the state of Kentucky, the boiler or pressure vessel shall be inspected before installation by a boiler inspector in the employ of the department to verify that the requirements of this section have been complied with and that the vessel is properly marked and stamped for identification.

Section 6. General Requirements. (1) Low water fuel cutoff or water-feeding device (low pressure boilers).

(a) Automatically fired steam or vapor system boilers shall have an automatic low water fuel cutoff located to automatically cut off the fuel supply if the water falls to the lowest part of the water gauge glass. If a water-feeding device is installed, it shall be constructed so that the water inlet valve cannot feed water into the boiler through the float chamber and located to supply feed water.

(b) A fuel cutoff or water-feeding device may be attached directly to a boiler.

(c) A fuel cutoff or water-feeding device may also be installed in the tapped openings available for attaching a water glass directly to a boiler under the following conditions:

1. The connections shall be made to the boiler with nonferrous

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

tees or Y's not less than one-half (1/2) inch pipe size between the boiler and the water glass so that the water glass is attached directly and as close as possible to the boiler;

2. The run of the tee and Y shall take the water glass fittings and the side outlet or branch of the tee or Y shall take the fuel cutoff or water-feeding device.

(d) The ends of all nipples shall be reamed to full-size diameter.

(e) Fuel cutoffs and water-feeding devices embodying a separate chamber shall have a vertical drain pipe and a blowoff valve not less than three-fourths (3/4) inch pipe size and located at the lowest point in the water equalizing pipe connections so that the chamber and the equalizing pipe can be flushed and the device tested.

(2) Safety appliances. The safety appliances established by these administrative regulations shall not be removed or tampered with except for the purpose of making repairs. The resetting of safety valves shall be done by a V-R stamp holder.

(3) Location of discharges to atmosphere. The discharge of safety valves, blowoff pipes, and other outlets shall be located so as to prevent injury to personnel.

(4) Pressure reducing valves (high pressure boilers).

(a) If pressure reducing valves are used, one (1) or more relief or safety valves shall be provided on the low pressure side of the reducing valve in case the piping or equipment on the low pressure side does not meet the requirements for the full initial pressure. The relief or safety valves shall be located either adjoining or as close as possible to the reducing valve.

(b) Proper protection shall be provided to prevent injury or damage caused by the escaping steam from the discharge or safety valves if vented to the atmosphere.

(c) The combined discharge capacity of the relief valve shall be such that the pressure rating of the lower pressure piping or equipment shall not be exceeded in case the reducing valve sticks open.

(d) The use of hand-controlled bypasses around reducing valves shall be permissible. The bypass, if used around a reducing valve, shall not be greater in capacity than the reducing valve unless the piping or equipment is adequately protected by relief valves or meets the requirements of the high pressure system.

(e) A pressure gauge shall be installed on the low pressure side of a reducing valve.

(5) Electric boilers. All appliances required for electric boilers shall be attached in accordance with the National Electrical Code and the following requirements:

(a) The grounding of the shell shall be permanently fastened on some part of the boiler and shall be grounded in accordance with the edition of the National Electrical Code in effect at the time the permit for the installation was made.

(b) A suitable screen or guard shall be provided around high tension bushings and a high voltage warning sign shall be posted. This screen or guard shall be located to prohibit anyone working around the boiler to accidentally come in contact with the high tension circuits. During the adjustment of safety valves, the power circuit to the boiler shall be open.

(c) The boiler may be under pressure, but the power line shall be open while the operator is making the necessary adjustments.

(d) Each KW of electrical energy consumed by an electric boiler operating at maximum rating shall be considered the equivalent of one (1) square foot of heating surface.

(6) Clearance.

(a) If boilers are replaced or new boilers installed in either existing or new buildings, a minimum of two (2) feet shall be provided on all service sides, unless the installation allows for proper maintenance without the separation. Vessels having manholes shall have five (5) feet clearance between the manhole opening and any wall, ceiling, or piping that will prevent a person from entering the boiler or vessel.

(b) Boilers shall be installed to:

1. Allow adequate space for their proper operation and their appurtenances;

2. Allow inspection of all surfaces, tubes, water walls, economizer, piping, valves, and other equipment; and

3. Allow for necessary maintenance and repair.

(7) Emergency devices for certain installations.

(a) 1. Installations of power boilers, heating boilers, or hot water supply boilers shall have a manually operated remote heating plant shutdown switch or circuit breaker located just outside the boiler room door and marked for easy identification. Consideration shall also be given to the type and location of the switch to safeguard against tampering.

2. If the boiler room door is on the building exterior, the switch shall be located just inside the door. If there is more than one (1) door to the boiler room, a switch shall be located at each door.

3. For an atmospheric gas burner, and an oil burner where a fan is on a common shaft with the oil pump, the complete burner and controls shall be shut off.

4. For a power burner with a detached auxiliary, only the fuel input supply to the firebox shall be shut off.

(b) A power boiler or heating boiler installed prior to July 1, 2015 shall be exempt from paragraph (a) of this subsection unless the power boiler or heating boiler installed prior to July 1, 2015 is located in a hospital, rest home, school, mental institution, or similar institutional facility.

(c) Paragraph (a) of this subsection shall not apply to manufacturing and power generating facilities.

Section 7. Incorporation by reference. (1) The "National Board Inspection Code Part 1," 2013 Edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Section, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m.]

STEVEN A. MILBY, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: September 14, 2017

FILED WITH LRC: September 14, 2017 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 9:00 a.m., EDT, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five working days 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. The 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 October 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: David R. Startzman, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057, email david.startzman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: David R. Startzman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the design, construction, and inspection criteria requirements of the boiler inspection section for all boilers and pressure vessels not exempted by KRS 236.060.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping.

(c) How this administrative regulation conforms to the content

of the authorizing statutes: KRS 236.030 authorizes the commissioner to promulgate administrative regulations that establish standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping. KRS 236.040 requires all boiler and pressure vessels to conform to the rules and regulations formulated by the commissioner, and establishes the standards for pressure piping and pressure vessels for human occupancy. KRS 236.110 establishes the inspection requirements for boilers, pressure vessels, and pressure piping.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the standards for boilers and pressure vessels, and the requirements for the initial inspections of new boilers, new pressure vessels, and new pressure piping.

(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 adopts the 2015 edition of the National Boiler Inspection Code. An exception is included to exempt ASME "UM" stamped pressure vessels from the requirement of a manufacturer's data report. The amendment states that certain piping systems will only require a visual inspection. Certain sections now in 815 KAR 15:040 and 815 KAR 15:051, which are not directly from the National Board Inspection Code, were moved to this regulation to make it easier to read. The hours when inspections are conducted is clarified. The administrative regulation now permits an emergency off switch to be located inside or outside of a boiler room; when the switch is activated, the boiler must indicate the boiler is disabled; and any new boiler added to an existing boiler room shall be connected to the emergency off switch. This amendment also reorganizes and edits the regulation for ease of reading and understanding.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to establish the standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment establishes the standards and installation of boiler and pressure vessels, and establishes the inspection requirements for boilers and pressure vessels.

(d) How the amendment will assist in the effective administration of the statutes: This amendment updates the standards for boilers and pressure vessels and reorganizes and edits the administrative regulation for clarity and conciseness.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals engaged in the boiler and pressure vessel industry, and Department of Housing, Buildings and Construction personnel.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to comply with this administrative regulation or amendment: This amendment adopts the 2015 edition of the National Board Inspection Code, replacing the 2013 code. Another requirement is that a new boiler added to an existing boiler room must connect to the emergency shutoff switch. However, the switch may now be inside or outside the boiler room in all situations. Individuals installing a ASME "UM" vessel will no longer have to have a manufacturer's data plate.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The entities will encounter no additional costs based on the new administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The standards are more up-to-date, the individual may choose where to place the emergency shutoff switch, and the administrative regulation will be easier to read and understand.

(5) Provide an estimate of how much it will cost to implement

this administrative regulation:

(a) Initially: There are no anticipated additional costs to administer this administrative regulation.

(b) On a continuing basis: There are no anticipated additional costs to administer this administrative regulation on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Any department costs of implementation will be met with existing department funds.

(7) 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: This amendment will not necessitate an increase in fees or require funding from the Department for implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees increased by this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied as all individuals in the boiler and pressure vessel industry and department personnel are affected by this amendment.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Section.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is authorized and required by KRS 236.030, 236.040, 236.110, 236.120, and 236.240.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment is not anticipated to generate additional revenue for the department.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to generate additional revenue for the department.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral
Expenditures (+/-): Neutral
Other Explanation: Neutral

PUBLIC PROTECTION CABINET Department of Housing, Buildings and Construction Division of Plumbing, Boiler Section (Amendment)

815 KAR 15:026. Existing boilers and pressure vessels; testing, repairs, inspection, and safety factors.

RELATES TO: KRS 236.010, 236.030, 236.110, 236.240, 236.250, 236.990

STATUTORY AUTHORITY: KRS 236.030, 236.040, 236.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.030

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

~~authorizes~~requires the commissioner ~~through the Board of Boiler and Pressure Vessel Rules,~~ to promulgate administrative regulations that~~[te]~~ establish reasonable standards for the inspection and repair of boilers and pressure vessels. This administrative regulation establishes the requirements for inspections and safe maintenance of boilers and pressure vessels.

Section 1. Frequency of Inspection of Existing Vessels. (1) Boiler inspections. Boilers shall be inspected pursuant to KRS 236.110 upon notification by a boiler inspector ~~and~~[.] special boiler inspector ~~or owner-user inspector,~~ a boiler or pressure vessel subject to an annual or semiannual inspection pursuant to KRS 236.110 shall be prepared for the inspection or hydrostatic or other leak test by the owner or user~~].~~

(2) Pressure vessel inspections. Pressure vessels shall be re-inspected in accordance with this subsection and subsection (3) of this section.

(a) Pressure vessels exceeding 200 psi MAWP shall be inspected every five (5) years.

(b) Hot water storage tanks, sterilizers, and autoclaves shall be inspected every four (4) years.

(c) Pressure vessels for human occupancy and hyperbaric chambers shall be inspected every two (2) years.

(d) Jacketed kettles shall be inspected every two (2) years.

(e) Deareators shall be inspected externally and internally every ten (10) years.

(f) All pressure vessels shall be re-inspected at the time of repair, alteration, or relocation.

(3) Inspection times. Inspections made by boiler inspectors shall be conducted during normal business hours of the department between 8:00 a.m. and 4:30 p.m. Monday through Friday.

Section 2. Preparation for Inspections and Tests. (1) The owner or user shall prepare the boiler or pressure vessel for~~[internal]~~ inspection if requested~~[and apply the required hydrostatic or other leak test on the date specified]~~ by the boiler inspector, special boiler inspector, or owner-user inspector.

(2) Inspections~~[The date set for inspection]~~ shall be conducted within~~[a minimum of] seven (7) days of the date of~~[following] notification by the boiler inspector, special boiler inspector, or owner-user inspector.

(3)~~(2)~~ The owner or user shall prepare a boiler or pressure vessel for~~[internal]~~ inspection by ensuring that~~[pursuant to paragraphs (a) through (f) of this subsection.]~~

(a) Water shall be drawn off and the boiler thoroughly washed;~~[.]~~

(b) The manhole and handhole plates, washout plugs, and the plugs in water column connections shall be removed and the furnace and combustion chambers thoroughly cooled and cleaned;~~[.]~~

(c) The grate of an internally fired boiler, if present, shall be removed;~~[.]~~

(d)~~[During the annual inspection,]~~ Brickwork shall be removed as required by the boiler inspector or special boiler inspector~~[in order]~~ to determine the condition of the boiler, header, furnace, supports, or other parts; and~~[.]~~

(e)~~[The steam gauge shall be removed for testing.]~~

(f) Leakage of steam or hot water into the boiler shall be cut off by disconnecting or blocking off the pipe or valve at the most convenient point.

(4)~~(3)~~ If the boiler is jacketed~~[and the longitudinal seams of shells, drums, or domes are not visible],~~ enough of the jacketing ~~setting wall, or other forms, casing or housing]~~ shall be removed upon the request of the boiler inspector or special boiler inspector, so that~~[the size of the rivets, pitch of the rivets, and other data necessary to determine]~~ the safety of the boiler can be determined. If the covering cannot be removed at that time, the boiler inspector, special boiler inspector, or owner-user inspector shall order the boiler or pressure vessel out of service until the covering can be removed and a proper examination made~~[obtained].~~

(5)~~(4)~~ If a boiler has not been prepared for an~~[internal]~~ inspection in accordance with the requirements of this section or

the owner or user fails to comply with the requirements for the hydrostatic or other leak test established in this administrative regulation, the boiler inspector or special boiler inspector may decline to make the inspection or test and the inspection certificate shall be withheld until the owner or user complies with the requirements. ~~[(5) Lap seam crack. (a) A crack in the lap seam extending parallel to the longitudinal joint between or adjacent to rivet holes of the shell or drum of a boiler or pressure vessel shall cause the vessel to be immediately discontinued from use.~~

~~(b) If the boiler or pressure vessel is not more than fifteen (15) years of age, a complete new course of the original thickness may be installed at the discretion of the boiler inspector, special inspector, or owner-user inspector and shall be after approval by the chief boiler inspector.~~

~~(c) Patching shall be prohibited.]~~

(6) Hydrostatic pressure tests. If a hydrostatic test is~~[shall be]~~ applied to an existing installation, the pressure shall be as established in paragraphs (a) through (d) of this subsection.

(a) For determining tightness, the pressure shall be equal to the release pressure of the safety valve or valves having the lowest release setting.

(b) 1. For determining safety or the strength of a vessel and associated piping as well as tightness, the test shall conform to the procedures and the pressure shall conform to the test pressures established in the original code of construction but not exceed one and one-half (1 1/2) times the MAWP~~[maximum allowable working pressure (MAWP)],~~ except for a locomotive ~~type boiler in which case the pressure shall be one and one-fourth (1 1/4) times the MAWP~~~~[maximum allowable working pressure (MAWP)].~~

2. The pressure shall be under proper control to prevent the required test pressure from exceeding testing requirements listed in the original code of construction.

(c) The temperature of the water used for the hydrostatic test shall not be less than ambient temperature~~],~~ and shall not be less than seventy (70) degrees Fahrenheit for boilers or thirty (30) degrees Fahrenheit above the minimum design metal temperature for pressure vessels, nor high enough to allow the metal temperature to exceed 120 degrees Fahrenheit.

(d) Minimum test pressure shall not be less than eighty (80) percent of the MAWP~~[maximum allowable working pressure (MAWP)]~~ or the set pressure of the pressure-relieving device, whichever is greater.

Section 3. Safety Factors in Existing Boilers and Pressure Vessels. (1) Maximum pressure and temperature.

(a) Code boilers. The MAWP~~[maximum allowable working pressure (MAWP)]~~ and temperature for standard pressure vessels and boilers shall be determined in accordance with the original code of construction~~[ASME Code Edition (year and addenda) under which the boiler or pressure vessel was constructed and stamped].~~

(b) Noncode high pressure boilers. The MAWP of a noncode high pressure boiler shall be calculated in accordance with Section I of the ASME Boiler and Pressure Vessel Code.

(c) Noncode welded heating boilers.

1. The MAWP of a noncode steel or wrought iron heating boiler of welded construction shall not exceed fifteen (15) psi.

2. For other than steam service, the MAWP shall be calculated in accordance with Section IV of the ASME Boiler and Pressure Vessel Code as established by KRS 236.040(2).

(d) Noncode cast iron heating boilers. The MAWP of a noncode boiler, composed principally of cast iron shall not exceed fifteen (15) psi for steam service or thirty (30) psi for hot water service.

(2) Notice of accident or malfunction.

(a) If an accident or malfunction renders a boiler or pressure vessel inoperative, the owner, user, or insurer shall immediately notify the Boiler Inspection Section and submit a detailed report of the accident or malfunction.

(b) 1. For any~~[if there is a serious]~~ accident, including an explosion, resulting in property damage, injury to a person or persons~~[personnel]~~, or loss of life, the owner, user, or insurer~~[notice]~~ shall give notice~~[be given]~~ immediately by phone or

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

electronic mail to the Boiler Inspection Section. [and]

2. The boiler, pressure vessel, or any of the parts shall not be removed or disturbed before an inspection has been made by a boiler inspector or special boiler inspector, except for the purpose of saving [a] human life.

(3) Unsafe [Condemned] boilers and pressure vessels. A boiler or pressure vessel inspected by a boiler inspector or a special boiler inspector and found unsafe for further use [by the chief boiler inspector or boiler inspector] shall be removed from service, until the boiler or pressure vessel has been sufficiently repaired and inspected by a boiler inspector or a special boiler inspector [stamped by the chief boiler inspector or boiler inspector with the letters "XX" prior to the letters "KY" and after the numbers to designate a condemned boiler or pressure vessel, i.e., XX Kentucky 12345 XX].

(4) [A person, firm, partnership, or corporation using or offering for sale a condemned boiler or pressure vessel for operation within this Commonwealth shall be subject to the penalties in KRS 236.990.

(5) Nonstandard boilers and pressure vessels. Shipment of a nonstandard boiler, pressure vessel, or hot water supply boiler into this state shall be prohibited, unless exempted under KRS 236.060.

(6) Used boilers. If a nonstandard boiler, pressure vessel, or hot water supply boiler is removed from use, the boiler, pressure vessel, or hot water supply boiler shall not be reinstalled.

(7) Removal of safety appliances.

(a) A person shall not attempt to remove or work on a safety appliance while a boiler or pressure vessel is in operation unless under the direction of a boiler inspector or special boiler inspector, or permitted by these administrative regulations [under 815 KAR 15:040, Section 4(3)(f)].

(b) If a safety appliance is repaired during an outage of a boiler or pressure vessel, the appliance shall be reinstalled and in proper working order before the vessel is returned to service.

(5) Maintenance. [(8)] The boiler, pressure vessel, and pressure piping shall be maintained in accordance with the minimum requirements of the edition of the ASME Code that was in effect at the time [when] the boiler, pressure vessel, and pressure piping was constructed and installed.

Section 4. Used Vessels. (1) Used vessel inspections [boilers or pressure vessels]. Before a used boiler or pressure vessel is placed into service [brought into Kentucky for use], it shall be inspected by a boiler inspector, and the inspection may include an internal and external visual inspection, a hydrostatic test, or other non-destructive examination [or a special boiler inspector and the data shall be filed by the owner or user of the boiler or pressure vessel with the Boiler Inspection Section for approval].

(2) Reinstalled boilers or pressure vessels.

(a) If a boiler or pressure vessel is moved and reinstalled, the fittings and appliances shall comply with the ASME Boiler and Pressure Vessel Code, 2013 Edition or subsequent editions, as established by KRS 236.040(2), and 815 KAR Chapter 15.

(b) All pressure vessels for human occupancy shall comply with the ASME Safety Standard for Pressure Vessels for Human Occupancy, 2012 Edition or subsequent editions, as established by KRS 236.040(3), and 815 KAR Chapter 15.

(3) Appeal of an inspection decision [Unsafe conditions].

(a) If the owner or user does not concur with the boiler inspector's [or special inspector's] decision regarding the condition of the boiler or pressure vessel, the owner or user may appeal to the commissioner who shall [may] request a joint inspection by the chief boiler inspector and the boiler inspector [or special boiler inspector].

(b) The chief boiler inspector and the [Each] boiler inspector [or special inspector] shall render a report to the commissioner, who shall render the final decision, based upon the data contained in all the inspectors' reports.

Section 5. Repairs and Alterations. (1) [Repairs-

(a) A repair shall require prior approval of a boiler inspector or special inspector and permits as required by KRS 236.240 and

236.250.

(b) Repair or alteration to a boiler, pressure vessel, and the appurtenances [thereto] shall conform to the requirements of the National Board Inspection Code Part 3, 2015 Edition, or subsequent editions [2013 Edition. Compliance with a later edition of the National Board Inspection Code shall be deemed equivalent and may be used in lieu of the edition specified].

(2) [(c)] Repairs or alterations to pressure relieving devices shall be made by a firm possessing the National Board Certificate of Authorization for Use of the Valve Repair (V-R) Stamp and the valve shall be stamped with the V-R stamp upon completion of the repair.

(3) [(d)] Repair to a boiler or a pressure vessel shall not be initiated without the authorization of the inspector, who shall be satisfied that the welding procedures and welders are qualified and that the repair methods are in accordance with the standards established in this administrative regulation.

(e) The inspector may give prior approval for repairs of a routine nature. In every case, the inspector shall be advised of each repair under a prior agreement.

(2) Alterations.

(a) Except as permitted for owner-users in, alterations to boilers and pressure vessels shall be performed by an authorized repairer.

(b) Alteration to a boiler or pressure vessel shall not be initiated without the authorization of an inspector, who shall be satisfied that the alteration methods and calculations are in accordance with the standards established in this administrative regulation.

(c) If the inspector considers it necessary, the inspector shall make an inspection of the object before granting authorization.

(3)(a) It shall be the responsibility of the organization making the repair or alteration to coordinate the acceptance inspection of the repair or alteration.

(b) Authorized repairers shall submit the appropriate National Board Inspection Code form to the division upon completion of repairs or alterations.

(4) An owner-user inspector may inspect [perform acceptance inspections of] repairs and alterations to [boilers and] pressure vessels that the owner-user inspector's company owns or operates [if performed by the inspector's employer].

Section 6. Inspection by Special Boiler Inspectors. (1) A special boiler inspector shall submit an inspection report to the Boiler Inspection Section [in the Division of Plumbing] on the applicable National Board Inspection Code Report of Inspection standard form or its electronic equivalent.

(2) An insurance company shall notify the Boiler Inspection Section of a new or a cancelled policy for a boiler or pressure vessel [risks] within thirty (30) days of the effective date of the policy [each boiler or pressure vessel risk written, cancelled, or not renewed].

(3) If a special boiler inspector finds, upon [the first] inspection of a boiler or pressure vessel [the boiler or pressure vessel or an appurtenance,] a condition causing the special boiler inspector's company to refuse or suspend insurance of the boiler or pressure vessel, the company shall immediately notify the Boiler Inspection Section and submit a report of the defect. [(4) If an external inspection reveals evidence of a leak or crack, enough of the covering of the boiler or pressure vessel shall be removed to satisfy the boiler inspector or special inspector of its safety. If the covering cannot be removed at that time, the boiler inspector or special inspector shall order the operation stopped until the covering may be removed and a proper examination made.]

Section 7. Inspection by Owner-User Inspectors. (1) An owner-user inspector shall submit an inspection report to the Boiler Inspection Section [in the Division of Plumbing] on the applicable National Board Inspection Code Report of Inspection standard form, or its electronic equivalent.

(2) An owner-user company shall immediately notify the Boiler Inspection Section of a defective pressure vessel and submit a report of the defect using the applicable National Board Inspection Code Report of Inspection standard form or its electronic

equivalent.

~~(3) If an external inspection reveals evidence of a leak or crack, enough of the covering of the pressure vessel shall be removed to satisfy the owner-user inspector of the pressure vessel's safety. If the covering cannot be removed at that time, the owner-user inspector shall order the operation stopped until the covering may be removed and a proper examination made.~~

~~(4) If there is a disagreement as to the acceptance of any condition of a pressure vessel or repair by the owner-user inspector and owner-user company, the department shall make the final determination in accordance with the standards established in this administrative regulation.~~

Section 8. Inspection by Owner's Piping Inspector. (1)(a) Owner's piping inspectors shall inspect all new, replacement, and repaired piping for compliance to the applicable ASME piping code to which the piping is installed.

(b) The owner's piping inspector shall sign the permit filed by the boiler and pressure vessel [licensed] contractor performing the piping installation or repair and forward it to the Boiler Inspection Section [to show acceptance].

(2)(a) The owner facility license and the independent inspection agency [owner's piping inspector] shall maintain copies of the material mill test reports and pressure test information including type of test, pressure at start and end of test, and duration of test for five (5) years pursuant to KRS 236.097(1)(h) and (3)(f).

(b) If welded joints are utilized, the file shall contain the qualified welder identification, weld procedure, and procedure qualification used.

(3) If there is a disagreement as to the acceptance of any condition of the piping installation or repair by the owner's piping inspector and owner's user facility, the department shall make the final determination in accordance with the standards established in this administrative regulation.

Section 9. Incorporation by Reference. (1) The "National Board Inspection Code [Part 3]", 2015 Edition [2013 Edition], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Section, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m. [(3) The National Board Inspection Code is also available, subject to applicable copyright law, from the National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229.]

STEVEN A. MILBY, Commissioner
DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: September 14, 2017

FILED WITH LRC: September 14, 2017 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 9:00 a.m., EDT, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five working days 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. The 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 October 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: David R. Startzman, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero

Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057, email david.startzman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: David R. Startzman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for safe maintenance of boilers and pressure vessels.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the requirements for existing boilers and pressure vessels and the inspection process that ensures the safety of the boilers and pressure vessels.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 236.030 authorizes the commissioner to promulgate administrative regulations that establish standards for the safe construction, installation, inspection, and repair of boilers, pressure vessels, and associated pressure piping. KRS 236.040 requires all boiler and pressure vessels to conform to the rules and regulations formulated by the commissioner, and establishes the standards for pressure piping and pressure vessels for human occupancy. KRS 236.110 establishes the inspection requirements for boilers, pressure vessels, and pressure piping.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the standards for boilers and pressure vessels, the requirements for the maintenance of existing boilers and existing pressure vessels, and the administrative regulation establishes when and how existing boilers and existing pressure vessels must be inspected.

(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 adopts the 2015 edition of the National Boiler Inspection Code. The amendment expands the inspection frequency for pressure vessels exceeding 200 psi MAWP to five years; hot water storage tanks, sterilizers, and autoclaves to four years; pressure vessels for human occupancy and hyperbaric chambers to two years; jacketed kettles to two years; and deaerators to 10 years. Certain sections now in 815 KAR 15:040 and 815 KAR 15:051, which are not directly from the National Board Inspection Code, were moved to this regulation to make it easier to read.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to establish the standards for the safe maintenance of existing boilers, pressure vessels, and associated pressure piping. The amendment is also necessary to establish the frequency of inspections on existing equipment.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment establishes the standards of existing boilers and existing pressure vessels and establishes the inspection requirements for boilers and pressure vessels.

(d) How the amendment will assist in the effective administration of the statutes: This amendment updates the standards for boilers and pressure vessels and reorganizes and edits the administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals and businesses engaged in the boiler and pressure vessel industry, and Department of Housing, Buildings and Construction personnel.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to comply with this administrative regulation or amendment: This amendment adopts the 2015 edition of the National Board Inspection Code, replacing the 2013

code. The amendment extends the time between certain inspections for boiler inspectors, special boiler inspectors, and owner's piping inspectors.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The entities will encounter no additional costs based on the new administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The standards are more up-to-date and the owners and users of boilers and pressure vessels will not be burdened with as many inspections.

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

(a) Initially: There are no anticipated additional costs to administer this administrative regulation.

(b) On a continuing basis: There are no anticipated additional costs to administer this administrative regulation on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Any department costs of implementation will be met with existing department funds.

(7) 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: This amendment will not necessitate an increase in fees or require funding from the department for implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees increased by this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied as all individuals in the boiler and pressure vessel industry and Department personnel are affected by the amendment.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Section.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This regulation is authorized and required by KRS 236.030, 236.040, 236.110, 236.120, and 236.240.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment is not anticipated to generate additional revenue for the department.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to generate additional revenue for the department.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral
Expenditures (+/-): Neutral
Other Explanation: Neutral

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing, Boiler Section
(Amendment)

815 KAR 15:027. Fees and certificates[and fees] for boiler and pressure vessel inspection.

RELATES TO: KRS Chapter 236
STATUTORY AUTHORITY: KRS 236.030, 236.120, 236.130, 236.240, 236.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.030 and 236.130 authorize the commissioner, through the Board of Boiler and Pressure Vessel Rules, to promulgate administrative regulations that establish[to fix] reasonable inspection fees for boilers, pressure vessels, and pressure piping. This administrative regulation establishes the fees for permits and inspections for boiler, pressure vessels, and pressure piping[inspections].

Section 1. Fees. (1) Permit Fees.

(a) Permits for new installations of boilers, pressure vessels, and pressure piping shall be based upon the total dollar value of each installation, either actual or estimated. The installing boiler and pressure vessel contractor shall identify the applicable cost range, which shall include both labor and material costs, but the boiler and pressure vessel contractor shall not be required to identify the exact cost.

(b) The fees for permits for new installations shall be paid prior to installation.

(c) The permit fees for boilers, pressure vessels, or pressure piping are as follows:

Cost of Inspected Item	Fee
\$2,000 or less	\$70
\$2,001 to \$10,000	\$130
\$10,001 to \$25,000	\$200
\$25,001 to \$50,000	\$250
\$50,001 to \$75,000	\$300
\$75,001 to \$100,000	\$410
\$100,001 to \$150,000	\$520
\$150,001 to \$200,000	\$630
\$200,001 to \$250,000	\$740
\$250,001 to \$300,000	\$850
\$300,001 to \$400,000	\$960
\$400,001 to \$500,000	\$1,350
\$500,001 to \$600,000	\$1,500
\$600,001 to \$700,000	\$1,650
\$700,001 and over	\$1,850

(d)1. If a boiler and pressure vessel contractor is unable to complete the work after a permit has been issued and work has begun, the permit may be taken over and responsibility assumed by a different boiler and pressure vessel contractor.

2. The new boiler and pressure vessel contractor shall pay a fee of seventy (70) dollars for a transferred permit as outlined in subparagraph 1. of this paragraph.

(2) Fees for Reinspection.

(a) Fees for the annual reinspection of power boilers pursuant to KRS 236.110(1)(a) shall be charged at the rates established in this subsection.

<u>(1.) INTERNAL INSPECTIONS OF POWER BOILERS</u>	
Heating Surface (Square Feet)	Fee
100 or less	\$35
101 to 1,000	\$50
1,001 to 4,000	\$90
4,001 to 10,000	\$120
10,001 and over	\$200
<u>(2.) EXTERNAL INSPECTIONS OF POWER BOILERS</u>	
Heating Surface (Square Feet)	Fee
100 or less	\$30
101 and over	\$35

(b) Fees for the biennial reinspection of heating boilers pursuant to KRS 236.110(1)(b) shall be charged at the rates

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

established in this subsection.

Boilers with manway where internal inspection required	\$55
Other heating boilers	\$35
Hot water supply boilers	\$25
Miniature boilers	\$25

(c)1. The fee for the initial inspection of an existing pressure vessel that has been in service for at least five (5) years and has not received a certificate of inspection shall be twenty-five (25) dollars.

2. The fee for the initial inspection of an existing pressure vessel that has been in service for less than five (5) years shall be the same as the permit fees in subsection 1 of this section.

(d) The fee for a reinspection of a pressure vessel pursuant to 815 KAR 15:026 Section 1(2) shall be twenty-five (25) dollars.

(3)(a) An inspection made by boiler inspectors at the request of a boiler manufacturer, installer, engineering contractor, or owner conducted outside of normal business hours as established in 815 KAR 15:025 and 815 KAR 15:026 shall be charged at the rates established in this subsection:

1. \$450 for one-half (1/2) day of four (4) hours or less;
2. \$600 for one (1) day of more than four (4) hours to eight (8) hours;
3. \$600 for any part of a Saturday, Sunday, or state holiday; and
4. Forty (40) dollars per hour for overtime in excess of eight (8) hours in any one (1) day.

(b) In addition to the fees listed in this subsection, the manufacturer, installer, engineering contractor, or owner shall be charged for mileage at the current state rate. The manufacturer, installer, engineering contractor, or owner may be charged for lodging, meals, and incidentals of the boiler inspector if the inspection requires more than eight (8) hours.

(c) The fees established in this subsection shall be in addition to the regular fees for permits, inspections, and certificates of inspection.

(4) Charges for inspection of a used boiler or used pressure vessel shall be at the rates established in subsection (1) paragraph (c) of this section.

(5) Inspections of a manufacturing facility at the request of the manufacturer for the issuance of ASME or National Board Certificates of Authorization shall be charged at the rates established in this subsection:

- (a) Initial inspection for ASME certificates - \$1,200;
- (b) Renewal of ASME certificates - \$950; and
- (c) Initial inspections and renewals for National Board R or V-R certificate - \$400.

Section 2. Certificates of Inspection. If the owner or user of the boiler or pressure vessel required to be inspected refuses to allow an inspection to be made, or refuses to pay the required fee, the certificate of inspection shall be suspended by the commissioner until the owner or user complies with the requirements in KRS 236 and 815 KAR Chapter 15. [Section 4. Boiler Certificates of Inspection. (1) A boiler or pressure vessel complying with 815 KAR Chapter 15 shall be issued the certificate required by KRS 236.120 upon payment of a fifteen (15) dollar fee.

(2) If the owner or user of the boiler or pressure vessel required to be inspected refuses to allow an inspection to be made or refuses to pay the required fee, the certificate of inspection shall be suspended by the commissioner until the owner or user complies with the requirements.

(3) If the owner or user operates a boiler or pressure vessel without possessing a valid certificate of inspection, the owner or user shall be subject to the penalties provided for in KRS 236.990.

(4) Certificates of inspection shall be located as required by KRS 236.120(1).

(5) Validity of certificates of inspection.

(a) A certificate of inspection issued in accordance with KRS 236.120 shall be valid until expiration unless a defect or condition affecting the safety of the boiler or pressure vessel is disclosed.

(b) A certificate issued for a boiler or pressure vessel inspected by a special boiler inspector shall be valid only if the boiler for

which the certificate was issued continues to be insured by an authorized insurance company.

(6) Suspension of certificate of inspection. Certificates shall be suspended in accordance with KRS 236.120(3).

(7) Pressure vessel inspections. Pressure vessels shall be inspected upon installation and reinspected in accordance with this subsection.

(a) Pressure vessels exceeding 200 psi maximum allowable working pressure (MAWP) shall be inspected every five (5) years.

(b) Hot water storage tanks, sterilizers, and autoclaves shall be inspected every four (4) years.

(c) Pressure vessels for human occupancy and hyperbaric chambers shall be inspected annually.

(d) All pressure vessels shall be re-inspected at the time of repair, alteration, or relocation.

Section 2. Fees. (1)(a) Following an inspection by a boiler inspector or owner-user inspector, the owner or user of a boiler, pressure vessel, or pressure piping, unless exempt under KRS 236.060, shall pay to the department fees in accordance with this section.

(b) The fees for new installations of boilers, pressure vessels, or pressure piping and fees for repairs shall be in accordance with the fees listed in subsection (5) of this section and shall be submitted by the contractor prior to installation.

(2)(a) Shop inspections made by boiler inspectors for purposes of inspecting the fabrication of the vessel at the request of a boiler manufacturer, installer, engineering contractor, or owner shall be charged at the rates established in this subsection:

1. \$450 for one-half (1/2) day of four (4) hours or less;
2. \$600 for one (1) day of more than four (4) hours to eight (8) hours;
3. \$600 for any part of a day on Saturdays, Sundays or state holidays; and
4. Forty (40) dollars per hour for overtime in excess of eight (8) hours in any one (1) day, plus itemized expenses of mileage, lodging, meals, and incidentals.

(b) The fees established in this subsection shall not void regular fees for inspection and certificates of inspection when the boilers or pressure vessels are completed.

(3) Charges for inspection of second-hand equipment shall be at the rates established in subsection (2) of this section plus itemized charges for mileage, lodging, meals, and incidentals. These charges shall not void regular fees for inspection and certificates of inspection when the boilers or pressure vessels are installed.

(4) ASME and National Board inspections. Inspections of a manufacturing facility, at the request of the manufacturer, for the issuance of ASME or National Board Certificates of Authorization shall be charged at the rates established in this subsection:

- (a) Initial inspection for ASME certificates - \$1,200;
- (b) Reviews for renewal of ASME certificates - \$950; and
- (c) Initial inspections and renewals for National Board R or V-R certificate - \$400.

(5) New installation inspections of pressure piping, boilers, and pressure vessels. Inspection of new installations of pressure piping, boilers, or pressure vessels shall be charged at the rates established in this subsection.

(a) The fees charged for inspection of each newly installed boiler or pressure vessel and each pressure piping system shall be based upon the total dollar value of each installation, either actual or estimated. It shall be the obligation of the installing contractor to supply this value, which shall include both labor and material costs. An exact figure does not need to be quoted or divulged to the boiler inspector or department, only a designation that the true value lies within certain limits as listed in the left column of the table established in this paragraph. The fees for all new installations of boilers, pressure vessels, or pressure piping and fees for repairs are listed in the right column of the table.

Amount in Dollars	Fee
\$2,000 or less	\$70
\$2,001 to \$10,000	\$130

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

\$10,001 to \$25,000	\$200
\$25,001 to \$50,000	\$250
\$50,001 to \$75,000	\$300
\$75,001 to \$100,000	\$410
\$100,001 to \$150,000	\$520
\$150,001 to \$200,000	\$630
\$200,001 to \$250,000	\$740
\$250,001 to \$300,000	\$850
\$300,001 to \$400,000	\$960
\$400,001 to \$500,000	\$1,350
\$500,001 to \$600,000	\$1,500
\$600,001 to \$700,000	\$1,650
\$700,001 and over	\$1,850

(b) The fee for an initial inspection of a pressure vessel required by Section 1(7) of this administrative regulation shall be twenty-five (25) dollars.

(c) The installing contractor, owner, or user shall request an inspection of a boiler and pressure piping at least seven (7) days in advance. If the inspection is not made within this time limit, the installation may proceed. Requests for inspection shall be made by electronic mail, letter, or telephone to the department.

(6) Inspection of nuclear installations. Nuclear installation inspections shall be charged in accordance with the fee schedule established in subsection (2) of this section or as agreed upon through contracts between the installer and the department.

(7) Hydrostatic tests. If hydrostatic testing is used to ascertain acceptability pursuant to KRS 236.110(3), an additional fee shall be charged by the department for witnessing the hydrostatic test. The additional fee shall be in accordance with the fee schedule established in subsection (2) of this section if it is necessary to make a special trip to witness the application of a hydrostatic test.

Section 3. Fees for Reinspection of Boilers and Pressure Vessels. (1) Fees for reinspection of power boilers shall be charged at the rates established in this subsection.

(a) INTERNAL INSPECTIONS OF POWER BOILERS	
Heating Surface (Square Feet)	Fee
100 or less	\$35
101 to 1,000	\$50
1,001 to 4,000	\$90
4,001 to 10,000	\$120
10,001 and over	\$200
(b) EXTERNAL INSPECTIONS OF POWER BOILERS	
Heating Surface (Square Feet)	Fee
100 or less	\$30
101 and over	\$35

(2) Fees for reinspection of heating boilers shall be charged at the rates established in this subsection:

Boilers with manway where internal inspection required	\$55
Other heating boilers	\$35
Hot water supply boilers	\$25
Miniature boilers	\$25

(3) The fee for the reinspection of a pressure vessel shall be twenty-five (25) dollars.

Section 4. Plan Review for Boiler and Pressure Vessel Installations. (1) Prior to the construction and installation of any boiler or pressure vessel, the installing contractor shall submit shop drawings and fees for the installation to the chief boiler inspector of the department. Submission of plans shall be reviewed and released for construction upon department approval.

(2) Fees for plan review shall be:

Heating Surface (Square Feet)	Fee
100 and under	\$30
101 to 1,000	\$55
1,001 to 4,000	\$75
4,001 to 10,000	\$100
10,001 and over	\$150
Pressure vessels	\$45]

STEVE A. MILBY, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: September 14, 2017

FILED WITH LRC: September 14, 2017 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 9:00 a.m., EDT, in the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five working days 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. The 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 through October 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: David R. Startzman, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057, email david.startzman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: David R. Startzman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the fees for the inspections of boilers and pressure vessels.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to assist the boiler inspectors in performing their duty to monitor and inspect boiler and pressure vessel activity in the Commonwealth. This administrative regulation also aids the boiler and pressure vessel contractor, mechanic, and owners of boilers or pressure vessels in calculating the fee for a boiler or pressure vessel inspection.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 236.130 requires the commissioner to establish a reasonable fee for the inspection of boilers and pressure vessels. KRS 236.120 establishes the requirements for a Certificate of Inspection. KRS 236.240 establishes the requirement for permits and authorizes the commissioner to establish reasonable fees for the permits.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the inspection fees for boiler, pressure vessels, and pressure piping, and the Certificate of Inspection provided by the department after the inspections.

(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 will eliminate the plan review requirement for boilers, and thus remove an unnecessary requirement for the installation of boilers or pressure vessels. This amendment clarifies the fee for inspections conducted outside standard work hours. This amendment also corrects grammatical errors.

(b) The necessity of the amendment to this administrative regulation: The plan review process is ineffective and causes an unnecessary delay in the installation of boilers.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 236.130 requires the commissioner to establish a reasonable fee for the inspection of boilers and pressure vessels. KRS 236.120 establishes the requirements for a Certificate of Inspection. KRS 236.240 establishes the requirement for permits and authorizes the commissioner to establish reasonable fees for the permits.

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

unjustifiable fees and unnecessary language that may confuse the public. These amendments will also make it more efficient for boiler and pressure vessel contractors to install or repair boilers and pressure vessels.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All licensed individuals engaged in the boiler and pressure vessel trade within the Commonwealth, as well as department personnel.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to comply with this administrative regulation or amendment: These amendments will not impose any additional requirements on any of the regulated entities identified in question (3). This amendment eliminates the requirement of submitting boiler plans prior to installation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): These amendments will not impose any additional costs on any of the regulated entities identified in question (3). The costs for boiler and pressure vessel contractors and owners will decrease with the elimination of the plan review requirement.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment removes the burdensome and ineffective boiler plan review process for boiler and pressure vessel contractors. It enables the boiler and pressure vessel contractor to install boilers and pressure vessels more efficiently. It will also allow more time for boiler inspectors to inspect boilers and pressure vessels rather than reviewing plans.

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

(a) Initially: There are no anticipated additional costs to administer this administrative regulation.

(b) On a continuing basis: There are no anticipated additional costs to administer this administrative regulation on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs to the department. Any department costs resulting from these administrative amendments will be met with existing department funds.

(7) 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: This amendment will not necessitate an increase in fees or require funding from the department for implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees directly or indirectly increased by this administrative regulation amendment.

(9) TIERING: Is tiering applied? Tiering is not applied as all individuals engaged in boiler and pressure vessel work will be subject to the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Section.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. These amendments are authorized by KRS 236.030, KRS 236.130, KRS 236.120, and KRS 236.240.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? These amendments are not anticipated to generate additional revenues for the department. Instead, the department's revenue will decrease by \$34,280.00.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? These amendments are not anticipated to generate additional revenue for the department. Instead, the department's revenue will decrease by \$34,280.00.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment. The decrease in revenue will be partially offset by the increase in inspection fees from enhanced use of inspectors' time on other types of inspections.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment. The decrease in revenue will be partially offset by the increase in inspection fees in other areas.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): \$34,280
Expenditures (+/-): Neutral
Other Explanation: Neutral

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(Amendment)

922 KAR 5:040. Standards for state-funded domestic violence shelters.

RELATES TO: KRS 45.313, 61.870-61.884, 194A.060, 194A.550, 198B.050, 205.455(4), 209.020(2), 209.030(2), (7), 209.140, Chapter 209A, 211.350-211.380, 403.720(1), ~~620.030(2)~~; 620.050, 45 C.F.R. 74, 92, 42 U.S.C. 10401-10420

STATUTORY AUTHORITY: KRS 194A.050(1), 209.030(1); ~~209A.030(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 under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the commonwealth. KRS 209.030(1) authorizes the secretary to promulgate administrative regulations to effect the purposes of KRS Chapter 209 governing ~~the~~ protective services to adults. KRS 209A.045(2) requires the cabinet to designate one (1) nonprofit corporation in each area development district to serve as the primary service provider and regional planning authority for domestic violence shelter, crisis, and advocacy services in the district in which the designated provider is located~~[209A.030(1) authorizes the secretary to promulgate administrative regulations to effect the purposes of KRS Chapter 209A governing the protective services to victims of domestic violence]~~. This administrative regulation establishes performance standards for qualifying applicants for state funds related to domestic violence shelters.

Section 1. Definitions. (1) "Agency" means a private or public nonprofit incorporated organization, or organization in the process of obtaining nonprofit status:

(a) That has the capacity to provide domestic violence shelter and related services to a client; and

(b) With whom the cabinet or its designee contracts for services.

(2) "Cabinet" is defined by KRS 209.020(2) and

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

209A.020(1) [means Cabinet for Health and Family Services].

(3) "Client" means a:

(a) [~~Domestic violence~~] Victim as defined by KRS 209A.020(6);
and

(b) Dependent child of the [~~domestic violence~~] victim.

(4) "Dating violence and abuse" is defined by KRS 209A.020(2) [means an act by an individual that is:

~~(a) Against another individual with whom that person has or has had a dating relationship; and~~

~~(b) 1. Intended to result in:~~

~~a. Physical harm;~~

~~b. Bodily injury;~~

~~c. Assault; or~~

~~2. A threat that reasonably places the individual in fear of:~~

~~a. Imminent physical harm;~~

~~b. Bodily injury;~~

~~c. Assault; or~~

~~d. Sexual assault].~~

(5) "Director" means an individual responsible for the administration of the domestic violence shelter and related services.

(6) "District" is defined by KRS 205.455(4).

(7) "Domestic violence and abuse" is defined by KRS 209A.020(3) [~~403.720(4)~~].

(8) "Domestic violence shelter" means a program which provides a client:

(a) A safe place to stay; and

(b) Related services including:

1. Counseling;

2. Advocacy;

3. Food; and

4. Information and referral services.

(9) "Governing board" means a legally-constituted group of individuals whose function is to oversee operations of an agency providing domestic violence shelter.

(10) "Professional" is defined by KRS 209A.020(5).

(11) "Reportable incidents" means an occurrence that would require the director of the domestic violence shelter to make a report of the incident to the program's governing board for liability reasons.

(12) "Victim" is defined by KRS 209A.020(6).

(13) [(44)] "Volunteer" means a person who:

(a) Is either third-party funded or who is donating free service time; and

(b) Works directly in the domestic violence shelter or is performing a related service at the request of the director.

Section 2. Management. (1)(a) Each agency shall be managed by a governing board constituted to allow broad community participation in its activities.

(b) The governing board shall:

1. Have the authority and responsibility to ensure continuing compliance with this administrative regulation and other relevant federal, state, and local law, including KRS 61.870 to 61.884, 209.030(2), and (7), 209.140, 209A, 45 C.F.R. 74 and 92, where applicable;

2. Develop written personnel policy and procedures including:

a. Job classifications;

b. Specifications;

c. A compensation plan;

d. Attendance and leave policies;

e. Fringe benefits;

f. Affirmative action;

g. Personnel grievance procedures; and

h. Hiring and firing practices, including lay-off and disciplinary procedures;

3. Adopt written bylaws, including:

a. The purpose of the agency;

b. Number of members;

c. Qualifications for board memberships;

d. Composition;

e. The method of selecting members;

f. Terms of members;

g. Officers and duties;

h. Method of electing officers and chairpersons;

i. Standing committees;

j. Provision for approval of programs and budgets;

k. The frequency of board meetings and attendance requirements; and

l. Provision for official record of meetings and action taken; and

4. Be responsible for ensuring that all reports, records, or information deemed necessary to determine fiscal, administrative and programmatic effectiveness are submitted to the cabinet or its designee.

(2)(a) A domestic violence shelter shall create an advisory board for the purpose of studying and recommending functions to the governing board if the governing board provides no direct oversight to the domestic violence shelter.

(b) The governing board shall:

1. Not delegate the responsibility of the final approval, responsibility, accountability, or direction of agency policy to the advisory board; and

2. Retain responsibility for the functions specified in subsection (1) of this section.

(3) Board meetings shall be conducted in compliance with the most current version of "Robert's [~~Roberts~~] Rules of Order".

(4) The governing board shall make a copy of personnel policy and procedures available to staff, volunteers, and the cabinet or its designee.

(5) The governing board and advisory board, if appropriate, shall:

(a) Forward the official minutes of each meeting within thirty (30) days of approval to:

1. Each member of the board; and

2. The cabinet or its designee; and

(b) Follow the guidelines in the most current version of "Robert's Rules of Order".

(6) If the agency is a subsidiary of a larger entity, the provisions of subsections (1) through (5) of this section shall apply to the larger entity.

Section 3. Staff. (1)(a) An agency's governing board shall appoint one (1) staff person as a domestic violence shelter director.

(b) The director shall:

1. Have responsibility for supervision of the duties and activities of staff and volunteers;

2. Coordinate domestic violence shelter and related services;

3. Fulfill the duties as required by the governing and advisory board; and

4. Report directly to the board on domestic violence program activities.

(2) The agency shall:

(a) Maintain and assure the provision of competent staff to provide services at the domestic violence shelter as follows:

1. Volunteers shall be under the control and direction of the director even though they are not paid staff; and

2. Staff shall:

a. Be at least eighteen (18) years of age;

b. Have education, training, or experience to perform their particular job;

c. Have a willingness to work with others, including clients coping with multiple issues;

d. Be knowledgeable in domestic violence and abuse issues; and

e. Be knowledgeable in dating violence and abuse issues;

(b) Submit to the cabinet or its designee a staffing pattern indicating:

1. Areas of responsibility; and

2. Lines of authority and supervision;

(c) Provide and maintain a record of orientation and in-service training for staff and volunteers responsible for service delivery;

(d) Implement a system to assure compliance with:

1. Affirmative action standards; and

2. Equal opportunity employment standards;

(e) Provide a system for hearing and resolving grievances of staff and volunteers; and

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

(f) Provide cabinet-approved training:

1. As governed by KRS 194A.550 to all full and part-time staff and volunteers having direct contact with clients; and
2. To include initial training courses and continuing education courses to be completed at least once every two (2) years.

Section 4. Physical Facilities. (1) The domestic violence shelter shall:

(a) Comply with applicable local, state, and federal building, fire, safety, and health codes relating to construction, sanitation, and building maintenance, including:

1. KRS 45.313;
2. 815 KAR 7:120;
3. 815 KAR 7:125;
4. 815 KAR 10:060; and
5. KRS 198B.050; and
6. KRS 211.350 to 211.380.

(b) Be:

1. Of sound construction;
2. Suitable for residential use;
3. Dry;
4. Adequately heated, ventilated, and lighted; and

(c) Have:

1. Windows, doors, stoves, heaters, furnaces, pipes, and ventilating fans protected;
2. Screening provided for windows and doors unless air-conditioned;
3. Floors free from splinters and easily cleaned; and
4. Gas heaters and stoves properly ventilated.

(2) The domestic violence shelter shall provide a recreation area with comfortable furnishings in sufficient quantity to accommodate the number of children and adults receiving services.

(3) Bedrooms in a domestic violence shelter shall:

(a) Be equipped with a bed or other age- and developmentally appropriate sleeping arrangement [for each client,] of adequate size for each client, with suitable springs, mattress, pillow, and bedding; and

(b) Have adequate closet space and individual drawer space for each client's belongings, including clothing.

(4) The domestic violence shelter and grounds shall be well maintained.

(5) Each domestic violence shelter shall maintain a security system to provide for the physical safety of the client.

Section 5. Medical and Dental. The domestic violence shelter shall assure that access to emergency medical and dental services are available within the community or within close proximity.

Section 6. Meals. The domestic violence shelter shall provide a client with three (3) meals per day, which shall consist of at least three (3) of the following five (5) basic food groups:

- (1) Grains;
- (2) Vegetables;
- (3) Fruits;
- (4) Dairy products; and
- (5) Meat and beans.

Section 7. Services. (1) The domestic violence shelter shall maintain and provide services on a continuing basis and for as many hours as are necessary to meet the needs of an eligible person.

(2) Staff of the domestic violence shelter shall apprise a client of resources available from:

- (a) The domestic violence shelter; and
- (b) The community.

(3) Upon a client's entrance into the domestic violence shelter, or if a client is receiving a domestic violence and abuse or dating violence and abuse related service, domestic violence shelter staff shall obtain and record in client case record the following minimal information:

- (a) Name, date of birth, sex, address, marital status;
- (b) Name and date of birth of an accompanying dependent;

and

(c) Identification of reason for intake.

(4) Upon a client's entrance into the domestic violence shelter, or if a client is receiving a domestic violence related service, domestic violence shelter staff shall obtain and record the following information in a client case record, if observed or needed:

- (a) Identification of physical injury;
- (b) Medical attention provided; and
- (c) Identification of physical condition or ailment, which may impact services to be offered the client;

~~(5) [(a) Immediately following the gathering of the information required in subsections (3) and (4) of this section,] Domestic violence shelter staff shall report [the] information;~~

(a) To law enforcement, upon request of the victim, in accordance with KRS 209A.100; and

(b) Concerning known or suspected child abuse, neglect, or dependency or abuse, neglect, or exploitation of a vulnerable adult to the [offices of the] cabinet [located within the county where the domestic violence shelter exists] in accordance with KRS 209A.110(2) and (3). ~~[(b) This report shall constitute compliance with the provisions of KRS 620.030(2), 209.030(2), and 209A.030(3) and (4).]~~

(6) Upon completion of the gathering of information as required in subsections (3) and (4) of this section, domestic violence shelter staff shall develop a service plan:

- (a) For each client; and
 - (b) To establish a summary of services needed by the client and available within the domestic violence shelter and community.
- (7) Domestic violence shelter staff shall document and maintain in the client's case record any:

(a) Referral of the client for services outside the domestic violence shelter; and

(b) Service coordination with other agencies.

(8) The domestic violence shelter shall:

- (a) Offer Daily program activities with emphasis upon each client's physical, intellectual, and social needs;
- (b) Have and enforce a policy, which prohibits possession of weapons, alcohol, or nonprescribed drugs while in the shelter;
- (c) Provide a locked cabinet for client medication storage;
- (d) Develop and implement procedures to provide for the movement to more appropriate accommodations for those clients who:

1. Present a danger to self or others; or
2. Refuse to comply with domestic violence shelter rules governing the safety of staff and clients;

(e) Establish written procedures to be given to each client upon initial contact describing:

1. The services to be rendered; and
2. A method for handling client complaints including:
 - a. An opportunity for the client to have access to the cabinet's grievance procedure for review in accordance with 922 KAR 1:320, Section 10[8]; and
 - b. The cabinet's access to client records in the possession of each domestic violence shelter for review upon the filing of a service complaint by the client;

(f) Assure that services are available to clients in the area development district in which the agency is located;

- (g) Accept referrals on a statewide basis, if space is available;
- (h) Cooperate with other domestic violence agencies on a statewide basis;

(i) Develop and implement procedures for emergency and temporary domestic violence shelter closure;

(j) Maintain a record of reportable incidents involving a client and forward a copy of the incident report to the cabinet or its designee; and

(k) Develop and implement a plan for the provision of outreach services in counties of the area development district in which it is located.

(9)(a) Unless conditions specified in paragraph (b) of this subsection are met, domestic violence shelter staff shall not dispense nor administer medication, but shall allow each client to take their own medication as prescribed.

(b) Domestic violence shelter staff may dispense or administer

emergency medication to a client if:

1. The domestic violence shelter staff has received training on the emergency medication;

2. Emergency medication may be necessary to save a client's life; and

3. Measures are taken to prevent unauthorized access to the emergency medication by a client in the domestic violence shelter.

(10) A domestic violence shelter shall make educational materials available to professionals in accordance with KRS 209A.130.

Section 8. Records. (1) A case record shall be:

(a) Maintained on each client served by the domestic violence shelter during the time that the client is receiving services;

(b) Strictly confidential; and

(c) Shared only in accordance with KRS 209A.070.

(2) Records of the cabinet or its designee in the possession of an agency are strictly confidential and shall be shared with other individuals or organizations:

(a) Only as provided in KRS 209.140, 194A.060, and 620.050; and

(b) With the prior written permission of the cabinet.

(3) The cabinet shall have access to the agency property and to records of services provided, including agency financial and client case records for the purpose of auditing and monitoring.

(4) Domestic violence shelters shall keep client case records for six (6) years after the last day of service.

ADRIA JOHNSON, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: August 30, 2017

FILED WITH LRC: September 7, 2017 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on October 23, 2017, at 9:00 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by October 16, 2017, 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. The hearing is open to the public. Any person who attends 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 attend the public hearing, you may submit written comments on this proposed administrative regulation until October 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Laura Begin, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone 502-564-6746, fax 502-564-2767, email Laura.Begin@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Elizabeth Caywood, phone (502) 564-3703, email Elizabeth.Caywood@ky.gov.; and Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes performance standards for qualifying applicants for state funds related to domestic violence shelters.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish performance standards for state-funded domestic violence shelters.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes through its establishment of performance standards for applicants of state funds related to domestic violence shelters.

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

administrative regulation assists in the effective administration of the statutes through its establishment of performance standards for state-funded domestic violence shelters.

(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: The amendment to this administrative regulation updates terminology, requirements concerning the provision of educational materials to professionals, and reporting mandates congruent with 2017 Ky. Acts ch. 191. In addition, the amendment allows a domestic violence shelter staff to use emergency medication under certain conditions. The amendment also makes technical corrections in accordance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update the administrative regulation congruent with statutory and other regulatory changes resulting from House Bill 309 from the 2017 Regular Session of the Kentucky General Assembly (2017 Ky. Acts ch. 191). The amendment also improves shelter clients' health and safety through better access to emergency medications.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by aligning the performance standards of state-funded domestic violence shelters with recently enacted state law eliminating mandatory reporting of domestic violence to the cabinet unless the violence involves a vulnerable adult and/or child, 2017 Ky. Acts ch. 191.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation ensures performance standards for applicants of state funds related to domestic violence shelters are congruent with new or amended statutes and other associated regulatory changes resulting from 2017 Ky. Acts ch. 191, which included repeal and reenactment of various sections of KRS Chapter 209A pertaining to domestic violence victim services.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are 15 domestic violence shelters across the state ensuring victim services in each Kentucky county and access to shelter services within 60 miles of any Kentucky resident. During State Fiscal Year 2016, the domestic violence shelters provided shelter and services to 18,942 victims of domestic violence and their 1,906 dependent children, for a statewide total of 20,902.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: In accordance with 2017 Ky. Acts ch. 191, domestic violence shelters have assumed new responsibilities to educate professionals in their service areas concurrent with reduced mandatory reporting burdens.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment conforms to recently changed statutes. There are no new costs borne by domestic violence shelters as a result of this regulatory amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Clients of the domestic violence shelters will benefit from the new service delivery effected by 2017 Ky. Acts ch. 191 and improved access to emergency medication.

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

(a) Initially: The administrative body does not project any new or additional initial costs as a result of the amendment to this administrative regulation.

(b) On a continuing basis: At this time, the administrative body does not project any new or additional costs as a result of the amendment to this administrative regulation.

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

The state-funded domestic violence shelter network receives General Funds, restricted funds derived from marriage licenses (a.k.a., trust and agency funds), and funding through the Family Violence Prevention and Services Grant, the Social Services Block Grant, and the Temporary Assistance for Needy Families Block Grant.

(7) 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: The amendment to this administrative regulation is not projected to require an increase in fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? Tiering is not applied, because this administrative regulation is applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

42 U.S.C. 10401-10420

2. State compliance standards. KRS 194A.050(1), 209.030(1)

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 10401-10420

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts the Cabinet for Health and Family Services and, more indirectly, other governmental professionals whose job duties may include service provision to or intersection with a victim of domestic violence.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 209.030(1), 42 U.S.C. 10401-10420

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation is not projected to generate revenue for state or local government for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation is not projected to generate revenue for state or local government for subsequent years.

(c) How much will it cost to administer this program for the first year? The administrative body does not project any new or additional initial costs as a result of the amendment to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? The administrative body does not project any new or additional initial costs as a result of the amendment to this administrative regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative

regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(Amendment)

922 KAR 5:090. General adult services.

RELATES TO: KRS ~~Chapter 209, 209A.020(6)~~[209.020 (4), (6), (7), (8), (15), 210.290], 403.720(2), 42 U.S.C. 1397

STATUTORY AUTHORITY: KRS 194A.050(1), 209.035[~~EO 98-734~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet, KRS 209.035 requires the Cabinet for Health and Family Services to promulgate administrative regulations to establish criteria for general adult services. This administrative regulation establishes[the] general adult services to the extent funds are available[program].

Section 1. Definitions. (1) "Abuse" is defined by[at] KRS 209.020~~(8)~~[(7)].

(2) "Adult" is defined by[at] KRS 209.020(4).

(3) "Alternate care" means a level of care licensed by the cabinet as follows:

(a) Family care home in accordance with 902 KAR 20:041;

(b) Intermediate care facility in accordance with 902 KAR 20:051;

(c) Intermediate care facility for individuals with an intellectual disability as defined by 907 KAR 1:022;

(d) Nursing facility as defined by 907 KAR 1:022;

(e) Personal care home as defined by KRS 216.750(2); and

(f) Skilled nursing facility as defined by 907 KAR 1:022 as "high intensity nursing care service".

(4) "Cabinet" is defined by KRS 209.020(2)[means the Cabinet for Health and Family Services].

(5)[(4)] "Caretaker" is defined by[at] KRS 209.020(6).

(6)[(5)] "Exploitation" is defined by[at] KRS 209.020~~(9)~~[(8)].

(7)[(6)] "Family member" is defined by[at] KRS 403.720(2).

(8)[(7)] "General adult services" means a voluntary preventive service aimed at~~assisting~~].

(a) Assisting an adult to attain and function at the adult's[his] highest level of self-sufficiency and autonomy; and

(b)[H] Maintaining the adult in the community.

(9)[(8)] "Neglect" is defined by[at] KRS 209.020~~(16)~~[(15)].

Section 2. Criteria for Intake and Assessment. (1) If a ~~cabinet[social service]~~ worker and the adult agree, an individual eighteen (18) years of age or older shall be eligible for general adult services if the individual:

(a)[H-he] Is:

1. Mentally or physically dysfunctional and not in an abuse, neglect, or exploitation situation; and

2. Requesting the service or has directed the request for the service[in a situation where service is requested at the direction of an individual] through another individual or agency;

(b) Is a victim as defined by KRS 209A.020(6)[~~if an allegation of abuse, neglect, or exploitation is made and the alleged perpetrator is a:~~

1. Former spouse;

2. Former cohabiting partner; or

3. Partner with a child in common]; or

(c)[H-he] Requests a transitioning service from out-of-home

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

care within twelve (12) months of release from the cabinet's commitment.

(2) An individual sixty-five (65) years of age or older shall be eligible for general adult services if the individual[he] is:

- (a) Not mentally or physically dysfunctional; and
- (b) Allegedly being abused, neglected, or exploited by a:
 1. Family member;
 2. Household member; or
 3. Caretaker.

Section 3. Time Frame. An adult services assessment shall be:

(1) ~~[Be]~~Initiated within three (3) working days of receipt of the request for services; and

(2) ~~Completed~~~~[Include completion of the Adult Narrative/Investigation/Assessment form]~~ within forty-five (45) working days of initiation unless an extension is granted by the designated cabinet staff in a supervisory role.

Section 4. ~~Service Provision~~~~[Tracking information on general adult services shall be maintained by the cabinet for administrative purposes.~~

~~Section 5].~~ Appropriate and necessary service provision shall include:

- (1) Information and referral;
- (2) ~~[The]~~Assessment; and
- (3) Supportive and on-going services~~[including]~~ that, if required by the circumstances, include:
 - (a) Services focusing on prevention;
 - (b) Social work counseling;~~[and]~~
 - (c) Arranging transportation; or
 - (d) Placement and movement in accordance with Section 5 of this administrative regulation.

Section 5. Placement and Movement. (1) Except under a condition pursuant to KRS Chapter 209 or 922 KAR 5:070, the cabinet shall respond to a request for placement and movement service, but shall not make the decision to place or move an adult.

(2) A cabinet worker shall assist an adult in locating and assisting in placement and movement, if:

(a) The request for placement and movement service was made by one (1) of the following:

1. The adult in need of services;
 2. The guardian of the adult in need of services;
 3. The holder of a durable power of attorney for the adult in need of services;
 4. The facility in which the adult in need of services is being treated if no other person is available and willing to assist;
 5. Another state agency; or
 6. A Court order;
- (b) The adult in need of services has not been adjudicated mentally disabled;
- (c) The adult in need of services agrees to the placement and movement service; and
- (d) All other options have been explored and rejected.

(3) A cabinet worker shall:

- (a) Assist a Medicaid recipient in locating placement or assistance in placement and movement; and
- (b) Consider every available community resource that may assist the adult to remain at home or return home during the placement and movement process.

(4) A request for a placement and movement service may result from a:

- (a) Protective services investigation in accordance with 922 KAR 5:070;
- (b) Change in level of care;
- (c) Normal movement into or out of an alternate care facility;
- (d) Dissatisfaction of a resident; or
- (e) Closure of an alternate care facility.

Section 6. Tracking information on general adult services shall be maintained by the cabinet for administrative purposes.~~[Incorporation by Reference. (1) The Adult Narrative/Investigation/Assessment Form, edition 11/99, is incorporated by reference.~~

~~(2) This material may be inspected, copied, or obtained at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

ADRIA JOHNSON, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: August 30, 2017

FILED WITH LRC: September 7, 2017 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on October 23, 2017, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by October 16, 2017, 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 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 October 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Laura Begin, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone 502-564-6746, fax 502-564-2767, email Laura.Begin@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Elizabeth Caywood, phone (502) 564-3703, email Elizabeth.Caywood@ky.gov.; and Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes general adult services.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish general adult services.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms to the content of the authorizing statutes through its establishment of general adult services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation currently assists in the effective administration of the statutes through its establishment of general adult services.

(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: The amendment will change the existing administrative regulation by removing outdated materials and incorporating voluntary service provision to a victim of domestic violence and abuse or dating violence and abuse in accordance with 2017 Ky. Acts ch. 191. In addition, the amendment adds relevant content from 922 KAR 5:100 that has been proposed for concurrent repeal. Lastly, the administrative regulation makes technical corrections in accordance with KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: Under KRS Chapter 209A, as amended by 2017 Ky. Acts ch. 191, reporting of spouse abuse is no longer mandated. The amendment to this administrative regulation is necessary to ensure service provision to a victim of domestic violence and abuse or dating violence and abuse, upon request, to promote the welfare of said victims in tandem with efforts and service provision through Kentucky's regional domestic violence shelter network. In addition, the amendment to this administrative regulation addresses Red Tape Reduction comments.

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

regulation conforms to the content of the authorizing statutes through its update of general adult services conforming to agency practice, legislation enacted during the 2017 Regular Session of the Kentucky General Assembly, and public comments received through the Red Tape Reduction initiative.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes through its update and refinement of general adult services and in the promotion of adult health, safety, and welfare.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The cabinet does not capture the adults who seek and receive only general adult services separate from its provision of adult protective services. At this time, the cabinet is unable to project the number of victims of domestic violence and abuse and dating violence and abuse who will seek general adult services. Under the past mandatory reporting laws, a small percentage of spouse abuse victims engaged with the cabinet after successful contact.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: There is no new action required of regulated entities. Rather, victims of domestic violence and abuse or dating violence and abuse have the option of accessing general adult services through the cabinet.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation does not impose a cost on regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Victims of domestic violence and abuse and dating violence and abuse will have the option to access general adult services in effort to promote their welfare in tandem with other efforts and service provision in accordance with KRS Chapter 209A as amended by 2017 Ky. Acts ch. 191. Other adults and professionals will benefit from the enhanced clarity provided through the amendment to this administrative regulation.

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

(a) Initially: Initial implementation costs to the administrating agency will be within existing appropriations.

(b) On a continuing basis: Ongoing implementation of the administrative regulation by the agency will be within existing appropriations.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Social Services Block Grant and General Funds are utilized for the implementation and enforcement of this administrative regulation. Medicaid funds may be leveraged for limited, reimbursable service provision.

(7) 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: An increase in fees or funding is not necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied, because this administrative regulation will be applied in a like manner statewide.

2. State compliance standards. KRS 194A.050(1), 209.035
3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 1397

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation does not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1), 209.035

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will generate no new revenues for state or local government in its first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will generate no new revenues for state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? Initial implementation costs to the administrating agency will be within existing appropriations.

(d) How much will it cost to administer this program for subsequent years? Ongoing implementation of the administrative regulation by the agency will be within appropriations.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.
42 U.S.C. 1397

NEW ADMINISTRATIVE REGULATIONS

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(New Administrative Regulation)

103 KAR 1:120. Employee Access to Federal Tax Information (FTI).

RELATES TO: KRS 18A.095, 131.032, 131.081, 131.130, 131.190, 131.990

STATUTORY AUTHORITY: KRS 42.014, 131.032, 131.081, 131.130, 131.190

NECESSITY, FUNCTION, AND CONFORMITY: KRS 42.014 requires the Office of the Secretary to establish internal organization, functions and duties as necessary to fulfill the duties of the cabinet. KRS 131.032 requires each employee of the Department of Revenue, including contract staff, with access to or use of federal tax information (FTI) to submit to a criminal background investigation by means of a fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation. This administrative regulation establishes the guidelines to implement the requirements set forth in KRS 131.032 and Internal Revenue Service (IRS) Publication 1075.

Section 1. Definitions. (1) "Applicant" means an individual who applies for employment with the Finance and Administration Cabinet, Department of Revenue, or a contractor working on behalf of those agencies who have, or will likely have access to federal tax information in their regular course of business.

(2) "Contract Staff" means an individual employed with the Finance and Administration Cabinet, Department of Revenue, or a contractor working on behalf of those agencies that does not meet the definition of a classified employee with KRS Chapter 18A status.

(3) "Criminal background investigation" means a local, state or national fingerprint-supported criminal history background investigation performed in accordance with KRS 131.032.

(4) "Classified employee" is defined by KRS 18A.005(7).

(5) "Department" is defined by KRS 131.010(2).

(6) "Disqualifying offense" means a conviction, plea of guilty, Alford plea, or plea of nolo contendere to any felony, misdemeanor, or offense the nature of which indicates that the employee constitutes an unreasonable and immediate risk to the security of FTI or confidential taxpayer information, as determined by the department.

(7) "Federally funded time-limited employee" is defined by KRS 18A.005(15).

(8) "Federal tax information" or "FTI" means a return or return information received directly from the IRS or obtained through an authorized secondary source, such as the Social Security Administration (SSA) or any entity acting on behalf of the IRS pursuant to an Internal Revenue Code (IRC) Section 6103 (p)(2)(B) Agreement.

(9) "Responsible agency" means an office within the Cabinet, Department, or an entity under contract with the cabinet or department, that employs or offers employment to an individual in a position for which the job duties include access to FTI.

(10) "Unclassified employee" means an employee that meets the criteria established in KRS 18A.115.

Section 2. Requirement for Criminal Background Investigations. (1) The cabinet, department, or responsible agency shall require prospective or current employees, including contract staff, whose job duties include access to FTI, to submit to a fingerprint-based local, state or national criminal background investigation as a condition of initial or continued employment:

(a) After the individual is offered a job but before they begin working; and

(b) At least one (1) time every ten (10) years thereafter.

(2) The cabinet, department, or responsible agency that requests a fingerprint-based local, state or national criminal background investigation on behalf of a prospective or current

employee shall incur all fees associated with the cost of each background investigation requested.

(3) The cabinet, department, or responsible agency shall not employ any person in a position for which job duties include access to FTI or confidential taxpayer information if the individual refuses to consent to a fingerprint-based state or national criminal background investigation.

(4) The cabinet, department, or responsible agency shall notify each prospective or current employee determined to have a disqualifying offense.

Section 3. Disqualification. The cabinet, department, or responsible agency shall not employ or offer employment to an individual with a disqualifying offense listed in Section 1 of this administrative regulation or whose background investigation reveals any factor that bears upon the fitness of the individual to work in a position with access to FTI or confidential taxpayer information. The department shall have the sole discretion to determine if a prospective or current employee of the department is suitable to work in a position with access to FTI or confidential taxpayer information to ensure its protection and security in accordance with KRS 131.190, IRS Publication 1075, and Finance and Administration Cabinet Standard Procedure 6.1.2 entitled "Confidentiality of State and Federal Information".

Section 4. Individuals Ineligible to be Hired. The cabinet, department, or responsible agency may refuse to employ, contract with, or permit to work as an employee, any applicant that submits to a background investigation if one (1) or more of the following conditions apply:

(a) The applicant refuses to provide photo identification;

(b) The applicant fails to submit their fingerprints at an authorized collection site as directed, within five (5) business days of being offered employment;

(c) Upon completion of the criminal background investigation, the cabinet or department receives notice that the applicant is found to have a disqualifying offense; or

(d) Final and acceptable disposition of a criminal charge or offense related to a disqualifying offense is not provided to the department within sixty (60) days of fingerprint submission.

Section 5. Notice of a Disqualifying Offense and Appeals - Applicants. (1) The cabinet, department or responsible agency shall notify applicants determined to have a disqualifying offense.

(2) If an applicant wishes to obtain information concerning the disqualifying offense or challenge the accuracy of a criminal background investigation, the department shall refer the individual to the appropriate state or federal law enforcement agency.

Section 6. Notice of a Disqualifying Offense and Appeals - Current Employees. (1) A current employee with classified status found to have a disqualifying offense upon completion of the criminal background investigation may be:

(a) Immediately removed from duties with access to FTI or confidential taxpayer information;

(b) Immediately placed on administrative leave pending an internal review of the disqualifying offense; or

(c) Dismissed from employment where the nature of the disqualifying offense presents an immediate, serious, and irreparable risk to FTI or confidential taxpayer information if the employee's job duties require access to FTI or confidential taxpayer information.

(2) A cabinet or department classified employee whose background investigation reveals a disqualifying offense shall be eligible for reconsideration under an internal department review process and determination in accordance with KRS Chapter 18A.

(3) A cabinet or department classified employee may submit a written request for an internal employment reconsideration review to the Division of Human Resources no later than fourteen (14) calendar days from the date of notice of a disqualifying offense issued pursuant to Section 2 of this administrative regulation.

(4) A cabinet or department classified employee who requests a reconsideration of dismissal may be retained on staff, at the discretion of the department, during the review process subject to the following factors:

- (a) The nature and severity of the disqualifying offense;
- (b) The disposition of the offense;
- (c) The time elapsed since the disqualifying offense;
- (d) The employee's personnel history; and
- (e) Whether the employee is assigned duties that require access to FTI or confidential taxpayer information.

(5) The request for an internal employment reconsideration review shall include the following information:

(a) A written explanation of each disqualifying offense, including:

- 1. A description of the events related to the disqualifying offense;
- 2. The number of years since the occurrence of the disqualifying offense;
- 3. The age of the offender at the time of the disqualifying offense; and
- 4. Any other relevant and mitigating circumstances regarding the offense.

(b) Official documentation showing that all fines, including court-imposed fines, costs, or restitution, have been paid, or documentation showing adherence to a payment schedule, if applicable;

(c) The date probation or parole was satisfactorily completed, if applicable; and

(d) Employment and character references, including any other evidence demonstrating the ability of the individual to perform the employment responsibilities and duties competently.

(6) No later than thirty (30) calendar days from receipt of the written request for the reconsideration review, the Appointing Authority shall notify the employee of the final determination of the reconsideration review by the department.

(7) The employee may appeal the results of a reconsideration review to the Personnel Board in accordance with KRS 18A.095.

Section 7. Challenges to Criminal History Record Information.

(1) An individual subject to a criminal background investigation required by KRS 131.032 and this administrative regulation shall have the right to request and inspect his or her criminal history record and to request correction of any inaccurate information.

Section 8. Pardons, Diversions, and Expungements. An applicant, classified employee, unclassified employee, federally funded time-limited employee, or contract employee who has received a pardon for a disqualifying offense, has had a disqualifying offense dismissed after successful completion of a diversion program, or has had a disqualifying offense expunged, shall not be barred from employment in a position with job duties that include access to or use of FTI or confidential taxpayer information, for reasons related to the underlying disqualifying offense(s).

DANIEL P. BORK, Commissioner

WILLIAM M. LANDRUM III, Secretary

APPROVED BY AGENCY: September 14, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 cancelled. 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 through October

31, 2017. 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: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for fingerprint-based state and national criminal background investigations for prospective and current employees of the Finance and Administration Cabinet or Kentucky Department of Revenue, including contract staff, whose job duties include access to or use of Federal Tax Information (FTI).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the background investigation requirements established by IRS Publication 1075 (Rev. 11-2016) and HB 262 from the 2017 legislative session.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing requirements for a fingerprint-based state and national criminal background investigation for prospective and current employees including contract staff whose job duties include access to or use of FTI.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will outline the process and requirements that must be met in order to be in compliance with the authorizing statutes.

(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 is a new administrative regulation.

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects prospective and current employees, including contract staff, whose job duties include access to or use of FTI in the possession of the cabinet and are therefore subject to fingerprint-based state and national background investigations in accordance with IRS Publication 1075 (Rev. 11-2016) and KRS 131.032.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: Prospective and current employees including contract staff must submit to a fingerprint-based state and national background investigations in accordance with the IRS Publication 1075 (Rev. 11-201) and KRS 131.032.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to current or prospective employees. The department will absorb the cost of all background investigations.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will remain in compliance with current state and federal requirements governing the security of FTI.

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

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

(a) Initially: The department estimates approximately 1,000 current staff will be subject to a fingerprint-based state and national criminal background investigation initially, resulting in approximately \$75,000 in costs to the department.

(b) On a continuing basis: Going forward, the cost for background investigations is expected to be approximately \$65 per each new employee and will be absorbed by the agency budget. Current staff must submit to a new investigation at least once in each subsequent 10-year period. Department expenditures on a continuing basis are indeterminable because the number of employees that will be investigated each year will change based on need.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Budgeted department funds.

(7) 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 expected to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation will not establish or increase any fees.

(9) TIERING: Is tiering applied? No. Tiering is not applicable as compliance with this administrative regulation applies equally to all employees affected by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects prospective and current agency employees including contract staff whose job duties include access to or use of federal tax information (FTI).

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. IRS Publication 1075 (Rev. 11-2016), KRS 42.014 and KRS 132.032.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Because the Department of Kentucky State Police (KSP) charges \$53 for a criminal background investigation and approximately 1,000 department staff and contractors are expected to submit to fingerprint investigations during the first year, this administrative regulation is expected to generate approximately \$53,000 in revenue for KSP initially and \$12,000 for the FBI.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The volume of fingerprint investigations facilitated in accordance with this administrative regulation is indeterminable after the first year as the number of employees needing a background investigation on an ongoing basis is unknown. Therefore, the revenue generated for KSP in subsequent years is expected to decrease and be minimal.

(c) How much will it cost to administer this program for the first year? Approximately \$75,000 based on 1,000 employees at a rate of \$65 per employee plus \$10,000 for needed equipment.

(d) How much will it cost to administer this program for subsequent years? Expenditures on a continuing basis are indeterminable, but will be based on the methods of background investigation available at that time and the cost associated with such.

Note: If specific dollar estimates cannot be determined, provide

a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. IRS Publication 1075 (Rev. 11-2016), 26 C.F.R. 301.6103(p)(7)-1, 26 U.S.C. 6103

2. State compliance standards. KRS Chapter 42 and 131.032.

3. Minimum or uniform standards contained in the federal mandate. IRS Publication 1075 (Rev. 11-2016) requires an FBI fingerprint investigation for any individual granted access to Federal Tax Information (FTI). 26 C.F.R. 301.6103(p)(7)-1 allows the Internal Revenue Service (IRS) to terminate or suspend disclosure of returns and return information to any authorized recipient if the IRS determines that:

(1) The authorized recipient has allowed an unauthorized inspection or disclosure of returns or return information and the authorized recipient has not taken adequate corrective action to prevent the recurrence of an unauthorized inspection or disclosure; or

(2) The authorized recipient does not satisfactorily maintain the safeguards for protecting returns and return information, and has made no adequate plan to improve its system to maintain the safeguards satisfactorily. 26 U.S.C. 6103 pertains to the confidentiality and disclosure of returns and return information.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not impose stricter requirements than those required by federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

FINANCE AND ADMINISTRATION CABINET Department of Revenue (Repealer)

103 KAR 16:391. Repeal of 103 KAR 16:390 and 103 KAR 16:020.

RELATES TO: KRS 131.130(3), 141.040

STATUTORY AUTHORITY: KRS 131.130, 131.131, 141.018, 141.040

NECESSITY, FUNCTION, AND CONFORMITY: During the 2016 session of the Kentucky General Assembly, SB 129 was passed amending KRS 131.130, 141.050, and 141.068 to delete requirements that forms prescribed by the Department of Revenue be promulgated in an administrative regulation. Under the provisions of SB 129, the forms prescribed in 103 KAR 16:390 will only be posted on the department Web site going forward. Furthermore, the statutory authority for 103 KAR 16:020 has been repealed and is no longer found in KRS 141.010.

Section 1. The following administrative regulations are hereby repealed:

(1) 103 KAR 16:020, Qualified exempt organization under KRS 141.040(8); and

(2) 103 KAR 16:390. Attachment for corporate office information – Form 720, 720S, and 75, Schedule Q.

DANIEL BORK, Commissioner

APPROVED BY AGENCY: August 28, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort Kentucky 40601. Individuals interested in being heard at

this hearing shall notify this agency in writing by 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 cancelled. 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 through October 31, 2017. 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: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 103 KAR 16:020, Qualified exempt organization under KRS 141.040(8) and 103 KAR 16:390, Attachment for corporate officer information – Form 720, 720S, 765, Schedule Q which are obsolete and are no longer needed.

(b) The necessity of this administrative regulation: KRS Chapter 13A requires that regulations that will not be amended or updated in the future to be repealed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 13A requires that all regulations made inactive or ineffective by statute revision be repealed.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will insure that the Department of Revenue is in compliance with KRS 13A.

(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: N/A

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: None.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: None.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): None.

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

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: None.

(7) 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 change.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased by this regulation.

(9) TIERING: Is tiering applied? Tiering is not applied since no regulated entities will be affected by the repeal of this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? None. Processes within DOR have already been adapted to provide guidance for the information provided in these regulations. These regulations are being repealed as part of a larger cleanup effort of outdated or obsolete regulations that are still in effect.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 13A.310 requires that all regulations that will no longer be updated in the future to be repealed.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no effect on expenditures and revenues for government agencies.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None. This is only repealing unnecessary regulations.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None.

(d) How much will it cost to administer this program for subsequent years? None.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FINANCE AND ADMINISTRATION CABINET

Department of Revenue

(Repealer)

103 KAR 17:151. Repeal of 103 KAR 17:150.

RELATES TO: KRS 141.010, 141.020, 141.0205, 141.180, 141.210, 141.388

STATUTORY AUTHORITY: KRS 131.130(1), 141.388

NECESSITY, FUNCTION, AND CONFORMITY: HB 3 of the 2009 Special Session of the Kentucky General Assembly created a new section of KRS 141 establishing a nonrefundable tax credit of \$5,000 against individual income tax for the purchase of a qualified new home purchase on or after July 26, 2009 for a period of one year. Because this tax credit expired in 2010 and was never renewed, this administrative regulation is obsolete and no longer needed.

Section 1. 103 KAR 17:150, New home tax credit is hereby repealed.

DANIEL BORK, Commissioner

APPROVED BY AGENCY: August 28, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building,

Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 cancelled. 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 through October 31, 2017. 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: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: Repeals 103 KAR 17:150 that provided the application process with the Department of Revenue for a \$5,000 new home tax credit established in KRS 141 by HB 3 of the 2009 special session of the General Assembly. The provisions of this credit expired in 2010 and was never renewed. Therefore, this regulation is no longer needed.

(b) The necessity of this administrative regulation: KRS 13A requires a regulation that will no longer be updated or effective to be repealed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation filing is required per the provisions of KRS 13A to repeal regulations that will no longer be in effect.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will ensure that the Department of Revenue is in compliance with KRS 13A.

(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: N/A.

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: None.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: None.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): None.

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

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A

(7) 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 change.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased by this regulation.

(9) TIERING: Is tiering applied? Tiering was not applied for this regulation because it is repealing an existing regulation that is no longer needed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? None. This regulation is repealing 103 KAR 17:150 regarding the application process for a \$5,000 tax credit against individual income tax for the purchase of a new home because the provisions of the credit expired in 2010 and are no longer applicable. Therefore, this regulation is not needed.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 13A requires that administrative regulations that will not be updated to be repealed. 103 KAR 17:150 was filed in 2009 and never updated.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no effect on expenditures and revenues for state or local government agencies as a result of repealing of this administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Repealer)**

103 KAR 50:021. Repeal of 103 KAR 50:020, 103 KAR 50:030 and 103 KAR 50:040.

RELATES TO: KRS 65.7069, 65.7045, 65.7073, 65.7075, 65.7083

STATUTORY AUTHORITY: KRS 65.7071(2)(a)3.b.i, 65.7071(2)(b)

NECESSITY, FUNCTION, AND CONFORMITY: 2008 Ky. Acts ch. 178 (HB 611) abolished the Division of Tax Increment Financing within the Department of Revenue and repealed, reenacted, or amended KRS 65.7045, 65.7073, 65.7075 and 65.7083 to establish a new Subchapter 30 of KRS Chapter 154 concerning tax increment financing projects and provide that the Kentucky Economic Development Finance Authority and the Cabinet for Economic Development would now oversee the administration of Tax Increment Financing projects.

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

Section 1. The following regulations are hereby repealed:

- (1) 103 KAR 50:020, Application for state participation in tax increment financing projects;
- (2) 103 KAR 50:030, Commercially reasonable limits on financing costs; and
- (3) 103 KAR 50:040, General administration.

DANIEL BORK, Commissioner

APPROVED BY AGENCY: August 28, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 cancelled. 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 through October 31, 2017. 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: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: Repeals 103 KAR 50:020, 103 KAR 50:030 and 103 KAR 50:040 that had oversight for tax increment financing projects prior to 2008 when the authority and administration was transferred from the Department of Revenue to the Kentucky Economic Development Finance Authority and the Cabinet for Economic Development.

(b) The necessity of this administrative regulation: KRS Chapter 13A requires a regulation that will no longer be updated or effective to be repealed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation filing is required per the provisions of KRS 13A to repeal regulations that will no longer be in effect.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will ensure that the Department of Revenue is in compliance with KRS 13A.

(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: N/A.

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: None.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: None.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): None.

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

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A

(7) 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 change.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased by this regulation.

(9) TIERING: Is tiering applied? Tiering was not applied for this regulation because it is repealing an existing regulation that is no longer needed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? None. This regulation is repealing regulations under KRS Chapter 131 because the authority and administration of the subject matter has been transferred from the Finance and Administration Cabinet, Department of Revenue to the Kentucky Economic Development Finance Authority (KEDFA) and the Cabinet for Economic Development.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 154.30 was created in 2008 Ky. Acts ch. 178 (HB 611) to abolish the Division of Tax Increment Financing within the Department of Revenue and repeal, reenact, or amend KRS 65.7045, 65.7073, 65.7075 and 65.7083 to provide that KEDFA and the Cabinet for Economic Development would now oversee the provisions provided in 103 KAR 50:020, 103 KAR 50:030 and 103 KAR 50:040.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The Cabinet for Economic Development has administered tax increment financing projects under KRS Chapter 65 since 2008. Therefore, there will be no effect on expenditures and revenues for state or local government agencies as a result of repealing of this administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FINANCE AND ADMINISTRATION CABINET
Office of the Controller
(Repealer)

200 KAR 38:021. Repeal of 200 KAR 38:020 and 200 KAR 38:030.

RELATES TO: KRS 23A.205, 23A.206, 23A.2065, 23A.215, 24A.175, 24A.176, 24A.1765, 24A.180, 42.320, 189A.050

STATUTORY AUTHORITY: KRS 42.0201(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 42.0201(3) authorizes the Controller's Office to establish guidelines for the tracking of expenditures of the state. These regulations allocate various costs and fees of persons either convicted of a criminal offense in circuit court or convicted of driving under the influence of alcohol or other substances. Sufficient guidance is now provided in statute for the administration of these costs and fees. Therefore, these administrative regulations are no longer needed.

Section 1. The following administrative regulations are hereby repealed:

(1) 200 KAR 38:020, Allocation of driving under the influence service fee; and

(2) 200 KAR 38:030, Allocation and distribution of criminal court fees.

WILLIAM M. LANDRUM III, Secretary

APPROVED BY AGENCY: September 6, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 cancelled. 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 through October 31, 2017. 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: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502)564-9526, fax (502)564-3875(), email Lisa.Swiger@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Lisa Swiger

(1) Provide a brief summary of:

(a) What this administrative regulation does: Repeals 200 KAR 38:020 and 200 KAR 38:030. Sufficient guidance on the administration of the DUI service fees and County Clerk fees associated with these regulations is now provided in KRS 189A.050 and KRS 133.240. Therefore, a regulation is no longer needed.

(b) The necessity of this administrative regulation: KRS 13A.310 requires a regulation that will no longer be updated or effective to be repealed. These regulations have not been revised or updated since 2005.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation filing is required per the provisions of KRS 13A.310 that requires the repeal of a regulation that will not be updated or considered in effect in the future.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation is repealing an outdated or unnecessary regulation, thereby complying with KRS Chapter 13A.

(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 regulation is not an amendment to an existing regulation, but rather repealing a regulation that is no longer needed.

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: No person, business, organization or state and local government will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: None

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): None

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

(a) Initially: None

(b) On a continuing basis: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A

(7) 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 change

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased by this regulation.

(9) TIERING: Is tiering applied? Tiering was not applied for this regulation because it is repealing an existing regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? None. KRS 189A.050 and KRS 133.240 are the authorizing statutes for the fees regulated by 200 KAR 38:020 and 200 KAR 38:030. These statutes were updated in 2016 to provide sufficient guidance for the information provided in these regulations. The Finance and Administration Cabinet will no longer need to review or update these regulations.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 13A.310 requires that all regulations that will no longer be updated in the future to be repealed.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no effect on expenditures and revenues for state or local government agencies. The repeal of these regulations will have no effect on the collection of these fees. The fees and costs associated with these regulations will continue to be collected and allocated as they currently are under the guidance of the authorizing statutes.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities,

counties, fire departments, or school districts) for the first year? None. This regulation only repeals an unnecessary administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**GENERAL GOVERNMENT CABINET
Kentucky Board of Nursing
(New Administrative Regulation)**

201 KAR 20:065. Professional standards for prescribing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone by APRNs for medication assisted treatment for opioid use disorder.

RELATES TO: KRS 314.011, 314.042; Public Law 114-198

STATUTORY AUTHORITY: KRS 314.131

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131 authorizes the board to promulgate administrative regulations to regulate the conduct of its licensees. This administrative regulation establishes the professional standards for APRNs practicing in Kentucky who prescribe Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone.

Section 1. Definitions. (1) "Advanced Practice Registered Nurse" is defined in KRS 314.011(7).

(2) "Buprenorphine" means the controlled substances Buprenorphine-Mono-Product and Buprenorphine-Combined-with-Naloxone.

Section 2. Minimum Qualifications for Prescribing Buprenorphine. An advanced practice registered nurse (APRN) shall not prescribe Buprenorphine unless that APRN possesses the minimum qualifications established in this section.

(1) The APRN shall obtain and maintain in good standing a waiver and registration as issued by the Drug Enforcement Administration (DEA) to prescribe Buprenorphine for the treatment of Opioid Use Disorder.

(2) The APRN shall be a DEA-registered prescriber of Buprenorphine and shall have obtained medication assisted treatment education through completion of a Substance Abuse and Mental Health Services Administration (SAMHSA) approved course.

(3) Only an APRN designated nurse practitioner may prescribe Buprenorphine.

(4) The APRN shall provide to the board a copy of the DEA waiver registration as required by 201 KAR 20:057, Section 6(4).

(5) The APRN shall comply with all federal statutes and regulations pertaining to the prescribing of Buprenorphine. This shall include the maximum number of patients, which may be seen by the APRN each year and the inclusion of the special DEA identification number in addition to the regular DEA registration number on all prescriptions for opioid dependency treatment.

Section 3. Professional Standards for Prescribing Buprenorphine for Supervised Withdrawal or the Treatment of Opioid Use Disorder. (1) Buprenorphine may be prescribed for supervised withdrawal or as a maintenance treatment for a patient diagnosed with Opioid Use Disorder in accordance with the standards established by this administrative regulation.

(2) Buprenorphine-Mono-Product shall not be prescribed for supervised withdrawal or as a maintenance treatment for a patient diagnosed with Opioid Use Disorder, except:

(a) To a pregnant patient, as set out in subsection (4)(b) of this section;

(b) To a patient with demonstrated hypersensitivity to naloxone; or

(c) As an implant-delivered or injectable treatment administered in an APRN's office or other healthcare facility.

(3)(a) Except as provided in paragraph (b) of this subsection, Buprenorphine shall not be prescribed to a patient who is also being prescribed benzodiazepines, other sedative hypnotics, stimulants or other opioids, without consultation of a physician or an APRN who is certified in addiction therapy.

(b) An APRN may prescribe Buprenorphine to a patient who is also being prescribed benzodiazepines, other sedative hypnotics, stimulants, or other opioids, without consultation in order to address an extraordinary and acute medical need not to exceed a combined period of thirty (30) days.

(4) Each APRN who prescribes Buprenorphine for supervised withdrawal or for the treatment of Opioid Use Disorder shall fully comply with the professional standards established in this subsection.

(a) Prior to initiating treatment, the APRN shall:

1. Obtain, review, and record a complete and appropriate evaluation of the patient, which shall at a minimum include:

- a. The patient's history of present illness;
- b. The patient's history of drug use;
- c. The patient's social and family history;
- d. The patient's medical and psychiatric histories;
- e. A physical examination of the patient;

f. Appropriate laboratory tests, which may include a complete blood count (CBC), a drug screen, liver function tests, a complete metabolic panel (CMP), HIV screening, and hepatitis serology; and

g. An evaluation by a mental health provider with expertise in addiction and compliance with the recommendations of the evaluator.

2. Obtain the patient's consent and authorizations in order to obtain and discuss the patient's prior medical records.

a. Upon receipt of the medical records, the APRN shall review and incorporate the information from the records into the evaluation and treatment of the patient.

b. If the APRN is unable, despite best efforts, to obtain the patient's prior medical records, the APRN shall document those efforts in the patient's chart.

3. Obtain and review a KASPER or other prescription drug monitoring program (PDMP) report for that patient for the twelve (12) month period immediately preceding the initial patient encounter and appropriately utilize that information in the evaluation and treatment of the patient;

4. Explain treatment alternatives, the risks, and the benefits of treatment with Buprenorphine to the patient.

5. Obtain written informed consent from the patient for treatment.

6. Discuss and document the patient's treatment with the patient's other providers; and

7. If the patient is a female of childbearing potential and age, meet the requirements of paragraph (b) of this subsection.

(b) 1. Prior to initiating treatment, the APRN shall require that the patient first submit to a pregnancy test and the APRN shall provide counseling as to the risk of neonatal abstinence syndrome which shall be consistent with patient education material on neonatal abstinence syndrome from the American Congress of Obstetricians and Gynecologists, American Academy of Pediatrics, American Society of Addiction Medicine (ASAM) and the Kentucky Department for Public Health, and offer means to prevent pregnancy.

2. An APRN shall not prescribe Buprenorphine to a patient who is pregnant or breastfeeding unless the APRN first obtains and documents consultation for an opinion as to whether the potential benefit of Buprenorphine use outweighs the potential risk of use.

3. The consultation shall be obtained from a physician or an APRN who is certified in addiction therapy.

(c) Except as provided by paragraph (d) of this subsection, while initiating treatment with Buprenorphine, the APRN shall comply with the following requirement:

1. The APRN shall recommend to the patient an in-office observed induction protocol.

a. Except as provided in clause b. of this subparagraph, the APRN shall conduct the in-office observed induction protocol.

b. If an in-office observed induction does not occur, the APRN shall appropriately document the circumstances in the patient record and shall implement a SAMHSA-recognized or ASAM-recognized home-based induction protocol.

2. The APRN shall document the presence of any opioid withdrawal symptoms before the first dose is given by using a standardized instrument, such as the clinic opioid withdrawal scale (COWS) or other similarly recognized instrument.

3. The APRN shall initiate treatment with a dose not to exceed the dose equivalency of four (4) milligrams buprenorphine generic tablet, which:

a. May be followed by subsequent doses if withdrawal persists and is not improving; and

b. Shall not exceed the dose equivalency of sixteen (16) milligrams buprenorphine generic tablet on the first day of treatment.

(d) If the patient is transferred from another treatment provider and has previously experienced withdrawal without a relapse, the APRN shall:

1. Document the previous history of withdrawal.

2. Educate the patient about the potential for precipitated withdrawal; and

3. Continue maintenance treatment of the patient on the same dosage as established by the previous treatment provider and then as provided in paragraph (e) of this subsection.

(e) After initial induction of Buprenorphine, the APRN shall prescribe to the patient an amount of Buprenorphine that:

1. Is necessary to minimize craving and opiate withdrawal.

2. Does not produce opiate sedation

3. Is able only to supply the patient until the next visit, which shall be scheduled as required by this section; and

4. Does not exceed the FDA-approved dosage limit of twenty-four (24) milligrams per day.

(f) The patient's visits shall be scheduled as follows:

1. The APRN shall see the patient at least weekly for the first two (2) months.

2. If the patient demonstrates objective signs of positive treatment progress after the first two (2) months, the APRN shall see the patient at least once monthly thereafter for up to two (2) years.

3. If after two (2) years after initiation of treatment, the patient has demonstrated objective signs of positive treatment progress, including documented evidence that the patient has been compliant with the treatment plan and all treatment directives, then the APRN may require that the patient be seen only by the APRN at least once every three (3) months. The APRN shall evaluate the patient to determine whether the patient's dosage should be continued or modified and shall appropriately document that evaluation and clinical judgment in the patient's chart.

4. The APRN shall see the patient in shorter intervals if the patient demonstrates any noncompliance with the treatment plan.

5. If extenuating circumstances arise that require a patient to unexpectedly reschedule a visit, the APRN shall make best efforts to see the patient as soon as possible and document the circumstances in the patient chart.

(g) The APRN shall review compliance with the recommendations of the treatment plan, including review of KASPER or other PDMP reports and drug screens to help guide the treatment plan at each visit.

1. The APRN shall incorporate those findings into the treatment plan to support the continuation or modification of treatment and shall accurately document the same in the patient record.

2. Appropriate evaluation may include adjustment of dose strength or frequency of visits, increased screening, a consultation with or referral to a specialist, or an alternative treatment, including

consideration of weaning.

3. The APRN shall obtain a minimum of eight (8) drug screens from the patient within each twelve (12) month period of treatment in order to help guide the treatment plan.

a. At least two (2) of the drug screens shall be random and shall be coupled with a pill count. At least one (1) of those two (2) shall be confirmed by gas chromatography/mass spectrometry (GC/MS) or liquid chromatography/mass spectrometry (LC/MS).

b. Each drug screen shall, at a minimum, screen for buprenorphine, methadone, oxycodone, other opioids, THC, benzodiazepines, amphetamines, alcohol, and cocaine.

c. If a drug screen indicates the presence of any of the drugs screened, the APRN shall incorporate those findings into appropriate clinical evaluation to support the continuation or modification of treatment and shall document in the patient record.

d. Appropriate evaluation may include adjustment of dose strength or frequency of visits, increased screening, a consultation with or referral to a specialist, or an alternative treatment.

(h) Every twelve (12) months following initiation of treatment, if a patient's prescribed daily therapeutic dosage exceeds the dose equivalency of sixteen (16) milligrams Buprenorphine generic tablet per day, then the APRN shall refer the patient for evaluation by a physician or an APRN who is certified in addiction therapy for an opinion as to whether continued treatment and dosage is appropriate and shall document the results of that evaluation in the patient chart.

(i) For patients who have demonstrated objective signs of positive treatment progress for at least two (2) years from the date of initiation of treatment, including documented evidence that the patient has been compliant with the treatment plan and all treatment directives, the APRN shall evaluate for and document every twelve (12) months the medical necessity for continued treatment at the established dose.

(j) The APRN shall document a plan for dealing with any lost or stolen medication, which:

1. Shall not provide for the automatic replacement of medication prior to the specified interval date; and

2. If the APRN determines that it is necessary to minimize improper or illegal diversion of medications under the circumstances, the APRN shall require the patient to first report the lost or stolen medications to police or other law enforcement agencies and require the patient to provide evidence to the APRN of having so reported.

Section 4. Continuing Education. An APRN who has obtained a waiver and registration as issued by the Drug Enforcement Administration (DEA) to prescribe Buprenorphine for the treatment of Opioid Use Disorder shall complete the one and one-half (1 1/2) contact hours of continuing education required annually by 201 KAR 20:215, Section 5(1)(b) in addiction disorders

LEWIS PERKINS, President

APPROVED BY AGENCY: September 12, 2017

FILED WITH LRC: September 12, 2017 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 23, 2017 at 10:00 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing 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 end of day (11:59 p.m.) October 31, 2017. 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 Goldman, General Counsel,

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-3309, fax (502) 564-4251, email nathan.goldman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Nathan Goldman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes standards for APRNs who are authorized to prescribe Buprenorphine (also known as Suboxone) for the treatment of addiction.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because the federal government has authorized APRNs who meet federal requirements to prescribe this medication.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the federal law by setting standards.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by setting standards.

(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:

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: APRNs who have been authorized by the federal government to prescribe this medication, approximately 24.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: The APRNs will have to comply with these standards.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no additional cost imposed by the amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will be in compliance with the regulation.

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

(a) Initially: There is no additional cost.

(b) On a continuing basis: There is no additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds.

(7) 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 is needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: It does not.

(9) TIERING: Is tiering applied? Tiering was not applied as the changes apply to all equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will

be impacted by this administrative regulation? The Kentucky Board of Nursing.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

GENERAL GOVERNMENT CABINET Board of Licensed Professional Counselors (New Administrative Regulation)

201 KAR 36:072. Reciprocity requirements for applicants licensed or certified in another state.

RELATES TO: KRS 335.515(12)

STATUTORY AUTHORITY: KRS 335.515(1), (3), (12)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.515(1) requires the board to evaluate the qualifications of applicants for licensure. KRS 335.515(3) requires the board to promulgate administrative regulations to carry out and enforce the provisions of KRS 335.500 to 335.599. KRS 335.515(12) authorizes the board to enter into reciprocal agreements with certified or licensed professional counseling boards. This administrative regulation establishes the reciprocity requirements for certification or licensure of persons licensed or certified in another state.

Section 1. (1) The licensing requirements for a licensed professional clinical counselor under KRS 335.525 or 335.527 may be waived if:

(a) The board enters into a written reciprocity agreement with the other jurisdiction;

(b) The other jurisdiction grants the same privileges to licensees of Kentucky as Kentucky grants to licensees of that other jurisdiction;

(c) The board determines that the licensing requirements of the other jurisdiction are determined by the board to be substantially similar to the requirements of KRS 335.500 to 335.599;

(d) The applicant holds an active valid license or certificate in the other jurisdiction;

(e) The applicant shall be in good standing in the other jurisdiction;

(f) The applicant shall not have been disciplined or reprimanded;

(g) The applicant does not have a pending disciplinary action or under investigation by any jurisdiction; and

(h) The applicant shall be of good moral character.

(2) No person shall be licensed as a licensed professional associate through reciprocity.

Section 2. An applicant seeking licensure as a licensed

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

professional clinical counselor shall:

(1) Submit an Application for Licensed Professional Clinical Counselor through Reciprocity to the board;

(2) Pay the application fee as established in 201 KAR 36:020, Section 1(1);

(3) Submit a letter of good standing from each jurisdiction where the person holds a license or certificate; and

(4) Submit the results of a background check performed within ninety (90) days from the submission date of the application for a criminal background check performed by the Federal Bureau of Investigation. If an applicant submits an application for a nationwide criminal background investigation check performed by the Federal Bureau of Investigation (FBI) and the FBI cannot complete the background investigation check within thirty (30) days of the request, an applicant may submit an Optional Affidavit for Licensure and submit the performed nationwide criminal background investigation check within fourteen (14) days of its completion. If an applicant has a felony conviction during the applicant's lifetime, a misdemeanor conviction within the past five (5) years or a pending charge, the applicant shall not use the optional affidavit.

Section 3. An applicant granted a license under this administrative regulation shall comply with the continuing education requirements under 201 KAR 36:030 and the renewal requirements of 201 KAR 36:075.

Section 4. (1) The board, by majority vote and during a board meeting, shall determine that the licensing requirements of another jurisdiction is substantially similar to the requirements of KRS 335.500 to 335.599.

(2) The board may only approve a reciprocity agreement with another jurisdiction if Section 1(a), (b), and (c) of this administrative regulation is satisfied.

(3) The board shall publish the determination and approval of a reciprocity agreement in its board minutes.

Section 5. Incorporation by Reference. (1) The board incorporates "Application for Licensed Professional Clinical Counselor by Reciprocity", August 2017, by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

MARTIN C. WESLEY, Chairperson

APPROVED BY AGENCY: September 15, 2017

FILED WITH LRC: September 15, 2017 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 26, 2017, at 11:00 a.m. at the Department for Professional Licensing, 911 Leawood Drive, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing no later than five business days 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 the end of the day on October 31, 2017. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Kayla Mann, Board Administrator, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 782-8803, fax (502) 696-5836, email kayla.mann@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact persons: Kayla Mann; and Brian T. Judy, phone (502)

696-5630 fax (502) 564-6801, email brian.judy@ky.gov.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the reciprocity requirements for applicants licensed or certified in another state as a licensed clinical professional counselor or its equivalent.

(b) The necessity of this administrative regulation: This administrative regulation enables the board to issue a license to an applicant if there is a reciprocity agreement with the jurisdiction where the licensee holds a license or certificate.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The amendment is in conformity with the Board's delegated authority.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation specifies the reciprocity requirements for applicants licensed or certified in another state.

(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: Not applicable

(b) The necessity of the amendment to this administrative regulation: Not applicable

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable

(d) How the amendment will assist in the effective administration of the statutes: Not applicable

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are presently 1640 licensed professional clinical counselors, 981 licensed professional clinical counselor associates. The board reviews approximately 400 to 500 applications for licensure as a licensed professional clinical counselor annually.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: An applicant seeking licensure through reciprocity must complete the appropriate application and submit the required documents.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): It is estimated to cost between \$150 to \$250 dollar to obtain all necessary documents for licensure.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The benefit will be that it will provide more competent mental health professionals in Kentucky and reduce the amount of documentation needed to obtain licensure.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: None

(a) Initially: None

(b) On a continuing basis: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Agency funds.

(7) 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 fee increase is necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all credential holders. This regulation does not distinguish between similarly situated individuals on the basis of any factor.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Board of Licensed Professional Counselors.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 335.515(1), (3), (12).

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Repealer)**

301 KAR 1:086. Repeal of 301 KAR 1:085.

RELATES TO: KRS 150.025, 150.110, 150.170, 150.175, 150.520

STATUTORY AUTHORITY: KRS 150.025(1), 150.520

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations governing the taking of wildlife. KRS 150.520 authorizes the department to regulate the taking, buying and selling of mussels and to require reporting of musseling operations. 301 KAR 1:085 is being repealed because commercial musseling is no longer legal in Kentucky.

Section 1. 301 KAR 1:085, Mussel shell harvesting, is hereby repealed.

GREGORY K. JOHNSON, Commissioner
DON PARKINSON, Secretary

APPROVED BY AGENCY: September 12, 2017

FILED WITH LRC: September 14, 2017 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five business days 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 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 attend the public hearing, you may submit written comments on the proposed administrative regulation through October 31, 2017. Send written notification of intent to attend the public hearing or written comments on the

proposed administrative regulation to:

CONTACT PERSON: Mark Cramer, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Mark Cramer

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes license requirements, seasons, size limits, open waters, and reporting requirements for musseling.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to properly manage the commercial harvest of freshwater mussels in Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025(1) authorizes the department to promulgate administrative regulations governing the taking of wildlife. KRS 150.520 authorizes the department to regulate the taking, buying and selling of mussels and to require reporting of musseling operations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will carry out the purposes of KRS 150.025(1) and KRS 150.520 by limiting the number of persons who can harvest mussels, setting seasons and size limits on mussels, establishes requirements on methods of take and waters open to musseling, establishes reporting and harvest requirements for persons that harvest mussels, and regulates the buying and selling of mussels.

(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: N/A

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

(c) How the amendment conforms to the authorizing statutes: N/A

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

(3) List the type and number of individuals, businesses, organizations or state and local governments affected by this administrative regulation: There are currently no licensed mussel harvesters in Kentucky.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: N/A

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): N/A

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): N/A

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

(a) Initially: There will be no cost to the department initially.

(b) On a continuing basis: There will be no cost on a continuing basis.

(6) What is the source of the funding to be used for implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish Fund.

(7) 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. It will not be necessary to increase any other fees or increase funding to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No

new fees will be established.

(9) TIERING: Is tiering applied? No. Tiering is not applied because this administrative regulation is a repealer regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Fish and Wildlife Resources Divisions of Fisheries and Law Enforcement will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025(1) authorizes the department to promulgate administrative regulations governing the taking of wildlife. KRS 150.520 authorizes the department to regulate the taking, buying and selling of mussels and to require reporting of musseling operations.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated by this administrative regulation during the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated by this administrative regulation during subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional costs to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs to administer this program for subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

- Revenues (+/-):
Expenditures (+/-):
Other Explanation:

GENERAL GOVERNMENT CABINET
Department of Agriculture
Office of Consumer Protection
(New Administrative Regulation)

302 KAR 17:010. Requirements for operating and inspecting aerial recreational devices and facilities.

RELATES TO: KRS Chapter 247
STATUTORY AUTHORITY: KRS 247.238

NECESSITY, FUNCTION, AND CONFORMITY: KRS 247.238 requires the department of Agriculture to promulgate administrative regulations to implement the provisions of KRS Chapter 247.238. This administrative regulation establishes requirements for the operation and inspection of aerial recreational devices and facilities.

Section 1. Definitions. The following words when used in this regulation shall mean:

- (1) "Certificate of Inspection" means a document signed by a qualified inspector, on a form approved by the department, certifying that an aerial recreation device is correctly installed;
(2) "Department" means the Kentucky Department of Agriculture;
(3) "Device malfunction" means a malfunction that affects the future use of the device.
(4) "Engineer" means a person meeting the requirements for

licensure as a Professional Engineer set forth in KRS 322.040, regardless of whether the person is licensed by the Kentucky Board of Engineers and Land Surveyors;

(5) "First aid" means the treatment of injuries that do not ordinarily require medical treatment by a physician or other medical professional, including without limitation scratches, cuts not requiring stitches, superficial burns, splinters and bruises;

(6) "Major modification" means a change in the structural or operational characteristics of a device which will alter its weight-bearing capacity or alter its performance;

(7) "Operator" means a person who owns, operates, or is deemed by the department to be responsible for an aerial recreational device or facility;

(8) "Qualified inspector" means a person meeting the requirements set forth in Section 10 of this administrative regulation;

(9) "Serious injury" means an injury requiring medical treatment other than first aid from a physician or other medical professional, regardless of whether or not the injury requires hospitalization;

(10) "Zip line" means a type of aerial recreational device consisting of a cable stretched between two (2) or more points, a pulley, and a harness for securing a patron who moves by gravity.

Section 2. Licensure and Insurance Coverage Required for any Person Operating an Aerial Recreational Device or Facility for Any Commercial or Educational Purpose. (1) No person shall operate an aerial recreational device or facility for any commercial or educational purpose in the Commonwealth without holding a license issued by the department;

(2) No person shall operate an aerial recreational device or facility in the Commonwealth without having an insurance policy in place that meets the following requirements:

- (a) Was written by an insurance company or by surplus lines insurer authorized to do business in Kentucky;
(b) Includes general liability coverage in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate;
(c) Insures the operator against liability for injury to persons arising out of the use of the aerial recreational device or facility; and
(d) Includes an express provision stating that the insurer shall not cancel the policy without providing thirty (30) days advance written notice to the department.

(3) Any aerial recreation device that meets the following criteria is not subject to this administrative regulation:

- (a) The device is not operated for a commercial purpose; and
(b) The device is not operated for an educational purpose.

Section 3. Application for licensure as an operator. (1) Application Contents. An aerial recreational device or facility operator license application shall be submitted annually and shall include the following:

- (a) The applicant's name, residential address, telephone number, and email address;
(b) The name of the designer, and the serial number, for each aerial recreational device within the applicant's facility;
(c) A list of the anticipated location(s) and dates of operation of the aerial recreational device or facility within Kentucky for the upcoming permit year;
(d) The name of liability insurance carrier(s) and the insurance policy number(s), with reference to the specific policy page number where the thirty (30) day notice provision required by Section 2(2)(d) of this administrative regulation appears;
(e) A Certificate of Inspection, signed by a Qualified Inspector, certifying that each device was inspected and found to be installed in a correct manner and safe for use on a date not more than 365 days prior to the date of the application's submission;
(f) A certificate of liability insurance meeting the requirements set forth in Section 2(2) of this administrative regulation;
(g) A copy of the engineer-approved design plans for each device; provided, however, that no engineer-approved plans shall be required for a device for which the operator submits to the

department a signed affidavit attesting that:

- (1) The device was installed prior to July 15, 2016;
 - (2) The device has not been subject to any major modifications since July 15, 2016; and
 - (3) The device has been in use since July 15, 2016;
 - (h) A copy of the Risk Management Program required in Section 4(1)(e) of this administrative regulation; and
 - (i) Written authorization for the applicant's Qualified Inspector to communicate with and respond to any inquiry from a representative of the department, including an inquiry that calls for the production of documents pertaining to the applicant's devices.
- (2) Application Review. Upon receipt of an application and fees, the department shall review the application. Upon determining that the requirements set forth in Section 3(1) of this administrative regulation have been met, the department shall approve the application, register the aerial recreational device or facility, and issue an operator license.
- (3) Operator licenses issued by the department shall:
- (a) Expire annually on December 31, regardless of date of application;
 - (b) Be specifically assigned to individual devices and facilities; and
 - (c) Not be transferred or assigned.
- (4) Fees:
- (a) The annual operator license fee shall be \$100;
 - (b) The annual device license fee shall be \$100 per aerial recreation device;
 - (c) Application fees charged in connection with the licensure of any facility shall not exceed \$2,000 annually in the aggregate; and
 - (d) The fees set forth in Section 4(4) of this administrative regulation shall be nonrefundable.
- (5) Incomplete applications. Upon receipt of an incomplete application or an application without the correct fee, the department shall notify the applicant of the need for additional information or payment. The department shall consider the application abandoned if the department does not receive the required information or payment within thirty (30) days after notification of the deficiency. The thirty (30) day period shall begin on the date the notification is issued by the department.
- (6) The department shall deny any application for licensure submitted by a person or entity that has refused to comply with an order from the department within five (5) years of the date of application.
- (7) The department shall have the authority to permit an operator to supplement the list of locations and dates the operator submitted in response to Section 3(1)(c) of this regulation; provided, however, that the operator shall provide supplemental locations and dates to the department not later than three (3) business days in advance of the planned use.

Section 4. Written Programs Required for Operations, Maintenance, Inspection, Training, and Risk Management. (1) Prior to applying for licensure, an operator shall implement the following written programs:

- (a) An operations program that includes, at a minimum, the components set forth in Section 5.5 of ASTM F2959-16 ("Standard Practice for Aerial Adventure Courses");
- (b) A maintenance program that includes, at a minimum, the components set forth in Section 5.6 of ASTM F2959-16 ("Standard Practice for Aerial Adventure Courses");
- (c) An inspection program that includes, at a minimum, the components set forth in Section 5.7 of ASTM F2959-16 ("Standard Practice for Aerial Adventure Courses");
- (d) A training program that includes, at a minimum, the components set forth in Section 5.8 of ASTM F2959-16 ("Standard Practice for Aerial Adventure Courses"); and
- (e) A risk management program which shall include, at a minimum, the following components:
 1. Medical emergency plan;
 2. Technical rescue plan;
 3. Fatality response plan;
 4. Plan for contacting 911/Emergency Services when cellular signals are not available;

5. Evacuation plan; and

6. Severe weather preparedness plan.

(2) An operator shall make available for inspection the written programs required by Section 4(1) of this administrative regulation available for review by any employee, representative of the department, or representative of a law enforcement agency who requests to inspect it.

Section 5. Annual Inspection, Certificate of Inspection, and Additional Inspection Ordered by the Department. (1) Annual Inspections. An annual inspection shall be conducted on each aerial recreational device by a qualified inspector.

(a) The inspection shall include, at a minimum, the following components:

1. Verification that the device is in a full operational status;
2. Review of the written Operations Program, Maintenance Program, Inspection Program, Training Program, and Risk Management Programs required by Section 4(1) of this administrative regulation; and
3. Review of records from the operator's daily pre-opening inspections required by Section 6(1) of this regulation.

(b) Following completion of the inspection of each aerial recreational device, the Qualified Inspector shall determine whether the device is installed correctly according to the engineer-approved design plans required in Section 3(1)(g) of this administrative regulation. A mobile device does not require a separate inspection at each location of operation.

(2) A qualified inspector shall sign a Certificate of Inspection to certify his or her determination that the requirements set forth in Section 5(1) of this regulation are met.

(3) The Certificate of Inspection shall be recorded on a form approved by the department and include, at a minimum, the following information:

- (a) The Qualified Inspector's name and contact information;
- (b) A declaration of relevant professional credentials or certifications held by the Qualified Inspector;
- (c) The operator's name;
- (d) The name of each device's manufacturer, if known;
- (e) The name of the engineer who approved the device's design plan;
- (f) The product name and serial number for each device;
- (g) The date of inspection; and
- (h) A statement that the device was installed correctly according to the engineer-approved design plans required by Section 3(1)(g) of this administrative regulation.

(4) If a device does not have an existing serial number, as required by Section 3(1)(b) of this administrative regulation, then the qualified inspector shall assign one for identification purposes.

(5) Additional inspections ordered by the department:

(a) The department shall have the authority to order the operator to obtain a new Certificate of Inspection from a qualified inspector for any device, at any time, for any reason, with or without advance notice.

(b) Upon receipt of such an order, the operator shall immediately halt patron use of the device until the operator receives permission from the department to resume patron use.

(c) The operator shall be responsible for payment of costs incurred in obtaining an additional inspection.

(d) An additional inspection shall not extend the operator's period of licensure.

Section 6. Requirement for daily pre-opening inspections and operation in accordance with most recent manufacturer recommendations. (1) Daily pre-opening inspections. The operator shall perform and record a daily inspection of each aerial recreational device prior to opening the device for use by a patron.

(a) The daily pre-opening inspection shall include, at a minimum, the components set forth in Section 5.7.2 of ASTM F2959-16 ("Standard Practice for Aerial Adventure Courses").

(b) A daily pre-opening inspection is not required for days when a device will have no patrons using it.

(2) The operator shall operate each device or facility in accordance with the most recent manufacturer recommendations.

Section 7. Additional employee training requirements for zip lines. An operator of a zip line shall ensure that each employee operating a zip line receives appropriate training to:

- (1) Be proficient in the setup, operation, and ongoing monitoring requirements of the braking system in effect when operating zip lines;
- (2) Ensure that departures of patrons from dispatch zones are performed in a controlled manner and only when the zip line is clear of other persons;
- (3) Ensure that the deceleration and arrest of patrons arriving at landing zones is performed in a controlled manner; and
- (4) Ensure that padding used as a protective element in the landing zone is not used in lieu of a brake component.

Section 8. Records. (1) Every operator shall maintain written records relating to the construction, repair, and maintenance of each aerial recreation device. Records shall include but not be limited to inspection, maintenance, and operator training activities.

- (2) Records shall be provided to the department within one (1) hour of request.
- (3) Records shall be maintained for at least three (3) years.

Section 9. Deaths, Serious Injuries and Equipment Malfunctions. (1) Any death, serious injury, or equipment malfunction that arises from the use of an aerial recreation device or facility shall be reported to the department promptly and in no case more than twelve (12) hours following notice of the death, serious injury, or malfunction.

(2) Following a death, serious injury, or equipment malfunction, the device or facility shall be subject to a stop order issued by the department. Upon receipt of a stop order, the operator shall immediately close and secure the device or facility until a qualified inspector has completed a new Certificate of Inspection of the device or facility. The stop order shall remain in effect until lifted by the department.

(3) Following a death, serious injury, or equipment malfunction, the operator shall submit a written report to the department within forty-eight (48) hours. The written report shall contain the following information:

- (a) The date and time of the incident;
- (b) The location of the incident;
- (c) A description of the incident;
- (d) The name, address, and phone number of the operator;
- (e) The name and address of each employee involved in the incident or accident;
- (f) The name, serial number, and manufacturer of the aerial recreational device;
- (g) The name, address, phone number, gender, and age of the injured person;
- (h) The nature and extent of the injury;
- (i) The name and location of the treating facility, physician, or other qualified medical professional;
- (j) The address, telephone number, and printed and signed name of the person completing the report;
- (k) The date and time the report was completed; and
- (l) The cause of the incident, if known.

(4) No person shall alter the incident scene or any element or structure without written permission from the department, except as necessary to prevent injury, remove injured persons, or permit the movement of emergency vehicles.

(5) Following a death, serious injury, or equipment malfunction, the department shall have the authority to conduct an investigation. The report of the investigation shall be placed on file in the department and document in detail the facts and information available. The owner may submit results of any other investigations for inclusion in the file.

Section 10. Who can be a Qualified Inspector. (1) A person seeking to register shall complete and submit a qualified inspector Registration Form with an annual registration fee of \$100.

(2) No person shall be a qualified inspector who cannot demonstrate a current certification or licensure as a Third-Party Inspector or Professional Inspector by one of the following entities:

- (a) Association for Challenge Course Technology (ACCT);
 - (b) Professional Ropes Course Association (PRCA);
 - (c) National Association of Amusement Ride Safety Officials (NAARSO); or
 - (d) The Kentucky Board of Engineers & Land Surveyors.
- (3) No person shall be a qualified inspector without having in effect a valid insurance policy written for their inspection and certification activities that was issued by an insurance company or surplus lines insurer authorized to do business in Kentucky; for:
- (a) General liability coverage in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate; and
 - (b) Professional liability coverage, including errors and omissions, in an amount of not less than \$1,000,000.
- (4) The qualified inspector's policies required by Section 10(3) shall be distinct from the operator's policy required by in Section 2(2) of this administrative regulation.
- (5) The department shall maintain and publish on its website a current list of individuals who have submitted Qualified Inspector Registration Forms.

Section 11. Violations and Civil Penalties. (1) The department shall have authority to issue a stop order for any device or facility if any provisions of KRS 247.238 or this administrative regulation is violated, or as necessary to protect patrons or members of the public.

(2) Pursuant to KRS 247.238, the department is authorized to assess civil penalties consistent with the following schedule:

- (a) Violation of Section 2 of this administrative regulation shall result in a civil penalty of up to \$10,000 per occurrence;
- (b) Violation of Section 6 of this administrative regulation shall result in a civil penalty of up to \$5,000 per occurrence;
- (c) Violation of Section 8 of this administrative regulation shall result in a civil penalty of up to \$5,000 per occurrence;
- (d) Violation of Section 9 of this administrative regulation shall result in a civil penalty of up to \$10,000 per occurrence; and
- (e) Failure to comply with an order from the department shall result in a civil penalty of up to \$10,000.

(3) The civil penalties permitted in this administrative regulation shall not be construed to preclude the imposition of criminal liability or to preclude any person's assertion of a civil cause of action.

Section 12. Appeals from notices of violations and civil penalties. (1) The operator shall have ten (10) days upon the receipt of the notification of violation request a hearing within the department.

(2) Appeals hearings shall be conducted in accordance with KRS Chapter 13B.

Section 13. Types of devices excluded from the definition of Aerial Recreational Devices. (1) Pursuant to KRS 247.238(1)(b)(3), the following devices are excluded from the definition of aerial recreational device:

- (a) A device meeting the criteria for a "Walk Through" as defined in 302 KAR 16:020 Section 1 (10);
- (b) A device that does not require a patron's feet to be more than twelve (12) feet off the ground at any time; and
- (c) A device meeting the criteria set forth in Section 2(3) of this regulation.

Section 14. Effective Date. The effective date of this administrative regulation shall be July 1, 2018.

Section 15. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) Aerial Recreational Device or Facility License Application Form (2017);
 - (b) ASTM F2959-16 ("Standard Practice for Aerial Adventure Courses") (2016);
 - (c) Certificate of Inspection Form (2017); and
 - (d) Qualified Inspector Registration Form (2017).
- (2) These materials may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

Agriculture, Division of Regulation and Inspection, 107 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. These materials may also be obtained at www.kyagr.com.

RYAN F. QUARLES, Commissioner

APPROVED BY AGENCY: September 14, 2017

FILED WITH LRC: September 15, 2017 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 1:00 pm at the Kentucky Department of Agriculture, 111 Corporate Drive, 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 was received by that date, the hearing may be cancelled. 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 through October 31, 2017. 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: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, fax (502) 564-2133, email clint.quarles@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Clint Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation established the guidelines for operations of aerial recreational devices

(b) The necessity of this administrative regulation: This regulation is necessary to establish operational standards as required by the enabling statutes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The statute requires the Kentucky Department of Agriculture to regulate aerial devices. This administrative regulation represents KDA's effort to comply with the statutory requirement.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Prior to the passage of KRS 247.238, aerial devices in the Commonwealth were not regulated by statute nor administrative regulation. This administrative regulation creates the structure needed for aerial device operations to be properly licensed.

(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 is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The KDA currently does not have any count the number of devices currently in operation. We estimate that at least 100 are in operation in Kentucky.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: Operators will need to have a qualified inspector perform the required work, and then submit an application for license. For some devices, an engineer will be required to review

and approve the design. Regulated entities will be required to purchase insurance.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): We cannot be certain of the costs to comply and have no way to create an educated guess as scope and scale of devices vary greatly. We have capped fees at two thousand dollars after application fee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities will be allowed to operate in the Commonwealth

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

(a) Initially: At least one half of one position within the KDA will be required for the first year, including the salary and benefits for that person.

(b) On a continuing basis: The KDA anticipates at least one full time employee will be required given the growing popularity of aerial devices.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funds to administer will come from the fees created by this administrative regulation.

(7) 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: This administrative regulation creates new fees. The KDA will evaluate after a period of time to determine if fee amounts will cover expenses of administration of the program.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: Fees are directly established.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The KDA will be required to perform the functions set forth in this administrative regulation. The KDA believes some units of governments might own or lease areas that had aerial devices in operation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 247.238 requires the Kentucky Department of Agriculture to regulate aerial amusement devices.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The KDA cannot estimate with any certainty the revenue to be generated in the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The KDA cannot estimate with any certainty the revenue to be generated in the coming years.

(c) How much will it cost to administer this program for the first year? At least one half of one position within the KDA will be required for the first year, including the salary and benefits for that person.

(d) How much will it cost to administer this program for subsequent years? The KDA anticipates at least one full time employee will be required given the popularity of aerial devices.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Perhaps \$25,000

Expenditures (+/-): Perhaps \$30,000

Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(New Administrative Regulation)

703 KAR 5:270. Kentucky's Accountability System.

RELATES TO: KRS 158.645, 158.6451, 158.6453, 158.6455, 20 U.S.C. 6311

STATUTORY AUTHORITY: KRS 158.6453, 158.6455

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6453 requires the Kentucky Board of Education to create and implement a balanced statewide assessment program that measures the achievement of students, schools, and districts; complies with the federal Every Student Succeeds Act of 2015, 20 U.S.C. secs. 6301 et seq., or its successor; and ensures accountability. KRS 158.6455 requires the Kentucky Board of Education to create an accountability system to classify schools and districts, including a process for annual summative performance evaluations and goals for improvement. This administrative regulation establishes the statewide system of accountability, and meets requirements set forth in the federal Every Student Succeeds Act of 2015 at 20 U.S.C. 6311.

Section 1. Definitions. (1) "Achievement gap closure" means a combined measure of reducing the performance difference between student demographic groups to each other and to proficiency for each of the tested areas.

(2) "Behavior events" are student infractions involving drugs, weapons, harassment including bullying, alcohol, tobacco, assault first degree, other assault or violence, and state resolutions not reported.

(3) "Career counselor" or "career coach" means an individual who advises middle and high school students on academic and career opportunities, as well as the post-secondary education and training plans necessary to achieve such careers.

(4) "Catch up" means individual student performance below proficient grows enough to achieve proficiency or to be on track to become proficient.

(5) "Chronic absenteeism" means a student who misses ten (10) percent or more of his/her enrolled academic year.

(6) "Comparison student group" means the student demographic group being contrasted to the reference group.

(7) "Consolidated student groups" means a non-duplicated aggregation of student groups too small to be publically reported individually that includes: African American, Hispanic, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two or more races, students with disabilities who have an individual education program (IEP), and English learners.

(8) "English learners" means students currently identified in the area of growth on an English language proficiency exam. For all other areas, it includes students currently identified and those who continue to be monitored.

(9) "Essential skills" means the foundational abilities that include attendance, positive dispositions, and communication needed to successfully complete academic, workplace, or military responsibilities as demonstrated through a variety of co-curricular learning and leadership experiences.

(10) "Federal student group designation" includes target support and improvement, and comprehensive support and improvement as provided in KRS 160.346.

(11) "Federally defined student demographic groups" include White, African American, Hispanic, Asian, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two or more races, free/reduced-price meal eligible, students with disabilities who have an IEP, and English learners.

(12) "Full academic year" means 100 or more instructional days of student enrollment within the school year.

(13) "Graduation rate" means the percentage of students who enter high school and receive a diploma based on their cohort in four (4) and five (5) years, adjusting for transfers in and out, émigrés, and deceased students.

(14) "Growth" means a student's continuous improvement

toward proficiency or above.

(15) "Individual education program" or IEP means an individual education program as defined in 707 KAR 1:002.

(16) "Keep up" means individual student performance at or above proficient that grows at a rate to maintain proficiency or above.

(17) "Less than catch up" means individual student performance below proficient and not on track to become proficient.

(18) "Local education agency" or "LEA" for the purposes of this administrative regulation shall mean a local school district as provided in KRS 161.010 and KRS 161.020 or a charter school board of directors as provided in KRS 161.1590.

(19) "Locally determined measure" means a LEA objective for students or schools to achieve that is specific, measurable, achievable, relevant, and time bound.

(20) "Move up" means individual student performance at proficient that grows at a rate to be on track to become distinguished.

(21) "Opportunity and access" means equitable availability to research-based student experiences and school factors that impact student success.

(22) "Practical significance" means a measure of the differences between student groups has real meaning.

(23) "Proficiency indicator" means the measure of academic status or performance for reading/writing and mathematics on state assessments.

(24) "Proficient" or "proficiency" means reaching the desired level of knowledge and skills as measured on academic assessments.

(25) "Rating" means the inclusion of an indicator in the formal overall rating of the school or district.

(26) "Reference group" means a student demographic group to which another group is contrasted to provide a benchmark for performance.

(27) "Separate academic indicator for science and social studies" means the measure of academic status or performance for science and social studies on state assessments.

(28) "Transition readiness" means the attainment of the necessary knowledge, skills, and dispositions to successfully transition to the next level.

(29) "Value table" means a set of numbers that are used to attribute scores to different performance levels.

(30) "Work ethic certification" means a process by which a student is assessed based upon his/her demonstration of essential skills and workplace readiness.

(31) "Writing" means the content area that includes on-demand writing, and editing and mechanics.

Section 2. Kentucky's accountability system that is used to classify schools and LEAs shall include the indicators of proficiency, separate academic indicator for science and social studies, growth, transition readiness, achievement gap closure, opportunity and access, and graduation rate. (1) The proficiency indicator shall be measured by student performance on state tests in reading/writing and mathematics.

(2) A separate academic indicator shall be measured by student performance on state tests in science and social studies.

(3) The growth indicator shall be calculated at the elementary and middle school levels. The growth indicator shall be measured by awarding credit as follows:

(a) The percentage of students who meet or are on track to meet their annual personal target for improvement based on an individual student trajectory toward proficiency in reading and mathematics; and

(b) Progress toward achieving English proficiency by English learners.

(4) The achievement gap closure indicator shall be measured by awarding credit as follows:

(a) Reducing the gap in performance between the following comparison groups and reference group in the combined content areas of reading/writing, mathematics, science, and social studies:

1. African American, Hispanic, Asian, Native Hawaiian or other

Pacific Islander, American Indian or Alaska Native, White, and two (2) or more races compared to the reference group, which shall be the highest of these;

2. Free/reduced-price meal eligible compared to non-free/reduced-price meal eligible;

3. Students with disabilities who have an IEP compared to students without IEPs; and

4. English learners compared to non-English learners.

(b) Reducing the gap to proficiency for the combined content areas of reading/writing, mathematics, science and social studies by the following groups: White, African American, Hispanic, Asian, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two (2) or more races, free/reduced-price meal eligible, students with disabilities who have an IEP, English learners, and a consolidated student group.

(5) The opportunity and access indicator shall be measured by awarding credit for rich curricula, equitable access, school quality, and whole child supports, as follows:

(a) Elementary schools that provide all students opportunities and access to:

1. Rich curricula annually including:

- a. Visual and performing arts;
- b. Health and physical education;
- c. Science; and
- d. Social studies.

2. School quality as measured by a lack of student chronic absenteeism, behavior events, and physical restraint and seclusion.

3. Equitable access by federally defined student demographic groups in proportion to the school population to gifted and talented services in grades four (4) and five (5).

4. Whole child supports as the school determines by selecting two (2) of the following:

- a. School-based counselor or mental health services provider;
- b. School nurse;
- c. Library media specialist;
- d. Family resource/youth services center; or
- e. Teachers with certification in visual art, music, dance, theatre, media arts, physical education, health, and world languages.

(b) Middle schools that provide all students opportunities and access to:

1. Rich curricula annually including:

- a. Visual and performing arts;
- b. Health and physical education;
- c. Science;
- d. Social studies; and

e. Career exploration including career and technical education courses, other courses that focus on essential skills and co-curricular learning and leadership experiences.

2. School quality as indicated by a lack of student chronic absenteeism, behavior events, and physical restraint and seclusion.

3. Equitable access of federally defined student demographic groups in proportion to the school population to gifted and talented services.

4. Whole child supports as determined by the school by selecting two (2) of the following:

- a. School-based counselor or mental health services provider;
- b. School nurse;
- c. Library media specialist;
- d. Family resource/youth services center;
- e. Teachers with certification in visual arts, music, dance, theatre, media arts, physical education, health, and world languages; or

f. Access to career counselor or career coach.

(c) High schools that provide all students with opportunities and access to:

1. Rich curricula including:

- a. Visual and performing arts;
- b. Health and physical education;
- c. Cultural studies or world language;
- d. Career and technical education (CTE), including specialized

career pathways in state and regional high demand sectors as approved by Kentucky's Workforce Innovation Board; and

e. Essential skills demonstrated as part of a work ethic certification.

2. School quality as indicated by a lack of student chronic absenteeism, behavior events, and restraint and seclusion.

3. Equitable access of federally defined student demographic groups to the following advanced coursework: advanced placement, international baccalaureate, Cambridge Advanced International and dual credit.

4. Whole child supports as determined by the school by selecting two (2) of the following:

- a. School-based counselor or mental health services provider;
- b. School nurse;
- c. Library media specialist;
- d. Family resource/youth services center;
- e. Teachers with certification in visual arts, music, dance, theatre, media arts, physical education, health, and world languages; or
- f. Access to a career counselor or career coach.

5. Within opportunity and access, the locally determined indicator shall be included in the accountability rating of each LEA. Each LEA shall propose to the department the targeted goal or objective that is specific, measurable, achievable, relevant, and time bound. Through discussion and deliberation, the LEA and the department shall enter into an agreement on the goals or objectives of the locally determined indicator.

(6) The transition readiness indicator shall be measured by awarding credit for students meeting the following criteria:

(a) At the elementary and middle school level, students meet or exceed the benchmark on a composite score that combines student performance on state-required assessments for reading/writing, mathematics, science, and social studies. A composite score shall include the most recent content area assessment by grade level available for each school. Students participating in the alternate assessment program will have criteria based on alternate assessment requirements.

(b) At the high school level:

1. Earn a regular or alternative high school diploma; and

2. Achieve academic readiness, career readiness, or military readiness as follows:

a. A school shall receive credit for each student demonstrating academic readiness by:

i. Scoring at or above the benchmark score as determined by the Council on Postsecondary Education (CPE) on the college admissions examination;

ii. Completing six (6) or more hours of department-approved dual credit and receiving a course grade of B or higher;

iii. Completing two (2) or more advanced placement (AP) courses and receiving a score of three (3) or higher on the AP assessment;

iv. Receiving a score of five (5) or higher on two (2) examinations for international baccalaureate courses; or

v. Scoring at or above the benchmark on two (2) or more Cambridge Advanced International examinations.

b. A school shall receive credit for each student demonstrating career readiness by:

i. Scoring at or above the benchmark on industry certifications as approved by the Kentucky Workforce Innovation Board on an annual basis; or

ii. Scoring at or above the benchmark on the Kentucky Occupational Skill Standards Assessment (KOSSA) as appropriate for articulated credit; and

iii. Completing six (6) or more hours of department-approved CTE dual credit, and receiving a course grade of B or higher; or

iv. Completing two (2) credits in a career and technical education program of study and was enrolled in a third credit in a CTE program of study; or

v. Completing a department-approved or labor cabinet-approved apprenticeship; or

vi. Completing a department-approved alternate process to verify exceptional work experience.

c. A school shall receive credit for each student demonstrating

military readiness by:

- i. Scoring at or above the department-approved benchmark of the Armed Forces Quality Test (AFQT) on the Armed Services Vocational Aptitude Battery (ASVAB); and
- ii. Enlisting in a branch of military service; or
- iii. Completing two (2) certificates of training and was enrolled in the third credit within a Junior Reserve Officer Training Corps (JROTC) program.

d. For students who qualify as English learners in high school: Meeting criteria for English language proficiency to be English language ready.

e. Students participating in the alternate assessment program shall meet criteria based on alternate assessment requirements and employability skills.

(7) The graduation rate indicator shall be measured for each high school using the four (4)-year and extended five (5)-year cohort rate. The graduation rate shall be reported for all students and student groups.

Section 3. Classification of schools and districts in the state accountability system. (1) Data shall be included in the overall rating for schools and LEAs for the following indicators:

- (a) Proficiency (reading/writing and mathematics);
- (b) Separate academic indicator (science and social studies);
- (c) Growth (elementary and middle school);
- (d) Transition readiness;
- (e) Achievement gap closure;
- (f) Opportunity and access (school quality/student success);

and

- (g) Graduation rate (high school).

(2) Data from individual student performance on state assessments administered as required in KRS 158.6451 and KRS 158.6453 shall be included in the overall rating of each school and LEA. This data shall include students with disabilities with IEPs who participate in the alternate assessment program.

(3) Data in the overall rating shall be attributed to grade level spans for schools and LEA as established in this subsection.

(a) Elementary schools shall include data from proficiency, separate academic indicator for science and social studies, growth, achievement gap closure, transition readiness, opportunity and access, and federal student group designation.

(b) Middle schools shall include data from proficiency, separate academic indicator for science and social studies, growth, achievement gap closure, transition readiness, opportunity and access, and federal student group designation.

(c) High schools shall include data from proficiency, separate academic indicator for science and social studies, achievement gap closure, transition readiness, graduation rate, opportunity and access, and federal student group designation.

(d) LEAs shall include data from school proficiency, separate academic indicator for science and social studies, growth, achievement gap closure, transition readiness, graduation rate, and opportunity and access, including a locally determined measure.

Section 4. Calculations for reporting categories. (1) Proficiency for reading/writing and mathematics shall be rated equally in elementary, middle and high schools and in districts by awarding points as described in paragraph 2(c) of this section.

(2) The separate academic indicator for science and social studies shall be rated equally in elementary, middle and high schools and in LEAs for science and social studies by awarding points as described in paragraph 2(c) of this section.

(a) For proficiency and the separate academic indicator, weights shall be equal across content areas.

(b) If data is not available for the content area (reading/writing, mathematics, science, and social studies), the weight shall be redistributed proportionally across proficiency and separate academic indicator.

(c) The following chart shall be used to calculate the points for proficiency and the separate academic indicator:

Proficiency Levels	Points Awarded for Each Percent of Students
--------------------	---

Novice	0
Apprentice	.5
Proficient	1
Distinguished	1.25

(3) The achievement gap closure indicator shall be calculated as established in this subsection.

(a) School achievement gap closure between student demographic comparison groups and reference groups shall be determined by:

1. Determining the student demographic groups to be included in this subsection, which shall include the following student demographic groups that have at least ten (10) students:

a. Reference group compared to African American, Hispanic, Asian, Native Hawaiian or other Pacific Islander, American Indian or Alaska Native, two (2) or more races, and White. The reference group shall be the highest performing racial/ethnic student group that has at least ten (10) students and constitutes at least ten (10) percent of the students enrolled in the school;

b. Free/reduced-price meal eligible compared to non-free/reduced-price meal eligible;

c. Students with disabilities who have an IEP compared to students without IEPs; and

d. English learners compared to non-English learner students.

2. Combining scores for each tested content area assessment using points in accordance with paragraph 2(c) of Section 4 of this administrative regulation for each student demographic group.

3. Using a statistical analysis for each pair of comparison-reference groups, the department shall determine if a significant gap has been sufficiently reduced between the comparison group and reference group and is both statistically and practically significant. If so, the gap closure for the student demographic group will be considered "significant" and the school will receive one (1) gap closure point. If the gap between groups is not significantly reduced, the gap will be considered "not significant" and the school will receive zero gap closure points.

(b) School achievement gap closure between student demographic groups and proficiency shall be determined as follows:

1. Determine which student demographic groups have at least ten (10) students that are to be included in this subsection. Student demographic groups included in the subsection shall include:

- a. White;
- b. African American;
- c. Hispanic or Latino;
- d. Asian;
- e. Native Hawaiian or other Pacific Islander;
- f. American Indian or Alaska Native;
- g. Two or more races/ethnicities;
- h. Students in poverty based on eligibility for free/reduced-price meals;

- i. Students with disabilities who have an IEP;
- j. English learners; and
- k. A consolidated student group.

2. Combining scores for all content area assessments using points in accordance with paragraph 2(c) of Section 4 of this administrative regulation for each student demographic group.

3. Compare the percent proficient and above to the current year's annual target for each student demographic group in the combined content areas of reading/writing, mathematics, science, and social studies.

4. If the current year percent proficient is equal to or greater than the current year's annual target for each student demographic group in the combined content areas of reading/writing, mathematics, science, and social studies, the student demographic group gap shall be considered "reduced" and the school will receive two (2) gap closure points.

5. If the current year percent proficient is equal to or greater than the current year's annual target for each student demographic group in the combined content areas of reading/writing, mathematics, science, and social studies minus a sufficient percentage point, the student demographic group gap is considered "partially reduced" and the school shall receive one (1) gap closure point.

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

6. If the current year percent proficient is less than the current year's annual target for each student demographic group in the combined content areas of reading/writing, mathematics, science, and social studies minus a sufficient percentage point, the student demographic group gap is considered "not reduced" and the school shall receive zero gap closure points.

(c) Sum the total achievement gap closure points across all student demographic groups for gap to group and gap to proficiency.

(d) Based on total achievement gap closure points, a standards setting process involving Kentucky educators and advised by technical experts shall place the school and LEA into categories of very low, low, medium, high, or very high.

(e) Each student demographic group shall have a minimum of ten (10) students per content area in the school or LEA in order to report gap data.

(f) In calculating the achievement gap closure indicator, the reduction of achievement gap between student demographic groups shall be weighted thirty-three (33) percent and the

reduction of the gap to proficiency shall be weighted sixty-seven (67) percent.

(4) Growth shall be rated for elementary and middle schools as established in this subsection.

(a) Novice and apprentice performance levels for growth calculations shall be subdivided into novice high, novice low; and apprentice high, apprentice low.

(b) Based on prior and current year performance, points for student performance level shall be assigned based on a projection of student performance from a growth value table and reported using the following terms: less than catch up, catch up, keep up, and move up.

(c) The school calculation for mathematics shall be the sum of the total points from the growth value table for each student divided by the total number of scores.

(d) The values in the growth value table below shall be used in calculating growth in this subsection.

Growth Value Table

Projected	Novice	Novice	Apprentice	Apprentice	Proficient	Distinguished
Current	Low	High	Low	High		
Distinguished	-1.50 (L)	-1.25 (L)	-1.00 (L)	-0.75 (L)	0.00 (K)	0.25 (K)
Proficient	-1.00 (L)	-0.75 (L)	-0.50 (L)	-0.25 (L)	0.25 (K)	0.50 (M)
Apprentice High	-0.75 (L)	-0.50 (L)	-0.25 (L)	0 (L)	0.25 (C)	0.75 (M)
Apprentice Low	-0.50 (L)	-0.25 (L)	0 (L)	0.25 (L)	0.50 (C)	1.00 (M)
Novice High	-0.25 (L)	0 (L)	0.25 (L)	0.50 (C)	0.75 (C)	1.25 (M)
Novice Low	0 (L)	0.25 (L)	0.50 (C)	0.75 (C)	1.00 (C)	1.50 (M)

Less than Catch Up (L)

Moving Up (M)

Catching Up (C)

Keeping Up (K)

(e) The school calculation for reading shall be the sum of the total points for each student from the growth value table plus growth for English language proficiency as described in Section 4(4)(g) of this administrative regulation divided by the total number of scores.

(f) Progress toward achieving English proficiency by English learners shall be calculated as follows:

1. Individual growth shall be compared to prior year performance on an English proficiency exam.

2. A standards setting process shall be conducted involving Kentucky educators and advised by technical experts to determine exit criteria and a value table shall be generated.

3. Points for each English learner based on the English learner growth value table shall be summed.

a. Depending on further analysis, Kentucky may modify the value table and its use to reflect factors that may impact English learners' progress toward language proficiency, including age upon entry to U.S. schools, initial English language proficiency level, and degree of interrupted schooling.

b. The values in the growth value table below shall be used in calculating growth in this subsection.

4. Total points for English learners shall be added to the sum of the reading growth points for non-English learner students in reading as described in Section 4(4)(g) of this administrative regulation.

WIDA ACCESS	WIDA ACCESS score current year
-------------	--------------------------------

score previous year	1	1.5	2.0	2.5	3.0	3.5	4.0	4.5
4.0	-1.25	-1.25	-1.0	-.75	-.50	-.25	0	4.5
3.5	-1.0	-1.0	-.75	-.50	-.25	0	.25	.25
3.0	-1.0	-.75	-.50	-.25	0	.25	.50	.5
2.5	-.75	-.50	-.25	0	.25	.50	.75	.75
2.0	-.50	-.25	0	.25	.50	.75	1.0	1.0
1.5	-.25	0	.25	.50	.75	1.0	1.25	1.25
1.0	0	.25	.50	.75	1.0	1.0	1.0	1.25

(g) For an overall school growth score, an average of reading scores that includes growth for English learners on an English proficiency exam and mathematics growth scores shall be calculated.

(5) The opportunity and access indicator shall be rated for elementary, middle, and high schools as established in this subsection.

(a) Opportunity and access school calculation shall sum the total number of points for the categories for rich curricula, equitable access, school quality, and whole child supports.

(b) The Kentucky Board of Education shall approve the measures of opportunity and access including the accumulation of credit.

(c) A standard setting process shall be conducted involving Kentucky educators and advised by technical experts to determine

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

very low to very high performance levels within opportunity and access.

(6) Transition readiness shall be rated as established by this subsection.

(a) A transition readiness percentage shall be calculated by dividing the number of high school graduates who have met measures of transition readiness plus the number of English learners who have achieved English language proficiency by the total number of graduates plus the number of graduates who have received English language services during high school. Credit for students obtaining an industry-recognized certification, licensure, or credential in specialized career pathways in state and regional high demand sectors as approved by Kentucky's Workforce Innovation Board is one and one-quarter (1.25) points. Credit for students obtaining all other readiness indicators is one (1.0) point.

(b) A transition readiness percentage shall be calculated for elementary and middle schools by dividing the number of students who have met a benchmark on a composite score that combines student performance on state-required tests in reading/writing, mathematics, science, and social studies for transition readiness by the total number of accountable students.

(7) Graduation rate is the percentage of students completing the requirements for a Kentucky high school diploma compared to the cohort of students beginning in grade nine. Kentucky shall Elementary/Middle Schools

include a four (4) year cohort rate and an extended five (5) year cohort rate. Each rate shall be weighted equally.

(8) The overall rating shall be assigned as follows:

(a) The indicators for each school and district as identified in Section 3 of this administrative regulation shall contribute to the overall rating of schools and LEAs.

(b) Indicators identified in Section 3 shall have a rating of very low, low, medium, high, or very high by school and LEA level.

(9) An overall rating based upon performance on the set of indicators for elementary and middle schools, high schools, and LEAs shall be assigned during a standards setting process. The tables below illustrate some of the combinations of performance for each star rating:

(a) Overall ratings shall be reported using a five (5) star rating system to communicate performance of schools, LEAs, and the state with one (1) star being the lowest rating and five (5) stars being the highest rating.

(b) Each star rating reflects a combination of school performance on indicators. The range of performance in the tables elementary/middle schools, high schools and LEAs as shown below indicate the upper bound and the lower bound of performance described as very low, low, medium, high, and very high.

Overall Rating	Proficiency (Reading/ Writing & Mathematics)	Separate Academic Indicator (Science & Social Studies)	Growth (including English Language Learners)	Achievement Gap Closure	Opportunity & Access	Transition Readiness (Composite scores at grades 5 and 8)	Federal Student Group Designation	Notes
Note: Standard setting will confirm level of indicator performance necessary for the Star ratings.								Can receive no higher than a 3-Star rating if Achievement Gap Closure is "Low (L)," "Very Low (VL)" or if identified for Targeted Support and Improvement (TSI). *Schools identified for Comprehensive Support and Improvement (CSI) are classified with a 1 Star rating.
5 Stars	Very High	Very High	Very High	Very High	Very High	Very High	No designation	
	High	High	Low	High	High	High		
4 Stars	Any 5-star combination except Achievement Gap Closure is Medium						No designation	
	One Medium, four High			High				
3 Stars	Three Medium, two High			Medium			No designation or TSI	
	Any 4- or 5-Star combination except Achievement Gap Closure is Low Or Any 4- or 5-Star combination							
2 Stars	Four Medium, one High			High Medium			No designation or TSI	
	Four Medium, one Low			High Low				
1 Star	Three Medium, two Low			Medium Low			No designation or TSI	
	One Medium, four Low			Medium Low				
1 Star	Six Low or Very Low Or bottom 5%*						TSI	

High Schools

Overall Rating	Proficiency (Reading/ Writing & Mathematics)	Separate Academic Indicator (Science & Social Studies)	Other Academic Indicator Transition Readiness (including English Language Learners)	Achievement Gap Closure	Opportunity & Access	Graduation Rate	Federal Student Group Designation	Notes
Note: Standard setting will confirm level of indicator performance necessary for the Star ratings.								Can receive no

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

5 Stars	Very High High	Very High High	Very High High	Very High High	Very High Very High	Very High Very High	No designation	higher than a 3-Star rating if Achievement Gap Closure is "Low (L)," "Very Low (VL)" or if identified for Targeted Support and Improvement (TSI).
4 Stars	Any 5-star combination except Achievement Gap Closure is Medium						No designation	No designation
	One Medium, four High Three Medium, two High				High Medium		No designation	
3 Stars	Any 4- or 5-Star combination except Achievement Gap Closure is Low Or Any 4- or 5-Star combination						No designation TSI	*Schools identified for Comprehensive Support and Improvement (CSI) are classified with a 1 Star rating.
	Four Medium, one High Four Medium, one Low				High Medium High Low		No designation or TSI	
2 Stars	Three Medium, two Low One Medium, four Low				Medium Low		No designation or TSI	
	Six Low or Very Low Or bottom 5%*						TSI	

LEA

Overall Rating	Proficiency (Reading/ Writing & Mathematics)	Separate Academic Indicator (Science & Social Studies)	Growth (including English Language Learners)	Achievement Gap Closure	Opportunity & Access	Transition Readiness (Composite at grades 5 and 8, High school includes English language learners)	Graduation Rate (4 and 5 year cohort)	Notes
	Note: Standard setting will confirm level of indicator performance necessary for the Star ratings.							Can receive no higher than a 3-Star rating if Achievement Gap Closure is "Low (L)," "Very Low (VL)" or there is a significant number of schools identified as CSI or TSI.
5 Stars	Very High High	Very High High	Very High Low	Very High High	Very High Very High	Very High High	Very High High	
4 Stars	Any 5-star combination except Achievement Gap Closure is Medium						High Medium	
	One Medium, five High Three Medium, three High							
3 Stars	Any 4- or 5-Star combination except Achievement Gap Closure is Low Or Any 4- or 5-Star combination						High Medium High Low	
	Five Medium, one High Five Medium, one Low							
2 Stars	Four Medium, two Low Two Medium, four Low						Medium Low	
1 Star	Six Low or Very Low						Low	

(c) The relationship between each category and the approximate weight of proficiency, a separate academic indicator for science and social studies, achievement gap closure, growth, transition readiness, opportunity and access, and graduation rate shall be included in the overall rating.

(d) The overall rating shall be developed through a standard setting process involving Kentucky educators and advised by technical experts. During the standard setting process, the approximate weights in the following table shall be considered. The proposed ranges in the table indicate the relative emphasis between indicators. The ranges are set to guide Kentucky educators to determine the combination of performance from very high to very low within the indicator during standard setting.

Overall Accountability Weights

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

	Proficiency (Reading/ Writing and Mathematics)	Separate Academic Indicator (Science and Social Studies)	Growth (Including English Language Learners)		Achievement Gap Closure	Opportunity & Access	Transition Readiness (Composite at grades 5 & 8) (High school includes English language learners)	Graduation Rate (4 and 5 year cohort)
Elementary/ Middle Schools	15-25	15-25	20-30	15-25		10-20	5-10	---
High Schools	10-20	10-20	---	15-25		10-20	20-30	5-15
Districts	10-20	10-20	10-20	10-20		10-20	10-20	5-15

(e) A school shall receive a federal student group designation for statistically significant achievement gaps or low-performing students. Schools or LEAs with statistically significant achievement gaps may not be rated above three stars.

(f) Using the pool of schools identified in the lowest star ratings, Kentucky will rank schools to determine bottom five (5) percent and ten (10) percent based on the indicators of proficiency, separate academic indicator for science and social studies, and growth at elementary and middle and the indicators of proficiency, separate academic indicator for science and social studies, and transition readiness at high school.

(g) If data cannot be calculated for an indicator, the weights shall be redistributed using an equal proportion to indicators that shall be reported for the school or LEA.

(10) School accountability indicators shall be assigned as follows:

(a) Students enrolled for a full academic year shall be included in the calculations for proficiency, a separate academic indicator for science and social studies, achievement gap closure, growth, and transition readiness for a school and LEA.

(b) Opportunity and access calculations shall be based on the students' enrollment.

(c) Graduation rate calculations shall be based on the students' final enrollment.

(d) Student demographic groups shall have a minimum of ten (10) students to be included in school rating calculations.

(e) In accordance with KRS 158.6455, schools and districts shall be placed into one (1) of five (5) star ratings established by a standards-setting process utilizing results from the first operational administration of assessments in 2018-19. The process shall:

1. Be advised by the National Technical Advisory Panel on Assessment and Accountability; the School Curriculum, Assessment and Accountability Council; and the Office of Education Accountability; and

2. Use accepted technical procedures and involve Kentucky school and district administrators and teachers.

Section 5. Public reporting requirements. (1) The Kentucky Department of Education shall report disaggregated data for each indicator of the state assessment and accountability system.

(2) Progress on long-term and interim goals shall be reported publicly as required by the federal Every Student Succeeds Act. Goals shall be developed for every student group, including all students, for academic achievement in each content area of reading/writing, mathematics, science, social studies, and the content areas combined; graduation rate based on four (4) year and five (5) year adjusted cohorts; and progress on English proficiency for English learners.

(3) The goal for academic achievement operationalizes both

the improvement of proficient and distinguished performance for all students and each student group and the reduction of gaps in student group performance by fifty (50) percent by 2030. Each student group of ten (10) or more students shall be compared to the reference group of the highest performing student group that is at least ten (10) percent of the student population.

(4) Goals for graduation rate shall be generated for a four (4) year adjusted cohort to ninety-five (95) percent for all students and an extended five (5) year cohort to ninety-six (96) percent for all students. The goal for progress on English language proficiency shall be based on the percent of students making progress toward attainment of the English language.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

STEPHEN L. PRUITT, Ph.D., Commissioner
MARY GWEN WHEELER, Chairperson

APPROVED BY AGENCY: September 15, 2017

FILED WITH LRC: September 15, 2017 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on October 26, 2017, at 10:00 a.m. in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days 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 through October 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Kevin C. Brown, Associate Commissioner and General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email kevin.brown@education.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes state accountability requirements for Kentucky's public local education agencies (LEAs) and schools.

(b) The necessity of this administrative regulation: KRS 158.6453 requires the Kentucky Board of Education to create and implement a balanced statewide assessment program that measures the achievement of students, schools and districts, complies with the federal Every Student Succeeds Act of 2015, 20 U.S.C. secs. 6301 et seq., or its successor, and ensures accountability.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides specific details for establishing the indicators and measures of the state-required accountability system for Kentucky public LEAs and schools.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides specific details for establishing the statewide accountability program that rates LEAs and schools based on performance of multiple indicators: proficiency (reading/writing and mathematics), separate academic indicator (science and social studies), growth (elementary and middle schools only), graduation rate (high school only), transition readiness, achievement gap closure, and opportunity and access. The multiple indicators incorporate the student test results and school quality measures. The regulations complies with state statute and the federal Every Student Succeeds Act of 2015, 20 U.S.C. secs. 6301 et seq., or its successor, and ensures accountability.

(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: N/A

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

(c) How the amendment conforms to the content of the authorizing statute: N/A

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All public LEAs and schools in Kentucky with schools grade 3 or higher and supporting staff in the Kentucky Department of Education (KDE).

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: KDE, LEAs and schools shall implement the specific details of the assessment and accountability system. The regulation defines the indicators and measures to be included in the accountability system used to evaluate and rate the performance of Kentucky's public LEAs and schools. The system is a multi-dimensional model that uses student- and school-based data to differentiate performance. The Kentucky Department of Education implements and manages the accountability system, as established and promulgated in regulation by the Kentucky Board of Education. LEAs and schools implement the required assessments and processes that generate data reported annually in the accountability system. The data reported help schools and districts improve student achievement and growth, close the achievement gap among groups, ensure students are ready to transition to the next step of education or life, and provide opportunity and access for all students.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The accountability system requires no additional direct costs to the LEAs and schools. LEA's and schools may choose to implement new programs or services in response to the new accountability system that may result in additional costs for

LEA's and schools, however, this would be a locally determined decision. KDE anticipates additional indirect cost to implement new accountability system. Additional costs are expected to implement new assessments and reporting requirements codified in Senate Bill 1 (2017 Kentucky General Assembly).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The accountability system has several key goals: promote higher levels of student learning and achievement, reduce achievement gaps and ensure equity, establish opportunity and access for students to receive a quality education, build a culture of high expectation and continuous improvement, and communicate a clear and honest understanding of strengths and opportunities for improvement in LEAs and schools.

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

(a) Initially: The transition to the new accountability system will require KDE to implement activities such as standard setting, additional staff time, and the support of experts, each with associated costs. The accountability system requires no additional cost to the LEAs and schools. KDE anticipates additional costs to implement new assessments and reporting requirements codified in Senate Bill 1 (2017 Kentucky General Assembly). The results of these assessments are used to rate schools in the accountability system established by this regulation.

(b) On a continuing basis: Senate Bill 1 requires continual reviews of standards and assessments. There will be ongoing costs to implement new assessments and meet reporting requirements, particularly the release of some assessment items annually. These activities directly support the accountability system established in this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general and federal funds.

(7) 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 increased fees or funding are anticipated as a result of this regulation, however activities related to this regulation as required by SB 1 (2017) may require additional funding as described above.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Regulation does not establish or increase fees.

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all schools and LEAs.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Public Local Education Agencies (LEAs) and schools.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 158.6453; KRS 158.6455; 20 U.S.C. secs. 6301 et seq.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated.

(c) How much will it cost to administer this program for the first year? The transition to the new accountability system will require the Kentucky Department of Education (KDE) to implement activities such as standard setting, additional staff time, and the

support of experts, each with associated costs. The accountability system requires no additional cost to the LEAs and schools. KDE anticipates additional costs to implement new assessments and reporting requirements codified in Senate Bill 1 (2017 Kentucky General Assembly). The results of these assessments are used to rate schools in the accountability system established by this regulation.

(d) How much will it cost to administer this program for subsequent years? Senate Bill 1 requires continual reviews of standards and assessments. There will be ongoing costs to implement new assessments and meet reporting requirements, particularly the release of some assessment items annually. These activities directly support the accountability system established in this regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A

Expenditures (+/-): The transition to the new accountability system will require KDE to implement activities such as standard setting, additional staff time, and the support of experts, each with associated costs. The accountability system requires no additional cost to the LEAs and schools. KDE anticipates additional costs to implement new assessments and reporting requirements codified in Senate Bill 1 (2017 Kentucky General Assembly). The results of these assessments are used to rate schools in the accountability system. Senate Bill 1 requires continual reviews of standards and assessments. There will be ongoing costs to implement new assessments and meet reporting requirements, particularly the release of some assessment items annually. These activities directly support the accountability system established in this regulation.

Other Explanation: N/A

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
Division of Plumbing, Boiler Section
(Repealer)

815 KAR 15:041. Repeal of 815 KAR 15:040, 815 KAR 15:051, and 815 KAR 15:060.

RELATES TO: KRS Chapter 236

STATUTORY AUTHORITY: KRS 236.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 236.030 authorizes the commissioner to promulgate administrative regulations to administer KRS Chapter 236. 815 KAR 15:040 and 815 KAR 15:051 are repealed because the language is duplicative of the National Board Inspection Code that is incorporated by reference. 815 KAR 15:025 and 815 KAR 15:026 have been amended to include provisions not provided in the National Board Inspection Code. 815 KAR 15:060 is repealed because there are no current nuclear facilities operating in the Commonwealth and the administrative regulation is therefore unnecessary.

Section 1. The following administrative regulations shall be hereby repealed:

(1) 815 KAR 15:040, Power boiler and pressure vessel supplemental requirements;

(2) 815 KAR 15:051, Heating boiler supplemental requirements – steam heating, hot water heating, and hot water supply boilers; and

(3) 815 KAR 15:060, Nuclear vessel requirements.

STEVEN A. MILBY, Commissioner

DAVID A. DICKERSON, Secretary

APPROVED BY AGENCY: September 14, 2017

FILED WITH LRC: September 14, 2017 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 24, 2017, at 9:00 a.m., EDT, at the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite

100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five working days 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. The 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 October 31, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: David R. Startzman, General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5412, phone 502-573-0365, fax 502-573-1057, email david.startzman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: David R. Startzman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 815 KAR 15:040, Power Boiler and pressure vessel supplemental requirements; 815 KAR 15:051, Heating boiler supplemental requirements – steam heating, hot water heating, and hot water supply boilers; and 815 KAR 15:060, Nuclear vessel requirements.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to eliminate the duplicative language of 815 KAR 15:040 and 815 KAR 15:051 with the National Board Inspection Code. This administrative regulation is also necessary to remove an outdated regulation for nuclear vessels.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation repeals an existing administrative regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation aids in the reduction of the amount of duplicative administrative regulations within 815 KAR Chapter 15.

(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: Not applicable.

(b) The necessity of the amendment to this administrative regulation: Not applicable.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals engaged in the boiler and pressure vessel industry, and department personnel.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: The repeal of these administrative regulations will not require the regulated entities identified in question (3) to take any action to comply.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This is a repeal of an administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): It will eliminate the need for entities in question (3) to look at two different sources that provides the same requirements and information.

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

Nothing. This is a repeal of an administrative regulation.

(a) Initially: There will be no implementation cost. This is a repeal of an administrative regulation.

(b) On a continuing basis: There will be no implementation cost. This is a repeal of an administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: None.

(7) 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 necessary. This is a repeal of an administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This repeal does not establish or impact any fees.

(9) TIERING: Is tiering applied? No, because this is a repeal of regulations.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing, Boiler Section.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation is authorized by KRS 236.030.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment is not anticipated to generate additional revenue for the department.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment is not anticipated to generate additional revenue for the department.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral
Expenditures (+/-): Neutral
Other Explanation: Neutral

CABINET FOR HEALTH AND FAMILY SERVICES Kentucky Office of Health Benefit Exchange (Repealer)

900 KAR 10:031. Repeal of 900 KAR 10:030 and 900 KAR 10:100.

RELATES TO: KRS 194A.050(1), 42 U.S.C. 18031, 45 C.F.R. Part 155.

STATUTORY AUTHORITY: KRS 194A.050(1)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Kentucky Office of Health Benefit Exchange, has the responsibility to administer the state-based American Health Benefit Exchange. KRS 194A.050(1) requires the secretary of the cabinet to promulgate administrative regulations

necessary to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth; to operate the programs and fulfill the responsibilities vested in the cabinet; and to implement programs mandated by federal law or to qualify for the receipt of federal funds. In accordance with KRS 13A.310(3)(a), this administrative regulation repeals 900 KAR 10:030 and 900 KAR 10:100 as these administrative regulations were rendered obsolete with the promulgation of 900 KAR 10:200, Kentucky State Based Exchange on the Federal Platform.

Section 1. The following administrative regulations are hereby repealed:

(1) 900 KAR 10:030, Kentucky Health Benefit Exchange eligibility and enrollment in a qualified health plan; and

(2) 900 KAR 10:100, Appeals of Eligibility Determinations for KHBE Participation and Insurance Affordability Programs.

JOHN WATKINS, Acting Executive Director

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: August 30, 2017

FILED WITH LRC: September 7, 2017 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on October 23, 2017, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by October 16, 2017, 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 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 October 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Laura Begin, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone 502-564-6746, fax 502-564-2767, email Laura.Begin@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Chandra Venettozzi, phone (502) 564-7940, email Chandra.Venettozzi@ky.gov.; and Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in accordance with KRS 13A.310(3)(a), repeals 900 KAR 10:030 and 900 KAR 10:100.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to repeal 900 KAR 10:030 and 900 KAR 10:100 as these regulations are rendered obsolete by 900 KAR 10:200, Kentucky State Based Exchange on the Federal Platform.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by repealing 900 KAR 10:030 and 900 KAR 10:100 as these regulations are rendered obsolete by 900 KAR 10:200, Kentucky State Based Exchange on the Federal Platform.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by repealing 900 KAR 10:030 and 900 KAR 10:100 as these regulations are rendered obsolete by 900 KAR 10:200, Kentucky State Based Exchange on the Federal Platform.

(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 is not an amendment to an existing administrative

regulation.

(b) The necessity of the amendment to this administrative regulation: This is not an amendment to an existing administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment to an existing administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is not an amendment to an existing administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects individuals that wish to purchase a qualified health plan or appeal a decision of eligibility on the Kentucky Health Benefit Exchange.

(4) Provide an analysis of how the entities identified in question (3) 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 (3) will have to take to comply with this administrative regulation or amendment: Individuals that wish to purchase a qualified health plan or appeal a decision of eligibility on the Kentucky Health Benefit Exchange will now be subject to the requirements established in 900 KAR 10:200.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs will be incurred to comply with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation repeals 900 KAR 10:030 and 900 KAR 10:100.

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

(a) Initially: This administrative regulation imposes no costs on the administrative body.

(b) On a continuing basis: This administrative regulation imposes no costs on the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary to implement the administrative regulation.

(7) 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 fee or funding increase is necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The administrative regulation does not establish or increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applicable as this administrative regulation repeals 900 KAR 10:030 and 900 KAR 10:100.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects the Cabinet for Health and Family Services and individuals that wish to purchase a qualified health plan or appeal a decision of eligibility on the Kentucky Health Benefit Exchange.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 13A.310(3)(a)

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for state or

local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for state or local government.

(c) How much will it cost to administer this program for the first year? This administrative regulation imposes no costs on the administrative body.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation imposes no costs on the administrative body.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

42 U.S.C. 18022, 18031, 18042, 18054, 45 C.F.R. Parts 155, 156

2. State compliance standards. KRS 194A.050(1) requires the secretary of the cabinet to promulgate administrative regulations necessary to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth; to operate the programs and fulfill the responsibilities vested in the cabinet; and to implement programs mandated by federal law or to qualify for the receipt of federal funds. This administrative regulation repeals 900 KAR 10:030 and 900 KAR 10:100 as they are rendered obsolete by 900 KAR 10:200.

3. Minimum or uniform standards contained in the federal mandate. The Exchange must establish standards for eligibility and enrollment in a qualified health plan as well as an appeals process. 900 KAR 10:030 and 900 KAR 10:100 are being repealed as they are duplicative of 900 KAR 10:200 and unnecessary.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will impose no stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Justification for the imposition of a stricter standard, or additional or different responsibilities or requirements, is not applicable.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(Repealer)

922 KAR 5:111. Repeal of 922 KAR 5:100 and 922 KAR 5:102.

RELATES TO: KRS Chapter 194A, 209, 209A
 STATUTORY AUTHORITY: KRS 194A.050(1), 209.030, 209.035

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 209.030 and 209.035 authorize the cabinet to promulgate administrative regulations to effect the purposes of KRS Chapter 209 and general adult services. This administrative regulation repeals 922 KAR 5:100 and 922 KAR 5:102, which are outdated and no longer necessary as a result of

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

the 2017 Ky. Acts ch. 191 and the concurrent amendment to 922 KAR 5:090.

Section 1. The following administrative regulations are hereby repealed:

- (1) 922 KAR 5:100, Alternate care for adults; and
- (2) 922 KAR 5:102, Domestic violence protective services.

ADRIA JOHNSON, Commissioner

VICKIE YATES BROWN GLISSON, Secretary

APPROVED BY AGENCY: August 30, 2017

FILED WITH LRC: September 7, 2017 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on October 23, 2017, at 9:00 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by October 16, 2017, 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. The hearing is open to the public. Any person who attends 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 attend the public hearing, you may submit written comments on this proposed administrative regulation until October 31, 2017. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Laura Begin, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-B, Frankfort, Kentucky 40621, phone 502-564-6746, fax 502-564-2767, email Laura.Begin@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Elizabeth Caywood, phone (502) 564-3703, email Elizabeth.Caywood@ky.gov.; and Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 922 KAR 5:100 and 922 KAR 5:102.

(b) The necessity of this administrative regulation: This administrative regulation is necessary as a result of 922 KAR 5:100 and 922 KAR 5:102 being outdated and no longer necessary due to recently enacted legislation and a concurrent amendment to an existing administrative regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The only purpose of this administrative regulation is to repeal 922 KAR 5:100 and 922 KAR 5:102.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The only purpose of this administrative regulation is to repeal 922 KAR 5:100 and 922 KAR 5:102.

(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 administrative regulation is not an amendment.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation is not an amendment.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation is not an amendment.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation is not an amendment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The only purpose of this administrative regulation is to repeal 922 KAR 5:100 and 922 KAR 5:102. The repealer conforms to service provision changes ushered by 2017 Ky. Acts ch. 191 and Red Tape Reduction comments.

(4) Provide an analysis of how the entities identified in question

(3) 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 (3) will have to take to comply with this administrative regulation or amendment: The only purpose of this administrative regulation is to repeal 922 KAR 5:100 and 922 KAR 5:102.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The only purpose of this administrative regulation is to repeal 922 KAR 5:100 and 922 KAR 5:102.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The only purpose of this administrative regulation is to repeal 922 KAR 5:100 and 922 KAR 5:102. 922 KAR 5:102 is no longer necessary due to KRS Chapter 209A, as amended by the 2017 Ky. Acts ch. 191. Content that remains relevant in 922 KAR 5:100 has been proposed for incorporation within 922 KAR 5:090, which is subject to concurrent amendment; otherwise, 922 KAR 5:100 is duplicative of licensure processes implemented by the cabinet. The general public and vulnerable adults will benefit from the clarity provided through this repealer and concurrent amendment to 922 KAR 5:090.

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

(a) Initially: There is no cost associated with the repeal of 922 KAR 5:100 and 922 KAR 5:102.

(b) On a continuing basis: There is no ongoing cost associated with the repeal of 922 KAR 5:100 and 922 KAR 5:102.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no source of funding associated with the repeal of 922 KAR 5:100 and 922 KAR 5:102.

(7) 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: The only purpose of this administrative regulation is to repeal 922 KAR 5:100 and 922 KAR 5:102.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: There is no fee associated with the repeal of 922 KAR 5:100 and 922 KAR 5:102.

(9) TIERING: Is tiering applied? There is no tiering applied in the repeal of 922 KAR 5:100 and 922 KAR 5:102.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Cabinet for Health and Family Services, Department for Community Based Services will no longer have these obsolete administrative regulations under its purview.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. The only purpose of this administrative regulation is to repeal 922 KAR 5:100 and 922 KAR 5:102.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The only purpose of this administrative regulation is to repeal 922 KAR 5:100 and 922 KAR 5:102. This repealer will generate no new revenue in its first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This repealer creates no new revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? This repealer will create no new costs in the first year.

(d) How much will it cost to administer this program for

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

subsequent years? This repealer will create no new costs in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of September 11, 2017

Call to Order and Roll Call

The August meeting of the Administrative Regulation Review Subcommittee was held on Monday, September 11, 2017, at 1 p.m. in Room 149 of the Capitol Annex. Senator Harris, Co-Chair, called the meeting to order, the roll call was taken. The minutes of the August 2017 meeting were approved.

Present were:

Members: Senators Perry Clark, Alice Forgy Kerr, and Ernie Harris, and Representatives Mary Lou Marzian, Jason Petrie, Tommy Turner and Ken Upchurch.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Betsy Cupp, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Klaber.

Guests: Sarah Beth Gregory, Charles Hunt, Auditor of Public Accounts; Shan Dutta, Board of Professional Geologists; Amber Arnett, Ron Brooks, Department of Fish and Wildlife Resources; Amy Barker, Department of Corrections; Brooken Smith, Michael Swansburg, Labor Cabinet; Stephen Humphress, Heather Mercadante, Department of Alcoholic Beverage Control; Patrick O'Connor II, Department of Insurance; Laura Begin, Erica Brakefield, Brent Irvin, Ken Spach, Robert Silverthorn Jr., Jennifer Wolsing, Office of Inspector General; Elizabeth Caywood, Leitha Harris, Department of Community Based Services; Shannon Stiglitz, Retail Federation; Kyle Hoylman, Steven Rice, Radon Program Advisory Committee.

The Administrative Regulation Review Subcommittee met on Monday, September 11, 2017, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

AUDITOR OF PUBLIC ACCOUNTS

45 KAR 1:030. Audits of sheriffs' tax settlements. Chris Hunt, general counsel, and Sarah Beth Gregory, chief of staff, represented the Auditor of Public Accounts.

45 KAR 1:040. Audits of county fee officials.

45 KAR 1:050. Audits of fiscal courts.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add a citation; and (2) to amend Section 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Office of Occupations and Professions: Board of Registration for Professional Geologists

201 KAR 31:010. Fees. Shan Dutta, counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Fish

301 KAR 1:201. Taking of fish by traditional fishing methods. Amber Arnett, counsel, and Ron Brooks, fisheries director, represented the department.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:230. Little Sandy Correctional Complex. Amy Barker, assistant general counsel, represented the department.

In response to questions by Co-Chair Harris, Ms. Barker stated

that a change was made to the statewide policy to prohibit inmates from sending money outside of a facility and to prohibit inmates from opening savings accounts. The individual facility policies were being amended to comply with that statewide policy. The policy was the result of a specific security problem that had occurred. The department was still considering that statewide policy and may further refine it in the future. Inmates were still able to pay certain amounts to outside entities, but were prohibited from directly sending money outside of a facility.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 6:270 & E. Probation and parole policies and procedures.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 6:999. Corrections secured policies and procedures.

This administrative regulation was reviewed and amended, without objection and with agreement of the agency, by the Subcommittee in closed session pursuant to KRS 61.810(1)(k), 61.815(2), and 197.025(6).

LABOR CABINET: Department of Workplace Standards: Division of Occupational Health and Safety Compliance: Division of Occupational Safety and Health Education and Training

803 KAR 2:425 & E. Toxic and hazardous substances. Brooken Smith, chief of staff, and Michael Swansburg, general counsel, represented the division.

PUBLIC PROTECTION CABINET: Department of Alcoholic Beverage Control: Licensing

804 KAR 4:390. License renewals. Stephen Humphress, general counsel, and Heather Mercadante, executive adviser, represented the department.

804 KAR 4:400. Applications incorporated by reference.

A motion was made and seconded to approve the following amendments: to amend Section 1 and the material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

804 KAR 4:410. Product registration and forms.

A motion was made and seconded to approve the following amendment: to amend Section 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

Transportation of Alcoholic Beverages

804 KAR 8:050. Signs on vehicles used.

In response to a question by Senator Clark, Mr. Humphress stated that the department historically had the authority to check premises. KRS 241.090 authorized the department to perform warrantless inspections; however, the department rarely performed warrantless inspections. KRS 243.200 provided for the consent of transporters prior to inspection. The U.S. Supreme Court had recognized that the alcoholic beverage industry is highly regulated; therefore, there was a reduced expectation of privacy.

In response to a question by Co-Chair Harris, Mr. Humphress stated that the department had encountered situations of bootleggers, especially from dry counties who, without a licensed vehicle, purchased large quantities of alcoholic beverages for

transport back to the dry counties with the intent to sell. Department investigators in that situation would usually follow the vehicle to determine if a violation was occurring and had existing authority pursuant to probable cause and reasonable suspicion standards.

Department of Insurance: Kinds of Insurance; Limits of Risk; Reinsurance

806 KAR 5:031. Repeal of 806 KAR 5:030 and 806 KAR 5:040. Patrick O'Connor II, deputy commissioner, represented the department.

Investments

806 KAR 7:011. Repeal of 806 KAR 7:010.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Agents, Consultants, Solicitors and Adjusters

806 KAR 9:051. Repeal of 806 KAR 9:050 and 806 KAR 9:300.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

Health Insurance Contracts

806 KAR 17:575. Pharmacy benefit managers. Shannon Stiglitz, vice president of governmental affairs, represented the Kentucky Retail Federation in support of this administrative regulation.

In response to questions by Representative Petrie, Mr. O'Connor stated that this administrative regulation was initiated because of significant complaints from stakeholders, primarily pharmacists. KRS 304.17A-162 authorized the department to regulate pharmacy benefit managers and the reimbursement process. This administrative regulation clarified and expanded substantive provisions for appeals in the case of cost disputes. This administrative regulation also increased transparency by requiring benefit managers to include greater detail in individual notifications. The department utilized existing personnel to investigate complaints; therefore, this administrative regulation was not expected to burden the department's budget. Some pharmacy benefit managers had expressed concerns that developing their own online systems would be burdensome; however, the department anticipated that this administrative regulation would streamline the process for all stakeholders and reduce complaints in general.

Ms. Stiglitz stated that the Kentucky Retail Federation, which representation included retail pharmacies and the Kentucky Pharmacists Association, fully supported this administrative regulation. This administrative regulation was necessary to complete the intent of Senate Bill 117 from the 2016 Regular Session of the General Assembly. Pharmacy benefit managers did not need to be concerned about burdensome requirements because complaints would not be filed if reimbursements were conducted appropriately. Senate Bill 117 from the 2016 Regular Session of the General Assembly authorized the department to assist financially with the infrastructure necessary to comply with the mandates.

In response to questions by Representative Petrie, Ms. Stiglitz stated that this administrative regulation should be sufficient to give the department the authority and the necessary standards to enforce Senate Bill 117 from the 2016 Regular Session of the General Assembly; however, whether or not this administrative regulation was sufficient to meet the overall needs of pharmacists was not yet determinable.

In response to a question by Co-Chair Harris, Ms. Stiglitz stated that a good groundwork had been established for a working relationship between the department and the Kentucky Retail Federation. Mr. O'Connor stated that the department had a good

working relationship with the pharmacist community and with pharmacy benefit managers. The department had worked with both groups to develop this administrative regulation and also had a good working relationship with Kentucky Medicaid Services.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to add citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 5 to comply with the drafting requirements of KRS Chapter 13A; and (3) to amend Section 5 for consistency to require the weekly updates to the maximum allowable cost price list to be provided within two (2) business days of receipt of the request from the contracted pharmacy. Without objection, and with agreement of the agency, the amendments were approved.

Domestic Stock and Mutual Insurers

806 KAR 24:022. Repeal of 806 KAR 24:020.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Healthcare: Health Services and Facilities

902 KAR 20:360 & E. Abortion facilities. Robert Silverthorn, Jr., inspector general, and Jennifer Wolsing, general counsel, represented the division.

In response to questions by Senator Clark, Mr. Silverthorn stated that testimony in the litigation related to this administrative regulation ended September 8, 2017. After a briefing period, the matter would be considered by the court. It was unnecessary to defer consideration of this administrative regulation until the court determination because that decision may be many months away. Senator Clark stated that, if we as a Commonwealth believed that abortion should be safe, legal, and rare, this administrative regulation seemed contrary to that ideal. It had been determined that abortion was protected by the U.S. Constitution. While Senator Clark stated that he was not pro-abortion, he recommended deferral of this administrative regulation until the court determination was issued.

In response to questions by Representative Marzian, Mr. Silverthorn stated that, in addition to abortion facilities, there were certain ambulatory care centers that, through the State Health Plan and Certificate of Need process, were required to have a patient transfer agreement. In order to be licensed, a facility was first required to obtain a Certificate of Need, which was the component that required the patient transfer agreement; therefore, the ambulatory care centers were indirectly required to establish patient transfer agreements for licensure. Representative Marzian requested to be recorded as voting in opposition to this administrative regulation.

Department for Community Based Services: Division of Family Support: Supplemental Nutrition Assistance Program

921 KAR 3:025. Technical requirements. Elizabeth Caywood, executive advisor, and Leitha Harris, section supervisor, represented the program.

In response to a question by Representative Petrie, Ms. Caywood stated that the requirements for able-bodied adults in the program had not changed. The purpose of this administrative regulation was to open the employment and training program to other households that could benefit but were not necessarily required to participate.

921 KAR 3:042. Supplemental Nutrition Assistance Program employment and training program.

Other Business: Co-Chair Harris led a moment of silence in honor of the victims of the September 11, 2001 terrorist attacks on the U.S., including citizens lost that day and those who had sacrificed since that time in the fight against terrorism around the world. Thoughts were also offered for victims of the recent hurricanes, especially Texas, Florida, Georgia, and other regions. Sarah Beth Gregory, former member of the Subcommittee and current chief of staff for the Auditor of Public Accounts was recognized and welcomed.

Co-Chair Harris stated that agencies' efforts to comply with the Red Tape Reduction Initiative were appreciated and, in so doing, it was important to remain in compliance with KRS 13A.221, which required subject matter to be divided into topics. A separate administrative regulation was required to be promulgated for each topic. If several topics were consolidated into one (1) administrative regulation, the resulting administrative regulation could be cumbersome to amend and difficult for stakeholders to use.

The following administrative regulations were deferred or removed from the September 11, 2017, Subcommittee agenda:

COUNCIL ON POSTSECONDARY EDUCATION: Public Educational Institutions

[13 KAR 2:120](#). Comprehensive funding model for the allocation of state general fund appropriations to public universities.

[13 KAR 2:130](#). Comprehensive funding model for the allocation of general fund appropriations to the Kentucky Community and Technical College System institutions.

Adult Education and Literacy

[13 KAR 3:050](#). GED® eligibility requirements.

FINANCE AND ADMINISTRATION CABINET: Teachers' Retirement System: Board of Trustees

[102 KAR 1:070](#). Application for retirement.

DEPARTMENT OF MILITARY AFFAIRS: Division of Administrative Services: Military Assistance Trust Funds

[106 KAR 2:040](#). Survivor benefits for death of a National Guard or Reserve Component member.

GENERAL GOVERNMENT CABINET: Board of Pharmacy

[201 KAR 2:380](#). Board authorized protocols.

Board of Medical Licensure

[201 KAR 9:260](#). Professional standards for prescribing and dispensing controlled substances.

Board of Embalmers and Funeral Directors

[201 KAR 15:030](#). Fees.

[201 KAR 15:050](#). Apprenticeship and supervision requirements.

[201 KAR 15:110](#). Funeral establishment criteria.

Board of Nursing

[201 KAR 20:057](#). Scope and standards of practice of advanced practice registered nurses.

Board of Licensure for Occupational Therapy

[201 KAR 28:200](#). Continuing competence.

[201 KAR 28:235](#). Telehealth occupational therapy services.

Board of Licensed Professional Counselors

[201 KAR 36:065](#). Licensed professional clinical counselor supervisor.

[201 KAR 36:070](#). Application, education, and examination requirements.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Waste Management: Identification and Listing of Hazardous Waste

[401 KAR 31:002](#). Repeal of 401 KAR 31:005, 401 KAR 31:010, 401 KAR 31:020, 401 KAR 31:030, 401 KAR 31:035, 401 KAR 31:040, 401 KAR 31:050, 401 KAR 31:070, 401 KAR 31:100, 401 KAR 31:110, 401 KAR 31:160, and 401 KAR 31:170.

Standards Applicable to Generators of Hazardous Waste

[401 KAR 32:002](#). Repeal of 401 KAR 32:005, 401 KAR 32:010, 401 KAR 32:020, 401 KAR 32:030, 401 KAR 32:040, 401 KAR 32:050, 401 KAR 32:060, 401 KAR 32:065, and 401 KAR 32:100.

Standards Applicable to Transporters of Hazardous Waste

[401 KAR 33:002](#). Repeal of 401 KAR 33:005, 401 KAR 33:010, 401 KAR 33:020, and 401 KAR 33:030.

Standards for Owners and Operators of Hazardous Waste Storage, Treatment and Disposal Facilities

[401 KAR 34:002](#). Repeal of 401 KAR 34:005, 401 KAR 34:010, 401 KAR 34:020, 401 KAR 34:030, 401 KAR 34:040, 401 KAR 34:050, 401 KAR 34:060, 401 KAR 34:070, 401 KAR 34:080, 401 KAR 34:090, 401 KAR 34:100, 401 KAR 34:110, 401 KAR 34:120, 401 KAR 34:130, 401 KAR 34:180, 401 KAR 34:190, 401 KAR 34:200, 401 KAR 34:210, 401 KAR 34:220, 401 KAR 34:230, 401 KAR 34:240, 401 KAR 34:245, 401 KAR 34:250, 401 KAR 34:275, 401 KAR 34:280, 401 KAR 34:281, 401 KAR 34:285, 401 KAR 34:287, 401 KAR 34:290, 401 KAR 34:320, 401 KAR 34:330, 401 KAR 34:340, 401 KAR 34:350, 401 KAR 34:360, and 401 KAR 34:370.

Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities

[401 KAR 35:002](#). Repeal of 401 KAR 35:005, 401 KAR 35:010, 401 KAR 35:020, 401 KAR 35:030, 401 KAR 35:040, 401 KAR 35:050, 401 KAR 35:060, 401 KAR 35:070, 401 KAR 35:080, 401 KAR 35:090, 401 KAR 35:100, 401 KAR 35:110, 401 KAR 35:120, 401 KAR 35:130, 401 KAR 35:180, 401 KAR 35:190, 401 KAR 35:200, 401 KAR 35:210, 401 KAR 35:220, 401 KAR 35:230, 401 KAR 35:240, 401 KAR 35:245, 401 KAR 35:250, 401 KAR 35:260, 401 KAR 35:270, 401 KAR 35:275, 401 KAR 35:280, 401 KAR 35:281, 401 KAR 35:285, 401 KAR 35:290, 401 KAR 35:310, 401 KAR 35:320, 401 KAR 35:330, 401 KAR 35:340, and 401 KAR 35:350.

Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste

[401 KAR 36:002](#). Repeal of 401 KAR 36:005, 401 KAR 36:020, 401 KAR 36:025, 401 KAR 36:030, 401 KAR 36:060, 401 KAR 36:070, 401 KAR 36:080, and 401 KAR 36:090.

Land Disposal Restrictions

[401 KAR 37:002](#). Repeal of 401 KAR 37:005, 401 KAR 37:010, 401 KAR 37:020, 401 KAR 37:030, 401 KAR 37:040, 401 KAR 37:050, 401 KAR 37:060, and 401 KAR 37:110.

Hazardous Waste Permitting Process

[401 KAR 38:002](#). Repeal of 401 KAR 38:005, 401 KAR 38:010, 401 KAR 38:020, 401 KAR 38:025, 401 KAR 38:030, 401 KAR 38:040, 401 KAR 38:050, 401 KAR 38:060, 401 KAR 38:070, 401 KAR 38:080, 401 KAR 38:090, 401 KAR 38:150, 401 KAR 38:160, 401 KAR 38:170, 401 KAR 38:180, 401 KAR 38:190, 401 KAR 38:200, 401 KAR 38:210, 401 KAR 38:230, 401 KAR 38:240, 401 KAR 38:250, 401 KAR 38:260, 401 KAR 38:270, 401 KAR 38:290, 401 KAR 38:300, 401 KAR 38:310, 401 KAR 38:320, 401 KAR 38:330, and 401 KAR 38:500.

Hazardous Waste Fees

[401 KAR 39:005](#). Definitions for 401 KAR Chapter 39.

[401 KAR 39:011](#). Repeal of 401 KAR 39:100 and 401 KAR 39:110.

[401 KAR 39:060](#). General requirements.

[401 KAR 39:080](#). Hazardous waste handlers.

[401 KAR 39:090](#). Hazardous waste permit program.

[401 KAR 39:120](#). Permit review, determination timetables, and fees.

Standards for Special Collection System Wastes

401 KAR 43:002. Repeal of 401 KAR 43:005, 401 KAR 43:010, 401 KAR 43:020, 401 KAR 43:030, 401 KAR 43:040, 401 KAR 43:050, 401 KAR 43:060, and 401 KAR 43:070.

Standards for the Management of Used Oil

401 KAR 44:002. Repeal of 401 KAR 44:005, 401 KAR 44:010, 401 KAR 44:020, 401 KAR 44:030, 401 KAR 44:040, 401 KAR 44:050, 401 KAR 44:060, 401 KAR 44:070, and 401 KAR 44:080.

Special Waste

401 KAR 45:060. Special waste permit-by-rule.

Standards for Solid Waste Facilities

401 KAR 48:005. Definitions related to 401 KAR Chapter 48.

401 KAR 48:090. Operating requirements for contained landfills.

Certificates of Environmental Safety and Public Necessity

410 KAR 1:002. Repeal of 410 KAR 1:010 and 410 KAR 1:020.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:110. Roederer Correctional Complex.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Driver Licensing: Administration

601 KAR 2:030 & E. Ignition interlock.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Department of Workplace Development: Office of Employment and Training: Unemployment Insurance

787 KAR 1:070. Reasonable time for protesting claim.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Oil and Gas: Division

805 KAR 1:060. Plugging wells.

805 KAR 1:071. Repeal of 805 KAR 1:070.

Coal Bed Methane

805 KAR 9:041. Repeal of 805 KAR 9:040.

PUBLIC PROTECTION CABINET: Department of Insurance: Authorization of Insurers and General Requirements

806 KAR 3:011. Repeal of 806 KAR 3:010, 806 KAR 3:020, and 806 KAR 3:220.

806 KAR 3:210. Privacy of consumer financial and health information.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Health Policy: State Health Plan

900 KAR 5:020. State Health Plan for facilities and services.

Office of the Secretary: Medical Review Panel Branch

900 KAR 11:010 & E. Medical review panels.

Division of Audits and Investigations: Controlled Substances

902 KAR 55:110. Monitoring system for prescription controlled substances.

Department for Public Health: Division of Public Health Protection and Safety: Radon

902 KAR 95:040. Radon Contractor Certification Program. Laura Begin, regulation coordinator; Erica Brakefield, environmental health supervisor; Brent Irvin, counsel; and Ken Spach, environmental health manager, represented the division. Kyle Hoylman, chair, and Steven Rice, vice chair, represented the Radon Program Advisory Committee and appeared in opposition to this administrative regulation.

Mr. Rice stated that, as vice chair of the Radon Program

Advisory Committee, he believed that this advisory committee had been ignored, neglected, and misled during the administrative regulation process pertaining to this administrative regulation. The division had opted to act independently of the advisory committee's ruling regarding this administrative regulation. KRS 211.9105 required the Radon Program Advisory Committee to review and comment on relevant administrative regulations promulgated by the division; however, the division had not contacted Mr. Rice. Emails seemed to have been sent by the division to an incorrect email address. Mr. Rice owned a radon measurement company and represented one (1) component of the industry on the advisory committee. The division had opted not to enforce the prior version of this administrative regulation, which had been developed in coordination with the industry representatives on the advisory committee. Mr. Rice requested deferral of this administrative regulation to allow the advisory committee to consult with the division.

Mr. Hoylman stated that, as chair of the Radon Program Advisory Committee, he wanted to raise awareness of the role radon played in lung cancer in Kentucky. Kentucky leads the nation regarding lung cancer, with 695 new cases diagnosed each year and with 495 deaths annually. The annual financial burden to Kentucky pertaining to radon-induced lung cancer was estimated to be approximately \$153,000,000. Mr. Hoylman was himself a cancer survivor and had lost his father, a nonsmoker, to lung cancer in 2009. The home Mr. Hoylman's father lived in for over thirty (30) years contained indoor radon concentrations seven (7) times greater than U.S. EPA's action level. The division ceased enforcing the requirements of this administrative regulation as a result of litigation and an injunction agreed to by the division and the litigants. The currently proposed version of this administrative regulation was the result of agreements made pursuant to the litigation without approval of the advisory committee. Although the advisory committee had unfilled appointments and difficulty maintaining a quorum, the advisory committee was confident that a better, consensus-based regulatory outcome was achievable. Most states bordering Kentucky established more stringent radon requirements than those currently proposed. All public comments were not addressed in the division's Statement of Consideration. Mr. Hoylman requested deferral of this administrative regulation to allow the advisory committee to consult with the division.

In response to questions by Co-Chair Harris, Mr. Hoylman stated that this administrative regulation was deficient because the proposed credentialing agencies did not have even minimum specific radon contractor credentialing, training, or standards programs. Additionally, this administrative regulation did not establish adequate consensus-based standards.

Ms. Begin stated that the division was in litigation regarding this administrative regulation, and amending this administrative regulation was an attempt to resolve the litigation so that the program could resume enforcement. The division reduced requirements that were more stringent than the authorizing statutes to the extent that public health and safety were still maintained. The advisory committee had not met in a while and experienced difficulty maintaining a quorum when it did meet; however, individual advisory committee members were sent copies of this proposed administrative regulation. Regarding the credentialing agencies, the National Radon Safety Board was included in the amended after comments version of this administrative regulation.

In response to the statements by Ms. Begin, Mr. Rice stated that KRS 194A.050(1) requires the secretary of the cabinet to promulgate administrative regulations necessary to protect the health of the individual citizens of the Commonwealth. This administrative regulation does not protect the health of the citizens because it fails to establish reasonable standards for the radon industry. Radon testing will be less accurate, and radon mitigation will be less effective at reducing lung cancer.

In response to a question by Co-Chair Harris, Mr. Rice stated that his statement that this administrative regulation would cause radon testing to be less accurate and radon mitigation to be less effective was his opinion and based in fact pertaining to the history of this issue. Mr. Spach stated that this administrative regulation was originally developed for both public health protection and

industry regulation. Because of litigation, this administrative regulation was amended to reduce the burden on industry by streamlining and reducing requirements, without sacrificing public health protection.

In response to a question by Co-Chair Harris, Senator Kerr, and Representative Marzian, Ms. Begin stated that the division agreed to defer consideration of this administrative regulation. Without objection, and with agreement of the agency, this administrative regulation was deferred to the October 10 meeting of the Subcommittee.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 4 through 7, and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Radiology

902 KAR 100:180. Technologically enhanced naturally occurring radioactive material related to oil and gas development.

Department for Medicaid Services: Division of Policy and Operations

907 KAR 1:045. Reimbursement provisions and requirements regarding community mental health center services.

907 KAR 1:047. Community mental health center primary care services.

Medicaid Services

907 KAR 1:102. Advanced practice registered nurse services.

907 KAR 1:104. Reimbursement for advanced practice registered nurse services.

907 KAR 1:479. Durable medical equipment covered benefits and reimbursement.

Payment and Services

907 KAR 3:005. Coverage of physicians' services.

907 KAR 3:010. Reimbursement for physicians' services.

Division of Protection and Permanency: Child Welfare

922 KAR 1:140 & E. Foster care and adoption permanency services.

922 KAR 1:320. Service appeals.

922 KAR 1:330. Child protective services.

Division of Protection and Permanency: Child Welfare

922 KAR 1:421. Repeal of 922 KAR 1:420.

922 KAR 1:430. Child protective services in-home case planning and service delivery.

922 KAR 1:470. Central registry.

922 KAR 1:480. Appeal of child abuse and neglect investigative findings.

922 KAR 1:490 & E. Background checks for foster and adoptive parents, caretaker relatives, kinship caregivers, fictive kin, and reporting requirements.

922 KAR 1:550 & E. Operator's license for children in the custody of the cabinet.

The Subcommittee adjourned at 2:07 p.m. until October 10, 2017, at 1 p.m.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(10), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

**INTERIM JOINT COMMITTEE REVIEW OF NATURAL RESOURCES AND ENERGY
Meeting of June 1, 2017**

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Natural Resources and Energy for its meeting of 6/1/2017, having been referred to the Committee on 5/3/2017, pursuant to KRS 13A.290(6):

301 KAR 2:132

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

None

June 1, 2017 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE REVIEW OF NATURAL RESOURCES AND ENERGY
Meeting of July 6, 2017**

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Natural Resources and Energy for its meeting of 7/6/2017, having been referred to the Committee on 6/7/2017, pursuant to KRS 13A.290(6):

301 KAR 2:075, 301 KAR 2:083, and 301 KAR 2:178.

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

None

July 6, 2017 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE REVIEW OF NATURAL RESOURCES AND ENERGY
Meeting of July 6, 2017**

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Natural Resources and Energy for its meeting of 7/6/2017, having been referred to the Committee on 7/6/2017, pursuant to KRS 13A.290(6):

301 KAR 2:221, 301 KAR 2:300, and 301 KAR 3:022.

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

None

July 6, 2017 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE REVIEW OF TRANSPORTATION
Meeting of July 6, 2017**

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Transportation for its meeting of July 6, 2017, having been referred to the Committee on June 7, 2017, pursuant to KRS 13A.290(6):

601 KAR 1:018

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the July 6, 2017 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Transportation for its meeting of July 6, 2017, having been referred to the Committee on July 5, 2017, pursuant to KRS 13A.290(6):

601 KAR 1:113

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the July 6, 2017 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE REVIEW OF NATURAL RESOURCES AND ENERGY
Meeting of August 2, 2017**

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Natural Resources and Energy for its meeting of 8/3/2017, having been referred to the Committee on 8/2/2017, pursuant to KRS 13A.290(6):

301 KAR 2:222 and 301 KAR 2:225 & E.

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the August 2, 2017 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto

**INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE AND FAMILY SERVICES
Meeting of August 16, 2017**

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Health and Welfare and Family Services for its meeting of August 16, 2017, having been referred to the Committee on August 2, 2017, pursuant to KRS 13A.290(6):

201 KAR 20:070
201 KAR 20:110
201 KAR 20:225
201 KAR 20:480
901 KAR 5:061
901 KAR 5:120

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the August 16, 2017 meeting, which are hereby incorporated by reference.

**INTERIM JOINT COMMITTEE REVIEW OF NATURAL RESOURCES AND ENERGY
Meeting of August 17, 2017**

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Natural Resources and Energy for its meeting of 8/3/2017, having been referred to the Committee on 8/2/2017, pursuant to KRS 13A.290(6):

787 KAR 2:040 & E

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the August 2, 2017 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto

**INTERIM JOINT COMMITTEE ON EDUCATION
Meeting of August 28, 2017**

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Education for its meeting of August 28, 2017, having been referred to the Committee on August 2, 2017, pursuant to KRS 13A.290(6):

725 KAR 2:070

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the August 28, 2017 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**INTERIM JOINT COMMITTEE ON NATURAL RESOURCES AND ENERGY
Meeting of September 8, 2017**

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Natural Resources and Energy for its meeting of 9/7/2017, having been referred to the Committee on 9/6/2017, pursuant to KRS 13A.290(6):

301 KAR 1:152 & E
301 KAR 1:195
301 KAR 2:049
301 KAR 6:005
401 KAR 8:010
401 KAR 8:011
401 KAR 8:020
401 KAR 8:040
401 KAR 8:075
401 KAR 8:100
401 KAR 8:250
401 KAR 49:011
401 KAR 49:080
and
401 KAR 49:091

**INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE AND FAMILY SERVICES
Meeting of September 20, 2017**

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the August 28, 2017 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

VOLUME 44, NUMBER 4 – OCTOBER 1, 2017

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Health and Welfare and Family Services for its meeting of September 20, 2017, having been referred to the Committee on September 6, 2017, pursuant to KRS 13A.290(6):

201 KAR 2:076
201 KAR 35:080
900 KAR 6:090
900 KAR 6:125
900 KAR 7:030
900 KAR 7:040
902 KAR 55:015
902 KAR 55:040
902 KAR 55:041
902 KAR 55:095

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the September 20, 2017 meeting, which are hereby incorporated by reference.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates

D - 2

The Locator Index lists all administrative regulations published in VOLUME 44 of the *Administrative Register of Kentucky* from July 2017 through June 2018. It also lists the page number on which each administrative regulation is published, the effective date of the administrative regulation after it has completed the review process, and other action that may affect the administrative regulation. NOTE: The administrative regulations listed under VOLUME 43 are those administrative regulations that were originally published in VOLUME 43 (last year's) issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the *2017 Kentucky Administrative Regulations Service* was published.

KRS Index

D - 10

The KRS Index is a cross-reference of statutes to which administrative regulations relate. These statute numbers are derived from the RELATES TO line of each administrative regulation submitted for publication in VOLUME 44 of the *Administrative Register of Kentucky*.

Technical Amendment Index

D - 17

The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments entered since being published in the *2017 Kentucky Administrative Regulations Service*. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.2255(2), 13A.312(2), or 13A.320(1)(d). Since these changes were not substantive in nature, administrative regulations appearing in this index will NOT be published in the *Administrative Register of Kentucky*.

Subject Index

D - 18

The Subject Index is a general index of administrative regulations published in VOLUME 44 of the *Administrative Register of Kentucky*, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
VOLUME 43					
The administrative regulations listed under VOLUME 43 are those administrative regulations that were originally published in Volume 43 (last year's) issues of the <i>Administrative Register of Kentucky</i> but had not yet gone into effect when the <i>2017 Kentucky Administrative Regulations Service</i> was published.					
SYMBOL KEY:					
* Statement of Consideration not filed by deadline					
** Withdrawn, not in effect within 1 year of publication					
*** Withdrawn before being printed in Register					
‡ Withdrawn deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))					
(r) Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.					
<hr/>					
EMERGENCY ADMINISTRATIVE REGULATIONS:					
(Note: Emergency regulations expire 180 days from the date filed; or 180 days from the date filed plus number of days of requested extension, or upon replacement or repeal, whichever occurs first.)					
301 KAR 2:225E	2112	5-12-2017	Amended	1799	
Replaced	2199	8-3-2017	As Amended	2125	6-21-2017
501 KAR 1:030E	2115	4-17-2017	201 KAR 20:057		
Replaced		See 44 Ky.R.	Amended	1802	6-21-2017
787 KAR 2:040E	1922	3-31-2017	201 KAR 20:070		
Replaced	2065	8-17-2017	Amended	2187	See 44 Ky.R.
907 KAR 1:041E(r)	1924	3-31-2017	201 KAR 20:110		
907 KAR 3:206E(r)	1925	3-31-2017	Amended	2189	See 44 Ky.R.
907 KAR 23:001E	1927	3-31-2017	201 KAR 20:225		
907 KAR 23:010E	1930	3-31-2017	Amended	2191	8-16-2017
907 KAR 23:020E	1935	3-31-2017	201 KAR 20:480		
			Amended	2193	8-16-2017
			201 KAR 22:070		
			Amended	2022	See 44 Ky.R.
			201 KAR 26:125		
			Amended	1805	See 44 Ky.R.
			201 KAR 26:130		
			Amended	1807	See 44 Ky.R.
			201 KAR 26:140		
			Amended	1809	See 44 Ky.R.
			201 KAR 26:145		
			Amended	1811	See 44 Ky.R.
			201 KAR 26:155		
			Amended	1814	See 44 Ky.R.
			201 KAR 26:160		
			Amended	1816	See 44 Ky.R.
			201 KAR 26:165		
			Amended	1818	See 44 Ky.R.
			201 KAR 26:171		
			Amended	1819	See 44 Ky.R.
			201 KAR 26:175		
			Amended	1823	
			Reprint	2109	
			Am Comments	2156	See 44 Ky.R.
4 KAR 1:010			201 KAR 26:180		
Amended	2176	See 44 Ky.R.	Amended	1826	
4 KAR 1:040			Am Comments	2158	See 44 Ky.R.
Amended	2178	See 44 Ky.R.	201 KAR 26:185		
4 KAR 1:050	2239	See 44 Ky.R.	Amended	1827	See 44 Ky.R.
16 KAR 2:020			201 KAR 26:190		
Amended	2005	See 44 Ky.R.	Amended	1829	See 44 Ky.R.
16 KAR 5:020			201 KAR 26:200		
Amended	2008	See 44 Ky.R.	Amended	1831	See 44 Ky.R.
16 KAR 6:010			201 KAR 26:210		
Amended	588		Amended	1833	See 44 Ky.R.
Am Comments	1188		Amended	1834	See 44 Ky.R.
As Amended	1505		201 KAR 26:225	1900	See 44 Ky.R.
16 KAR 6:020			201 KAR 26:250		
Amended	1627	7-7-2017	Amended	1836	See 44 Ky.R.
16 KAR 8:040			201 KAR 26:280		
Amended	2011	See 44 Ky.R.	Amended	1838	See 44 Ky.R.
30 KAR 2:010			201 KAR 26:290		
Amended	2180	See 44 Ky.R.	Amended	1840	See 44 Ky.R.
30 KAR 5:060			201 KAR 32:050		
Amended	2182	See 44 Ky.R.	Amended	1841	See 44 Ky.R.
40 KAR 2:145			201 KAR 32:060		
Amended	2013	See 44 Ky.R.	Amended	1843	See 44 Ky.R.
40 KAR 2:150			201 KAR 34:020		
Amended	2015	See 44 Ky.R.	Amended	2023	See 44 Ky.R.
200 KAR 5:080			201 KAR 34:030		
Repealed	2240	9-1-2017	Amended	2025	See 44 Ky.R.
200 KAR 5:081(r)	2240	9-1-2017	201 KAR 34:050		
201 KAR 2:074			Amended	2029	See 44 Ky.R.
Amended	1796	See 44 Ky.R.	201 KAR 39:001		
201 KAR 2:076					
Amended	2184	See 44 Ky.R.			
201 KAR 20:056					

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
Amended	1636		Amended	2202	See 44 Ky.R.
Am Comments	2160	See 44 Ky.R.	401 KAR 49:040		
201 KAR 39:030			Repealed	2205	9-8-2017
Amended	1639	See 44 Ky.R.	401 KAR 49:080		
201 KAR 39:050			Amended	2205	9-8-2017
Amended	1846	See 44 Ky.R.-	401 KAR 49:090		
201 KAR 39:070			Repealed	2205	9-8-2017
Amended	1640		401 KAR 49:091(r)	2241	9-8-2017
Am Comments	2162	See 44 Ky.R.	401 KAR 49:210		
201 KAR 44:090			Repealed	2205	9-8-2017
Amended	2031	See 44 Ky.R.	401 KAR 100:010		
201 KAR 46:035	2077	See 44 Ky.R.	Repealed	1906	8-4-2017
201 KAR 46:040			401 KAR 100:011(r)	1906	8-4-2017
Amended	1648		405 KAR 5:095		
Am Comments	1987	See 44 Ky.R.	Amended	1869	See 44 Ky.R.
201 KAR 46:060			405 KAR 7:091		
Amended	1651	7-17-2017	Repealed	1907	8-4-2017
201 KAR 46:070			405 KAR 7:092		
Amended	1653	See 44 Ky.R.	Amended	1876	See 44 Ky.R.
201 KAR 46:090			405 KAR 7:093(r)	1907	8-4-2017
Amended	1654	See 44 Ky.R.	501 KAR 1:030		
301 KAR 2:075			Amended	2209	See 44 Ky.R.
Amended	1848		501 KAR 6:040		
As Amended	2127	7-6-2017	Amended	1889	
301 KAR 2:083			As Amended	2134	7-7-2017
Amended	1850	7-6-2017	501 KAR 6:140		
301 KAR 2:178			Amended	2212	See 44 Ky.R.
Amended	1661		505 KAR 1:130		
As Amended	2128	7-6-2017	Amended	2214	See 44 Ky.R.
301 KAR 2:221			601 KAR 1:018		
Amended	2032	7-6-2017	Amended	1890	7-7-2017
301 KAR 2:222			601 KAR 1:113		
Amended	2195	8-3-2017	Amended	2056	See 44 Ky.R.
301 KAR 2:225			601 KAR 2:030		
Amended	2199	8-3-2017	Amended	2216	
301 KAR 2:300			725 KAR 2:060		
Amended	2034	See 44 Ky.R.	Amended	2060	
301 KAR 3:022			Withdrawn	**	6-5-2017
Amended	2038	See 44 Ky.R.	725 KAR 2:070		
400 KAR 1:001			Amended	2063	See 44 Ky.R.
Amended	1853	See 44 Ky.R.	787 KAR 1:070		
400 KAR 1:030			Amended	612	
Repealed	1901	8-4-2017	787 KAR 2:040		
400 KAR 1:031(r)	1901	8-4-2017	Amended	2065	See 44 Ky.R.
400 KAR 1:090			804 KAR 4:230		
Amended	1855		Amended	2222	See 44 Ky.R.
Am Comments	2164	See 44 Ky.R.	804 KAR 10:010		
400 KAR 1:100	1902	See 44 Ky.R.	Amended	2224	
401 KAR 8:010			As Amended		See 44 Ky.R.
Amended	2040	9-8-2017	806 KAR 17:575	2079	See 44 Ky.R.
401 KAR 8:011(r)	2078	9-8-2017	815 KAR 7:120		
401 KAR 8:020			Amended	2067	See 44 Ky.R.
Amended	2043	See 44 Ky.R.	900 KAR 6:125		
401 KAR 8:040			Amended	2225	See 44 Ky.R.
Amended	2047	9-8-2017	900 KAR 7:030		
401 KAR 8:070			Amended	2228	See 44 Ky.R.
Repealed	2078	9-8-2017	900 KAR 7:040		
401 KAR 8:075			Amended	2232	See 44 Ky.R.
Amended	2049	See 44 Ky.R.	900 KAR 10:050		
401 KAR 8:100			Repealed	1908	6-21-2017
Amended	2051	See 44 Ky.R.	900 KAR 10:041(r)	1908	6-21-2017
401 KAR 8:101			900 KAR 10:060		
Repealed	2078	9-8-2017	Repealed	1908	6-21-2017
401 KAR 8:250			901 KAR 5:060		
Amended	2055	9-8-2017	Repealed	2242	8-16-2017
401 KAR 8:550			901 KAR 5:061(r)	2242	8-16-2017
Repealed	2078	9-8-2017	901 KAR 5:120	2243	See 44 Ky.R.
401 KAR 8:600			902 KAR 2:060		
Repealed	2078	9-8-2017	Amended	1454	
401 KAR 49:011			Am Comments	1989	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
As Amended	2143	See 44 Ky.R.	906 KAR 1:091 (r)	2087	7-17-2017
902 KAR 20:053(r)	2082	7-17-2017	907 KAR 1:065		
902 KAR 20:054			Amended	1485	
Repealed	2082	7-17-2017	Am Comments	1997	
902 KAR 21:030	1910		As Amended	2149	7-7-2017
As Amended	2148	6-21-2017	907 KAR 23:001	2088	
902 KAR 22:010			907 KAR 23:010	2091	See 44 Ky.R.
Repealed	2084	7-17-2017	907 KAR 23:020	2096	See 44 Ky.R.
902 KAR 22:011(r)	2084	7-17-2017	910 KAR 1:210		
902 KAR 22:030			Amended	2070	7-17-2017
Repealed	2084	7-17-2017			
902 KAR 55:075					
Repealed	2085	7-17-2017			
902 KAR 55:076(r)	2085	7-17-2017			
902 KAR 55:100					
Repealed	2085	7-17-2017			
902 KAR 95:040					
Amended	2234				
906 KAR 1:080					
Repealed	2086	7-17-2017			
906 KAR 1:081(r)	2086	7-17-2017			
906 KAR 1:090					
Repealed	2086	7-17-2017			

SYMBOL KEY:
 * Statement of Consideration not filed by deadline
 ** Withdrawn, not in effect within 1 year of publication
 *** Withdrawn before being printed in Register
 ‡ Withdrawn deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))
 (r) Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	44 Ky.R. Page No.	Effective Date	Regulation Number	44 Ky.R. Page No.	Effective Date
VOLUME 44					
SYMBOL KEY:					
* Statement of Consideration not filed by deadline			As Amended	214	9-1-2017
** Withdrawn, not in effect within 1 year of publication			31 KAR 4:010		
*** Withdrawn before being printed in Register			Amended	112	
‡ Withdrawn deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))			As Amended	510	
IJC Interim Joint Committee			31 KAR 4:040		
(r) Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.			Amended	113	
			31 KAR 6:020		
			Amended	114	
			32 KAR 1:020		
			Amended	550	
			40 KAR 2:145		See 43 Ky.R.
			As Amended	9	8-4-2017
			40 KAR 2:150		See 43 Ky.R.
			As Amended	10	8-4-2017
			45 KAR 1:030		
			Amended	258	
			45 KAR 1:040		
			Amended	260	
			45 KAR 1:050		
			Amended	262	
			As Amended	729	
			101 KAR 2:210		
			Amended	769	
			102 KAR 1:070		
			Amended	264	
			103 KAR 1:120	833	
			103 KAR 16:391(r)	835	
			103 KAR 17:151(r)	836	
			103 KAR 26:110		
			Amended	770	
			103 KAR 28:150		
			Amended	772	
			103 KAR 31:050		
			Amended	774	
			103 KAR 31:180		
			Amended	775	
			103 KAR 31:190		
			Amended	777	
			103 KAR 31:200		
			Amended	778	
			103 KAR 44:060		
			Amended	780	
			103 KAR 44:070		
			Amended	782	
			103 KAR 44:100		
			Amended	783	
			103 KAR 44:120		
			Amended	785	
			103 KAR 50:021(r)	837	
			106 KAR 2:040	162	
			200 KAR 38:021(r)	839	
			201 KAR 2:074		See 43 Ky.R.
			As Amended	15	7-17-2017
			201 KAR 2:076		See 43 Ky.R.
			As Amended	510	9-20-2017
			201 KAR 2:380	447	
			201 KAR 2:390	699	
			201 KAR 2:400	701	
			201 KAR 9:260		
			Amended	265	
			Am Comments	736	
			201 KAR 13:040		
			Amended	552	
			201 KAR 13:060		
			Amended	554	
			201 KAR 15:030		
			Amended	117	
			201 KAR 15:050		
<hr/>					
ORDINARY ADMINISTRATIVE REGULATIONS					
4 KAR 1:010		See 43 Ky.R.			
As Amended	210	9-1-2017			
4 KAR 1:040		See 43 Ky.R.			
As Amended	211	9-1-2017			
4 KAR 1:050		See 43 Ky.R.			
As Amended	212	9-1-2017			
11 KAR 15:090					
Amended	107				
As Amended	502				
13 KAR 2:120	443				
13 KAR 2:130	445				
13 KAR 3:050					
Amended	257				
16 KAR 1:015	698				
16 KAR 2:020		See 43 Ky.R.			
Am Comments	225				
As Amended	505				
16 KAR 5:020		See 43 Ky.R.			
Am Comments	228				
As Amended	508				
16 KAR 8:040		See 43 Ky.R.			
Am Comments	231				
17 KAR 3:020					
Amended	548				
30 KAR 2:010		See 43 Ky.R.			
As Amended	213	9-1-2017			
30 KAR 5:060		See 43 Ky.R.			

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	44 Ky.R. Page No.	Effective Date	Regulation Number	44 Ky.R. Page No.	Effective Date
Amended	118		201 KAR 34:030		See 43 Ky.R.
201 KAR 15:110			As Amended	43	8-4-2017
Amended	121		201 KAR 34:050		See 43 Ky.R.
201 KAR 20:057			As Amended	46	8-4-2017
Amended	270		201 KAR 35:080		
Am Comments	740		Amended	128	
201 KAR 20:065	840		As Amended	512	9-20-2017
201 KAR 20:070		See 43 Ky.R.	201 KAR 36:030		
As Amended	216	8-16-2017	Amended	787	
201 KAR 20:110		See 43 Ky.R.	201 KAR 36:050		
As Amended	217	8-16-2017	Amended	790	
201 KAR 22:020			201 KAR 36:060		
Amended	556		Amended	792	
201 KAR 22:040			201 KAR 36:072	842	
Amended	248		201 KAR 36:065		
201 KAR 22:070		See 43 Ky.R.	Amended	130	
As Amended	17	7-17-2017	Amended	274	
Amended	560		201 KAR 36:070		
201 KAR 26:125		See 43 Ky.R.	Amended	275	
As Amended	18	7-17-2017	201 KAR 39:001		See 43 Ky.R.
201 KAR 26:130		See 43 Ky.R.	As Amended	47	8-4-2017
As Amended	19	7-17-2017	201 KAR 39:030		See 43 Ky.R.
201 KAR 26:140		See 43 Ky.R.	As Amended	48	8-4-2017
As Amended	21	7-17-2017	201 KAR 39:050		See 43 Ky.R.
201 KAR 26:145		See 43 Ky.R.	As Amended	49	8-4-2017
As Amended	22	7-17-2017	201 KAR 39:070		See 43 Ky.R.
201 KAR 26:155		See 43 Ky.R.	As Amended	50	8-4-2017
As Amended	24	7-17-2017	201 KAR 44:090		See 43 Ky.R.
201 KAR 26:160		See 43 Ky.R.	As Amended	50	
As Amended	25	7-17-2017	201 KAR 45:071(r)	702	
201 KAR 26:165		See 43 Ky.R.	201 KAR 45:110		
As Amended	26	7-17-2017	Amended	563	
201 KAR 26:171		See 43 Ky.R.	201 KAR 45:120		
As Amended	26	7-17-2017	Amended	565	
201 KAR 26:175		See 43 Ky.R.	201 KAR 45:170		
As Amended	29	7-17-2017	Amended	566	
201 KAR 26:180		See 43 Ky.R.	201 KAR 46:035		See 43 Ky.R.
As Amended	31	7-17-2017	As Amended	51	7-17-2017
201 KAR 26:185		See 43 Ky.R.	201 KAR 46:040		See 43 Ky.R.
As Amended	32	7-17-2017	As Amended	52	7-17-2017
201 KAR 26:190		See 43 Ky.R.	201 KAR 46:070		See 43 Ky.R.
As Amended	32	7-17-2017	As Amended	54	7-17-2017
201 KAR 26:200		See 43 Ky.R.	201 KAR 46:090		See 43 Ky.R.
As Amended	34	7-17-2017	As Amended	55	7-17-2017
201 KAR 26:210		See 43 Ky.R.	301 KAR 1:086(r)	844	
As Amended	35	7-17-2017	301 KAR 1:130		
201 KAR 26:215		See 43 Ky.R.	Amended	568	
As Amended	36	7-17-2017	301 KAR 1:152		
201 KAR 26:225		See 43 Ky.R.	Amended	132	9-8-2017
As Amended	37	7-17-2017	301 KAR 1:155		
201 KAR 26:250		See 43 Ky.R.	Amended	570	
As Amended	38	7-17-2017	301 KAR 1:192		
201 KAR 26:280		See 43 Ky.R.	Repealed	166	9-8-2017
As Amended	38	7-17-2017	301 KAR 1:195(r)	166	9-8-2017
201 KAR 26:290		See 43 Ky.R.	301 KAR 1:201		
As Amended	39	7-17-2017	Amended	279	
201 KAR 28:200			301 KAR 1:410		
Amended	124		Amended	574	
201 KAR 28:235	164		301 KAR 2:049		
201 KAR 31:010			As Amended	203	
Amended	127		Amended	513	9-8-2017
As Amended	729		301 KAR 6:005		
201 KAR 32:050		See 43 Ky.R.	Amended	138	9-8-2017
As Amended	40	7-17-2017	301 KAR 2:300		See 43 Ky.R.
201 KAR 32:060		See 43 Ky.R.	As Amended	56	
As Amended	41	7-17-2017	301 KAR 3:022		See 43 Ky.R.
201 KAR 33:015			As Amended	58	7-6-2017
Amended	561		Amended	794	
201 KAR 34:020		See 43 Ky.R.	302 KAR 17:010	845	
As Amended	43	8-4-2017	400 KAR 1:001		See 43 Ky.R.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	44 Ky.R. Page No.	Effective Date	Regulation Number	44 Ky.R. Page No.	Effective Date
As Amended	60	8-4-2017	405 KAR 8:050		
400 KAR 1:090		See 43 Ky.R.	Amended	620	
As Amended	61	8-4-2017	405 KAR 10:001		
400 KAR 1:100		See 43 Ky.R.	Amended	625	
As Amended	71	8-4-2017	405 KAR 12:001		
400 KAR 1:110			Amended	628	
Recodified from 405 KAR 7:092		8-4-2017	405 KAR 16:001		
400 KAR 1:120			Amended	630	
Recodified from 405 KAR 5:095		8-4-2017	405 KAR 16:110		
401 KAR 8:020		See 43 Ky.R.	Amended	636	
Am Comments	233		405 KAR 18:001		
As Amended	516	9-8-2017	Amended	638	
401 KAR 8:075		See 43 Ky.R.	405 KAR 18:010		
Am Comments	237		Amended	644	
401 KAR 8:100		See 43 Ky.R.	405 KAR 18:040		
As Amended	519	9-8-2017	Amended	646	
401 KAR 31:002(r)	449		405 KAR 18:060		
401 KAR 32:002(r)	450		Amended	648	
401 KAR 33:002(r)	451		405 KAR 18:110		
401 KAR 34:002(r)	452		Amended	652	
401 KAR 35:002(r)	454		405 KAR 18:260		
401 KAR 36:002(r)	455		Amended	655	
401 KAR 37:002(r)	457		405 KAR 20:001		
401 KAR 38:002(r)	458		Amended	656	
401 KAR 39:005			405 KAR 20:080		
Amended	285		Amended	660	
401 KAR 39:011(r)	459		405 KAR 20:090	703	
401 KAR 39:060			410 KAR 1:002(r)	463	
Amended	299		500 KAR 8:010		
401 KAR 39:080			Amended	662	
Amended	304		500 KAR 8:030		
401 KAR 39:090			Amended	664	
Amended	308		501 KAR 1:030		See 43 Ky.R.
401 KAR 39:120			As Amended	218	9-1-2017
Amended	315		501 KAR 6:110		
401 KAR 43:002(r)	460		Amended	332	
401 KAR 44:002(r)	462		501 KAR 6:140		See 43 Ky.R.
401 KAR 45:060			As Amended	220	9-1-2017
Amended	319		501 KAR 6:230		
401 KAR 48:005			Amended	334	
Amended	320		As Amended	730	
401 KAR 48:090			501 KAR 6:270		
Amended	327		Amended	335	
As Amended	211		As Amended	731	
401 KAR 49:011		See 43 Ky.R.	505 KAR 1:130		See 43 Ky.R.
Am Comments	521		Am Comments	241	
401 KAR 59:015			505 KAR 1:170		
Amended	797		Amended	809	
401 KAR 61:015			601 KAR 1:113		See 43 Ky.R.
Amended	803		As Amended	92	7-6-2017
402 KAR 3:010			602 KAR 15:030	705	
Amended	577		702 KAR 7:065		
402 KAR 3:030			Amended	666	
Amended	579		703 KAR 5:270	849	
405 KAR 5:095		See 43 Ky.R.	704 KAR 7:051 (r)	167	
As Amended	74	8-4-2017	725 KAR 2:070		See 43 Ky.R.
Recodified as 400 KAR 1:120		8-4-2017	Am Comments	104	
405 KAR 7:001			As Amended	221	8-28-2017
Amended	580		739 KAR 2:050		
405 KAR 7:092		See 43 Ky.R.	Amended	670	
As Amended	80	8-4-2017	780 KAR 3:072		
Recodified as 400 KAR 1:110		8-4-2017	Amended	672	
405 KAR 7:095			780 KAR 3:080		
Amended	585		Amended	677	
405 KAR 8:001			787 KAR 2:040		See 43 Ky.R.
Amended	588		As Amended	223	8-17-2017
405 KAR 8:010			803 KAR 1:100		
Amended	595		Amended	680	
405 KAR 8:040			803 KAR 1:121(r)	707	
Amended	607		803 KAR 2:425		

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	44 Ky.R. Page No.	Effective Date	Regulation Number	44 Ky.R. Page No.	Effective Date
Amended	337		900 KAR 6:125		See 43 Ky.R.
803 KAR 6:011(r)	708		Am Comments	246	9-20-2017
804 KAR 4:390			900 KAR 7:030		See 43 Ky.R.
Amended	339		As Amended	527	9-20-2017
804 KAR 4:400			900 KAR 7:040		See 43 Ky.R.
Amended	341		As Amended	530	9-20-2017
As Amended	731		900 KAR 10:031(r)	858	
804 KAR 4:410			900 KAR 11:010	472	
Amended	343		Am Comments	763	
As Amended	732		901 KAR 5:120		See 43 Ky.R.
804 KAR 4:230		See 43 Ky.R.	As Amended	223	8-16-2017
As Amended	523		902 KAR 2:060		See 43 Ky.R.
804 KAR 5:070			As Amended, IJC	97	6-21-2017
Amended	682		902 KAR 20:360		
804 KAR 6:020	709		Amended	371	
804 KAR 8:050			902 KAR 55:015		
Amended	345		Amended	143	
804 KAR 10:010		See 43 Ky.R.	As Amended	531	9-20-2017
As Amended	524		902 KAR 55:020		
805 KAR 1:060			Repealed	169	9-20-2017
Amended	346		902 KAR 55:025		
805 KAR 1:071(r)	464		Repealed	169	9-20-2017
805 KAR 7:020			902 KAR 55:030		
Amended	685		Repealed	169	9-20-2017
805 KAR 7:030			902 KAR 55:035		
Amended	686		Repealed	169	9-20-2017
805 KAR 7:040			902 KAR 55:040		
Amended	688		Amended	147	
805 KAR 7:050			As Amended	534	9-20-2017
Amended	689		902 KAR 55:041(r)	169	9-20-2017
805 KAR 7:060			902 KAR 55:095		
Amended	691		Amended	149	
805 KAR 8:030			As Amended	534	9-20-2017
Amended	692		902 KAR 55:110		
805 KAR 8:040			Amended	378	
Amended	694		902 KAR 95:040		
805 KAR 8:050			Am Comments	541	
Amended	696		902 KAR 100:180	477	
805 KAR 9:041(r)	465		907 KAR 1:045		
806 KAR 3:011(r)	466		Amended	382	
806 KAR 3:210			907 KAR 1:047		
Amended	350		Amended	387	
Am Comments	744		907 KAR 1:102		
806 KAR 5:031(r)	468		Amended	391	
806 KAR 7:011(r)	469		907 KAR 1:104		
As Amended	733		Amended	395	
806 KAR 9:051(r)	470		907 KAR 1:479		
As Amended	733		Amended	398	
806 KAR 17:575		See 43 Ky.R.	907 KAR 3:005		
Am Comments	243		Amended	405	
As Amended	733		907 KAR 3:010		
806 KAR 24:022(r)	471		Amended	410	
808 KAR 10:081(r)	168		907 KAR 3:066		
Withdrawn		7-17-2017	Amended	152	
815 KAR 7:120		See 43 Ky.R.	907 KAR 23:010		See 43 Ky.R.
As Amended	95	7-26-2017	Am Comments	248	
815 KAR 15:010			As Amended	536	
Amended	810		907 KAR 23:020		See 43 Ky.R.
815 KAR 15:025			Am Comments	253	
Amended	813		921 KAR 3:025		
815 KAR 15:026			Amended	154	
Amended	819		921 KAR 3:042		
815 KAR 15:027			Amended	158	
Amended	823		Am Comments	544	
815 KAR 15:041(r)	857		922 KAR 1:140		
900 KAR 5:020			Amended	416	
Amended	369		922 KAR 1:320		
900 KAR 6:090			Amended	420	
Amended	140		922 KAR 1:330		
As Amended	524	9-20-2017	Amended	425	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	44 Ky.R. Page No.	Effective Date	Regulation Number	44 Ky.R. Page No.	Effective Date
922 KAR 1:421(r)	480				
922 KAR 1:430 Amended	431				
922 KAR 1:470 Amended	433				
922 KAR 1:480 Amended	436				
922 KAR 1:490 Amended	439				
922 KAR 1:550	482				
922 KAR 5:040 Amended	826				
922 KAR 5:090 Amended	830				
922 KAR 5:111(r)	859				

SYMBOL KEY:

- * Statement of Consideration not filed by deadline
- ** Withdrawn, not in effect within 1 year of publication
- *** Withdrawn before being printed in Register
- ‡ Withdrawn deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))
- (r) Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
2.015	922 KAR 1:140	96A.095	907 KAR 3:066
13A.110	804 KAR 4:410	117.015	31 KAR 6:020
13B	201 KAR 36:030	117.086	31 KAR 4:040
	602 KAR 15:030	117.227	31 KAR 4:010
	902 KAR 20:360	117.235	31 KAR 4:040
	922 KAR 1:320	117.255	31 KAR 4:040
	922 KAR 1:480	117.275	31 KAR 6:020
13B.010	922 KAR 1:480	117.305	31 KAR 6:020
13B.050	922 KAR 1:330	121.160	32 KAR 1:020
13B.120	922 KAR 1:330	121.180	32 KAR 1:020
13B.140	922 KAR 1:330	131.032	103 KAR 1:120
13B.150	922 KAR 1:330	131.081	103 KAR 1:120
15.241	902 KAR 20:360	131.110	103 KAR 26:110
15A.065	505 KAR 1:170	131.130	103 KAR 1:120
15A.067	505 KAR 1:170		103 KAR 16:391
15A.070	500 KAR 8:010	131.180	103 KAR 44:070
17.165	922 KAR 1:470	131.190	103 KAR 1:120
17.500 - 17.580	922 KAR 1:490	131.990	103 KAR 1:120
18A.030	101 KAR 2:210	136.392	739 KAR 2:050
18A.095	103 KAR 1:120	138.450 - 138.470	103 KAR 44:060
18A.225	101 KAR 2:210		103 KAR 44:070
18A.2254	101 KAR 2:210		103 KAR 44:100
23A.010	922 KAR 1:320	138.460	103 KAR 44:120
	922 KAR 1:480	138.990	103 KAR 44:070
23A.205	200 KAR 38:021	139.010	103 KAR 26:110
23A.206	200 KAR 38:021		103 KAR 28:150
23A.215	200 KAR 38:021		103 KAR 31:050
23A.2065	200 KAR 38:021		103 KAR 31:200
24A.175	200 KAR 38:021	139.200	103 KAR 26:110
24A.176	200 KAR 38:021		103 KAR 28:150
24A.180	200 KAR 38:021	139.260	103 KAR 26:110
24A.1765	200 KAR 38:021		103 KAR 28:150
40.320	17 KAR 3:020	139.270	103 KAR 26:110
40.325	17 KAR 3:020	139.310	103 KAR 26:110
42.320	200 KAR 38:021	139.330	103 KAR 26:110
43.070	45 KAR 1:030	139.470	103 KAR 28:150
	45 KAR 1:040	139.480	103 KAR 26:110
	45 KAR 1:050	139.515	103 KAR 31:180
43.075	45 KAR 1:030	139.517	103 KAR 31:190
	45 KAR 1:040	139.518	103 KAR 31:200
	45 KAR 1:050	139.540	103 KAR 26:110
45.313	922 KAR 5:040	139.550	103 KAR 26:110
45.453	602 KAR 15:030	139.590	103 KAR 26:110
45A.340	900 KAR 6:090	139.720	103 KAR 26:110
48.600 - 48.630	13 KAR 2:120		103 KAR 28:150
	13 KAR 2:130		103 KAR 31:190
61.315	106 KAR 2:040	141.010	103 KAR 17:151
61.805-61.850	702 KAR 7:065	141.180	103 KAR 17:151
61.870-61.884	405 KAR 8:010	141.210	103 KAR 17:151
	922 KAR 5:040	141.388	103 KAR 17:151
61.876	922 KAR 1:470	141.0205	103 KAR 17:151
64.530	45 KAR 1:040	141.040	103 KAR 16:391
64.810	45 KAR 1:030	146.200-146.360	405 KAR 8:010
	45 KAR 1:040	149.010	402 KAR 3:010
	45 KAR 1:050	149.020	402 KAR 3:010
61.870	401 KAR 39:060	149.330	402 KAR 3:030
61.884	401 KAR 39:060	149.332	402 KAR 3:030
65.7045	103 KAR 31:180	149.334	402 KAR 3:030
	103 KAR 50:021	149.344	402 KAR 3:030
65.7069	103 KAR 50:021	149.346	402 KAR 3:030
65.7073	103 KAR 50:021	149.348	402 KAR 3:030
65.7075	103 KAR 50:021	149.350	402 KAR 3:030
65.7083	103 KAR 50:021	149.355	402 KAR 3:030
68.210	45 KAR 1:030	150.010	301 KAR 1:130
	45 KAR 1:040		301 KAR 1:152
	45 KAR 1:050		301 KAR 1:155
75.400	739 KAR 2:050		301 KAR 1:201
75.410	739 KAR 2:050		301 KAR 1:410
75.440	739 KAR 2:050		301 KAR 2:049
95A.210	739 KAR 2:050	150.025	301 KAR 1:086
95A.262	739 KAR 2:050		301 KAR 3:022

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
150.092	301 KAR 2:049		922 KAR 1:470
150.110	301 KAR 1:086	160.445	702 KAR 7:065
150.120	301 KAR 1:155	161.020	16 KAR 1:015
150.170	301 KAR 1:086	161.028	16 KAR 1:015
	301 KAR 1:130	161.030	16 KAR 1:015
	301 KAR 1:152	161.600	102 KAR 1:070
	301 KAR 1:155	161.605	102 KAR 1:070
	301 KAR 1:201	161.640	102 KAR 1:070
	301 KAR 1:410	161.675	102 KAR 1:070
	301 KAR 2:049	164.001	13 KAR 2:120
150.175	301 KAR 1:086		13 KAR 2:130
	301 KAR 1:130	164.002	11 KAR 15:090
	301 KAR 1:152	164.092	13 KAR 2:120
	301 KAR 1:201		13 KAR 2:130
	301 KAR 1:410	164.0064	13 KAR 3:050
150.180	301 KAR 3:022	164.772	201 KAR 22:020
150.183	301 KAR 3:022		201 KAR 22:040
150.235	301 KAR 1:410	164.7871	11 KAR 15:090
150.240	301 KAR 3:022	164.7874	11 KAR 15:090
150.275	301 KAR 3:022	164.7877	11 KAR 15:090
150.280	301 KAR 3:022	164.7879	11 KAR 15:090
150.290	301 KAR 3:022	164.7881	11 KAR 15:090
150.340	301 KAR 1:130	164.7885	11 KAR 15:090
	301 KAR 1:201	164.7889	11 KAR 15:090
150.370	301 KAR 2:049	171.250	725 KAR 2:070
150.399	301 KAR 2:049	171.260	725 KAR 2:070
150.445	301 KAR 1:152	171.270	725 KAR 2:070
	301 KAR 1:155	174.504	602 KAR 15:030
	301 KAR 1:410	183.011	602 KAR 15:030
150.450	301 KAR 1:130	186.450	922 KAR 1:550
	301 KAR 1:152	186.470	922 KAR 1:550
	301 KAR 1:155	186.480	922 KAR 1:550
	301 KAR 3:022	186.590	922 KAR 1:550
150.485	301 KAR 3:022	189.150	902 KAR 100:180
150.520	301 KAR 1:086	189A.050	200 KAR 38:021
	301 KAR 3:022	189A.103	500 KAR 8:010
150.525	301 KAR 3:022		500 KAR 8:030
150.600	301 KAR 3:022	194A	922 KAR 5:111(r)
150.603	301 KAR 3:022	194A.005	922 KAR 1:320
150.620	301 KAR 1:195		922 KAR 1:330
	301 KAR 1:201		922 KAR 1:480
	301 KAR 1:410	194A.030	922 KAR 1:320
150.660	301 KAR 3:022	194A.050	900 KAR 10:031(r)
150.720	301 KAR 3:022	194A.060	922 KAR 5:040
150.990	301 KAR 1:130	194A.209	922 KAR 5:090
	301 KAR 1:152	194A.540	201 KAR 36:030
	301 KAR 1:155	194A.550	922 KAR 5:040
	301 KAR 1:201	196	501 KAR 6:110
	301 KAR 1:410		501 KAR 6:230
	301 KAR 2:049		501 KAR 6:270
150.995	301 KAR 2:049	197	501 KAR 6:110
154.27-010	103 KAR 31:190		501 KAR 6:230
154.27-070	103 KAR 31:190		501 KAR 6:270
154.030-010	103 KAR 31:180	198B.050	922 KAR 5:040
154A.130	11 KAR 15:090	199.011	922 KAR 1:140
156.010	11 KAR 15:090		922 KAR 1:320
156.070	702 KAR 7:065		922 KAR 1:490
156.808	780 KAR 3:072		922 KAR 1:550
	780 KAR 3:080	199.462	922 KAR 1:140
158.007	11 KAR 15:090		922 KAR 1:490
158.135	13 KAR 3:050	199.466	922 KAR 1:470
158.143	13 KAR 3:050	199.555	922 KAR 1:140
158.148	704 KAR 7:051		922 KAR 1:320
158.150	704 KAR 7:051	199.557	922 KAR 1:140
158.645	703 KAR 5:270		922 KAR 1:320
158.6451	703 KAR 5:270	199.801	922 KAR 1:140
158.6453	703 KAR 5:270	199.896	922 KAR 1:470
158.6455	13 KAR 3:050	199.8982	922 KAR 1:470
	703 KAR 5:270	202A.011	922 KAR 1:330
159.140	922 KAR 1:330	205.455	922 KAR 5:040
160.151	922 KAR 1:470	205.510	907 KAR 3:005
160.380	702 KAR 7:065	205.520	907 KAR 1:045

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	907 KAR 1:047	217.005 - 217.215	902 KAR 55:015
	907 KAR 1:102		902 KAR 55:041
	907 KAR 1:104	217.015	301 KAR 1:155
	907 KAR 1:479	218A.010	902 KAR 55:015
	907 KAR 3:005		902 KAR 55:110
205.560	907 KAR 3:066	218A.020	902 KAR 55:015
	907 KAR 1:479	218A.020 - 218A.130	902 KAR 55:040
	907 KAR 3:005		902 KAR 55:041
	907 KAR 3:010	218A.040	902 KAR 55:015
205.565	907 KAR 3:010	218A.060	902 KAR 55:015
205.622	907 KAR 1:047	218A.070	902 KAR 55:095
	907 KAR 1:102	218A.080	902 KAR 55:015
	907 KAR 3:005	218A.100	902 KAR 55:015
205.2005	921 KAR 3:025	218A.120	902 KAR 55:015
205.8451	907 KAR 1:045	218A.180	902 KAR 55:095
	907 KAR 1:047	218A.200	902 KAR 55:095
	907 KAR 1:102	218A.202	902 KAR 55:110
	907 KAR 3:005	218A.205	201 KAR 9:260
209	922 KAR 5:090		201 KAR 20:057
	922 KAR 5:111(r)	218A.240	902 KAR 55:110
209.020	922 KAR 1:320	224	401 KAR 61:015
	922 KAR 5:040		902 KAR 100:180
209.030	922 KAR 5:040	224.1	401 KAR 31:002
209.140	922 KAR 5:040		401 KAR 32:002
209A	922 KAR 5:040		401 KAR 33:002
	922 KAR 5:111(r)		401 KAR 34:002
209A.020	922 KAR 1:320		401 KAR 35:002
	922 KAR 5:090		401 KAR 36:002
210.366	201 KAR 28:200		401 KAR 37:002
	201 KAR 36:030		401 KAR 38:002
210.370 - 210.485	907 KAR 1:045		401 KAR 39:005
	907 KAR 1:047		401 KAR 39:120
	907 KAR 3:010		401 KAR 43:002
211.350 - 211.380	922 KAR 5:040		401 KAR 45:060
211.680 - 211.686	922 KAR 1:421		401 KAR 48:005
211.684	922 KAR 1:330		401 KAR 48:090
	922 KAR 1:490	224.10	401 KAR 31:002
211.842 - 211.990	902 KAR 100:180		401 KAR 32:002
211.892	805 KAR 1:060		401 KAR 33:002
211.893	805 KAR 1:060		401 KAR 34:002
213.101	902 KAR 20:360		401 KAR 35:002
214.036	922 KAR 1:330		401 KAR 36:002
216.510	902 KAR 55:095		401 KAR 37:002
216B.010 - 216B.130	900 KAR 5:020		401 KAR 38:002
	902 KAR 20:360		401 KAR 39:005
216B.015	900 KAR 6:090		401 KAR 39:011
216B.020	900 KAR 6:090		401 KAR 39:060
216B.040	900 KAR 6:090		401 KAR 39:080
216B.042	902 KAR 55:095		401 KAR 39:090
216B.050	902 KAR 100:180		401 KAR 39:120
216B.062	900 KAR 6:090		401 KAR 43:002
216B.095	900 KAR 6:090		401 KAR 44:002
216B.990	900 KAR 6:090		401 KAR 45:060
	902 KAR 20:360		401 KAR 48:005
216C.010	900 KAR 11:010		401 KAR 48:090
216C.030	900 KAR 11:010		401 KAR 59:015
216C.040	900 KAR 11:010	224.10-100	402 KAR 3:030
216C.050	900 KAR 11:010	224.40	401 KAR 31:002
216C.060	900 KAR 11:010		401 KAR 32:002
216C.070	900 KAR 11:010		401 KAR 33:002
216C.080	900 KAR 11:010		401 KAR 34:002
216C.090	900 KAR 11:010		401 KAR 35:002
216C.100	900 KAR 11:010		401 KAR 36:002
216C.110	900 KAR 11:010		401 KAR 37:002
216C.120	900 KAR 11:010		401 KAR 38:002
216C.160	900 KAR 11:010		401 KAR 39:120
216C.170	900 KAR 11:010		401 KAR 43:002
216C.180	900 KAR 11:010		401 KAR 44:002
216C.200	900 KAR 11:010		401 KAR 45:060
216C.210	900 KAR 11:010		401 KAR 48:005
216C.220	900 KAR 11:010		401 KAR 48:090
216C.230	900 KAR 11:010	224.40-310	410 KAR 1:002

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
224.43	401 KAR 31:002	236	815 KAR 15:010
	401 KAR 34:002		815 KAR 15:025
	401 KAR 35:002		815 KAR 15:027
	401 KAR 36:002		815 KAR 15:041
	401 KAR 37:002	236.010	815 KAR 15:026
	401 KAR 38:002	236.030	815 KAR 15:026
	401 KAR 43:002	236.110	815 KAR 15:026
	401 KAR 44:002	236.240	815 KAR 15:026
	401 KAR 48:005	236.250	815 KAR 15:026
	401 KAR 48:090	236.990	815 KAR 15:026
224.43-815	410 KAR 1:002	241.020	804 KAR 6:020
224.46	401 KAR 31:002	241.060	804 KAR 4:400
	401 KAR 32:002		804 KAR 4:410
	401 KAR 33:002	243.090	804 KAR 4:390
	401 KAR 34:002		804 KAR 4:400
	401 KAR 35:002		804 KAR 6:020
	401 KAR 36:002	2430200	804 KAR 8:050
	401 KAR 37:002	243.380	804 KAR 4:400
	401 KAR 38:002		804 KAR 4:410
	401 KAR 39:005	243.390	804 KAR 4:400
	401 KAR 39:011		804 KAR 4:410
	401 KAR 39:060	243.630	804 KAR 4:400
	401 KAR 39:080	244.080	804 KAR 5:070
	401 KAR 39:090	244.085	804 KAR 5:070
	401 KAR 39:120	244.090	804 KAR 5:070
	401 KAR 43:002	247	302 KAR 17:010
	401 KAR 44:002	281.010	907 KAR 3:066
	401 KAR 45:060	281.605	907 KAR 3:066
224.46-505	410 KAR 1:002	281.635	907 KAR 3:066
224.46-510	410 KAR 1:002	281.872	907 KAR 3:066
224.46-520	410 KAR 1:002	281.875	907 KAR 3:066
224.46-810	410 KAR 1:002	304.2-105	806 KAR 3:210
224.46-820	410 KAR 1:002	304.2-180	806 KAR:011
224.46-825	410 KAR 1:002	304.3-100	806 KAR:011
224.46-830	410 KAR 1:002	304.3-240	806 KAR:011
224.46-840	410 KAR 1:002	304.5-010	806 KAR 5:031
224.46-850	410 KAR 1:002	304.5-080	806 KAR 5:031
224.46-860	410 KAR 1:002	304.7-340	806 KAR 7:011
224.46-870	410 KAR 1:002	304 - 9	806 KAR 9:051
224.50	401 KAR 34:002	304.9 - 030	806 KAR 5:031
	401 KAR 35:002	304.9 - 390	806 KAR 9:051
	401 KAR 38:002	304.24 - 410	806 KAR 24:022
	401 KAR 39:120	309.331	201 KAR 45:110
	401 KAR 44:002		201 KAR 45:120
	401 KAR 45:060		201 KAR 45:170
	401 KAR 48:005	309.334	201 KAR 45:120
224.50-130	401 KAR 31:002		201 KAR 45:170
224.50-760	410 KAR 1:002	309.335	201 KAR 45:071
224.70	401 KAR 34:002		201 KAR 45:120
	401 KAR 37:002		201 KAR 45:170
224.71-110	402 KAR 3:030	309.336	201 KAR 45:170
224.71-120	402 KAR 3:030	309.0813	201 KAR 35:080
224.99	401 KAR 31:002	310.005	201 KAR 33:015
	401 KAR 32:002	310.021	201 KAR 33:015
	401 KAR 33:002	310.031	201 KAR 33:015
	401 KAR 34:002	311.530 - 311.620	201 KAR 9:260
	401 KAR 35:002	311.710 - 311.830	902 KAR 20:360
	401 KAR 36:002	311.840	907 KAR 3:010
	401 KAR 37:002	311.840 - 311.862	907 KAR 3:005
	401 KAR 38:002	311.990	201 KAR 9:260
	401 KAR 39:011	314.011	201 KAR 20:057
	401 KAR 39:060		201 KAR 20:065
	401 KAR 39:080		902 KAR 20:360
	401 KAR 39:090		907 KAR 1:102
	401 KAR 39:120		907 KAR 1:104
	401 KAR 45:060		907 KAR 3:005
	401 KAR 48:005	314.042	201 KAR 20:057
	401 KAR 48:090		201 KAR 20:065
235.040	301 KAR 6:005		902 KAR 20:360
235.050	301 KAR 6:005	314.175	201 KAR 20:505E
235.070	301 KAR 6:005	314.193	201 KAR 20:057
235.080	301 KAR 6:005	314.196	201 KAR 20:057

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
315.002	201 KAR 2:390		803 KAR 1:121
	201 KAR 2:400	339.210 - 339.450	803 KAR 1:100
315.005	201 KAR 2:390	349.025	805 KAR 9:041
	201 KAR 2:400	350	405 KAR 7:001
315.010	201 KAR 2:380		405 KAR 8:001
	201 KAR 2:400		405 KAR 10:001
315.191	201 KAR 2:380		405 KAR 12:001
	201 KAR 2:390		405 KAR 16:001
	201 KAR 2:400		405 KAR 18:001
315.340	201 KAR 2:400		405 KAR 20:001
315.342	201 KAR 2:400	350.010	405 KAR 20:080
315.400	201 KAR 2:390	350.020	405 KAR 8:010
315.4102	201 KAR 2:390		405 KAR 18:010
315.4104	201 KAR 2:390		405 KAR 18:260
315.4106	201 KAR 2:390	350.028	405 KAR 18:260
315.4108	201 KAR 2:390	350.055	405 KAR 8:010
315.4110	201 KAR 2:390	350.060	405 KAR 8:010
316.010	201 KAR 15:110		405 KAR 8:040
316.030	201 KAR 15:050	350.070	405 KAR 8:010
	201 KAR 15:110	350.085	405 KAR 8:010
316.125	201 KAR 15:030	350.090	405 KAR 8:010
	201 KAR 15:110		405 KAR 18:010
316.127	201 KAR 15:110	350.093	405 KAR 8:050
316.130	201 KAR 15:030		405 KAR 18:010
316.132	201 KAR 15:030	350.100	405 KAR 16:110
316.140	201 KAR 15:030		405 KAR 18:060
319A.010	907 KAR 1:047		405 KAR 18:110
319A.070	201 KAR 28:200	350.130	405 KAR 8:010
319A.080	201 KAR 28:235	350.135	405 KAR 8:010
319A.160	201 KAR 28:200	350.151	405 KAR 8:040
319A.300	201 KAR 28:235		405 KAR 18:010
322.010	401 KAR 34:002		405 KAR 18:040
	401 KAR 35:002		405 KAR 18:060
	401 KAR 39:005		405 KAR 18:110
	405 KAR 8:010		405 KAR 18:260
322.340	405 KAR 8:010		405 KAR 20:080
322A.050	201 KAR 31:010		405 KAR 20:090
322A.060	201 KAR 31:010	350.405	405 KAR 16:110
322A.070	201 KAR 31:010		405 KAR 18:110
326.020	201 KAR 13:040	350.410	405 KAR 18:010
	201 KAR 13:060	350.420	405 KAR 16:110
326.035	201 KAR 13:040		405 KAR 18:040
326.040	201 KAR 13:040		405 KAR 18:060
	201 KAR 13:060		405 KAR 18:110
326.080	201 KAR 13:040	350.421	405 KAR 8:040
327.010	201 KAR 22:020		405 KAR 18:060
	907 KAR 1:047	350.440	405 KAR 18:010
327.050	201 KAR 22:020		405 KAR 18:060
	201 KAR 22:040	350.450	405 KAR 8:010
	201 KAR 22:070	350.445	405 KAR 8:050
327.060	201 KAR 22:070	350.450	405 KAR 8:050
327.070	201 KAR 22:040	350.465	405 KAR 8:010
327.075	201 KAR 22:020		405 KAR 8:050
327.080	201 KAR 22:020		405 KAR 16:110
327.310	201 KAR 22:020		405 KAR 18:010
333	902 KAR 20:360		405 KAR 18:040
334A.020	907 KAR 1:047		405 KAR 18:060
335.500	201 KAR 36:060		405 KAR 18:110
	201 KAR 36:065		405 KAR 18:260
	201 KAR 36:070		405 KAR 20:080
335.500 - 335.599	201 KAR 36:030		405 KAR 20:090
335.505	201 KAR 36:060	350.500-350.521	405 KAR 8:010
	201 KAR 36:065	350.990	405 KAR 7:095
335.515	201 KAR 36:072	351.102	805 KAR 7:020
335.525	201 KAR 36:060	351.103	805 KAR 7:040
	201 KAR 36:065		805 KAR 7:050
	201 KAR 36:070	351.106	805 KAR 7:030
335.527	201 KAR 36:070	351.1041	805 KAR 8:030
335.540	201 KAR 36:050		805 KAR 8:040
335.545	201 KAR 36:050		805 KAR 8:050
336.165	803 KAR 6:011	351.120	805 KAR 8:030
337	780 KAR 3:072		805 KAR 8:040

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
351.194	805 KAR 8:030	620.350	922 KAR 1:330
	805 KAR 8:040	620.990	922 KAR 1:330
	805 KAR 8:050	625	922 KAR 1:490
352	902 KAR 100:180	625.040	922 KAR 1:140
352.010-352.540	805 KAR 8:030	625.050 - 625.120	922 KAR 1:470
	805 KAR 8:040	625.090	922 KAR 1:140
	805 KAR 8:050	7 C.F.R.	405 KAR 7:001
353.110	805 KAR 1:071		405 KAR 8:001
353.120	805 KAR 1:071		405 KAR 8:040
353.170	805 KAR 1:071		405 KAR 10:001
353.180	805 KAR 1:060		405 KAR 16:001
353.550	805 KAR 1:060		405 KAR 18:001
	805 KAR 1:071		405 KAR 20:001
353.739	805 KAR 1:071		921 KAR 3:025
369.101 - 369.120	907 KAR 1:047		921 KAR 3:042
	907 KAR 1:102	16 C.F.R.	201 KAR 15:110
	907 KAR 3:005	21 C.F.R.	902 KAR 55:015
387.025	922 KAR 1:140		902 KAR 55:040
403.352	922 KAR 1:470		902 KAR 55:041
403.720	922 KAR 5:040		902 KAR 55:095
	922 KAR 5:090	27 C.F.R.	405 KAR 8:010
424.110-424.120	405 KAR 8:010	28 C.F.R.	505 KAR 1:170
431.600	922 KAR 1:330	29 C.F.R.	780 KAR 3:072
439	501 KAR 6:110		803 KAR 1:100
	501 KAR 6:230		803 KAR 2:425
	501 KAR 6:270		902 KAR 20:360
440.170	907 KAR 3:066	30 C.F.R.	405 KAR 7:001
503.110	922 KAR 1:330		405 KAR 7:095
527.100	922 KAR 1:140		405 KAR 8:001
527.110	922 KAR 1:140		405 KAR 8:010
529.010	922 KAR 1:330		405 KAR 8:040
600 - 645	505 KAR 1:170		405 KAR 10:001
600.010	922 KAR 1:330		405 KAR 12:001
	922 KAR 1:430		405 KAR 16:001
600.020	922 KAR 1:140		405 KAR 18:001
	922 KAR 1:320		405 KAR 18:010
	922 KAR 1:330		405 KAR 18:060
	922 KAR 1:430		405 KAR 20:001
	922 KAR 1:470	40 C.F.R.	401 KAR 31:002
	922 KAR 1:480		401 KAR 32:002
	922 KAR 1:490		401 KAR 33:002
605.090	922 KAR 1:320		401 KAR 34:002
	922 KAR 1:330		401 KAR 35:002
	922 KAR 1:490		401 KAR 36:002
605.102	922 KAR 1:550		401 KAR 37:002
605.120	922 KAR 1:490		401 KAR 38:002
605.130	922 KAR 1:330		401 KAR 39:005
	922 KAR 1:430		401 KAR 39:011
	922 KAR 1:490		401 KAR 39:060
610.010	922 KAR 1:330		401 KAR 39:080
610.110	922 KAR 1:140		401 KAR 39:090
610.125	922 KAR 1:140		401 KAR 39:120
610.127	922 KAR 1:140		401 KAR 43:002
620.010 - 620.050	922 KAR 1:330		401 KAR 44:002
620.020	922 KAR 1:140		401 KAR 48:005
	922 KAR 1:320		401 KAR 48:090
	922 KAR 1:550		401 KAR 59:015
620.030 - 620.050	922 KAR 1:421		401 KAR 61:015
620.050	922 KAR 1:430		405 KAR 8:040
	922 KAR 1:470		405 KAR 10:001
	922 KAR 1:480		902 KAR 20:360
	922 KAR 1:490	42 C.F.R.	902 KAR 20:360
	922 KAR 5:040		907 KAR 1:045
620.060	922 KAR 1:140		907 KAR 1:047
620.070	922 KAR 1:330		907 KAR 1:102
620.072	922 KAR 1:330		907 KAR 1:104
	922 KAR 1:430		907 KAR 1:479
620.090	922 KAR 1:140		907 KAR 3:005
620.140	922 KAR 1:140		907 KAR 3:010
620.180	922 KAR 1:140		907 KAR 3:066
	922 KAR 1:320	45 C.F.R.	900 KAR 10:031(r)
620.230	922 KAR 1:320		907 KAR 1:047

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	907 KAR 1:102		
	907 KAR 1:479		
	907 KAR 3:005		
	921 KAR 3:025		
	922 KAR 1:140		
	922 KAR 1:320		
	922 KAR 1:480		
	922 KAR 1:490		
	922 KAR 5:040		
7 U.S.C.	401 KAR 43:002		
	921 KAR 3:025		
	921 KAR 3:042		
15 U.S.C.	806 KAR 3:210		
16 U.S.C.	405 KAR 8:010		
20 U.S.C.	702 KAR 7:065		
	703 KAR 5:270		
21 U.S.C.	902 KAR 55:015		
	902 KAR 55:040		
	902 KAR 55:041		
25 U.S.C.	922 KAR 1:140		
29 U.S.C.	201 KAR 15:110		
	780 KAR 3:072		
	803 KAR 1:100		
30 U.S.C.	405 KAR 7:001		
	405 KAR 7:095		
	405 KAR 8:001		
	405 KAR 8:010		
	405 KAR 8:040		
	405 KAR 10:001		
	405 KAR 12:001		
	405 KAR 16:001		
	405 KAR 18:001		
	405 KAR 18:010		
	405 KAR 18:060		
	405 KAR 20:001		
33 U.S.C.	401 KAR 38:002		
42 U.S.C.	31 KAR 6:020		
	401 KAR 38:002		
	401 KAR 39:060		
	505 KAR 1:170		
	907 KAR 1:045		
	907 KAR 1:047		
	907 KAR 1:102		
	907 KAR 1:104		
	907 KAR 1:479		
	907 KAR 3:005		
	907 KAR 3:010		
	907 KAR 3:066		
	900 KAR 10:031(r)		
	922 KAR 1:140		
	922 KAR 1:320		
	922 KAR 1:330		
	922 KAR 1:421		
	922 KAR 1:430		
	922 KAR 1:470		
	922 KAR 1:480		
	922 KAR 1:490		
	922 KAR 1:550		
	922 KAR 5:040		
	922 KAR 5:090		
Pub.L.114-198	201 KAR 20:065		
2017 Ky. Acts ch. 3	803 KAR 1:121		
2017 Ky. Acts ch.134, sec. 13	803 KAR 6:011		

TECHNICAL AMENDMENT INDEX

The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments entered since being published in the *2017 Kentucky Administrative Regulations Service*. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.2255(2), 13A.312(2), or 13A.320(1)(d). Since these changes were not substantive in nature, administrative regulations appearing in this index will NOT be published to show the technical corrections in the *Administrative Register of Kentucky*. NOTE: Finalized copies of the technically amended administrative regulations are available for viewing on the Legislative Research Commission Web site at <http://www.lrc.ky.gov/KAR/frntpage.htm>.

‡ - A technical change was made to this administrative regulation during the promulgation process, pursuant to KRS 13A.320(1)(e).

Regulation Number	Date Corrected	Regulation Number	Date Corrected
103 KAR 18:060	6-22-2017		
103 KAR 18:080	6-22-2017		
103 KAR 18:090	6-22-2017		
103 KAR 18:120	6-22-2017		
401 KAR 5:037	7-14-2017		
405 KAR 5:032	6-27-2017		
405 KAR 5:070	6-27-2017		
405 KAR 5:082	6-27-2017		

SUBJECT INDEX

SUBJECT INDEX

AGRICULTURE

Office of Consumer Protection
Requirements for operating and inspecting aerial recreational devices and facilities; 302 KAR 17:010

ALCOHOL AND DRUG COUNSELORS

Voluntary inactive and retired status; 201 KAR 35:080

ALCOHOLIC BEVERAGE CONTROL

Alcoholic Beverage Control Board
Advisory opinions; 804 KAR 6:020
Conduct of Business; Employees
Minors; 804 KAR 5:070
Licensing
Applications incorporated by reference; 804 KAR 4:400
License renewals; 804 KAR 4:390
Product registration and forms; 804 KAR 4:410
Transportation of Beverages
Signs on vehicles; 804 KAR 8:050

AUDITOR OF PUBLIC ACCOUNTS

Audits of:
County fee officials; 45 KAR 1:040
Fiscal courts; 45 KAR 1:050
Sheriffs' tax settlements; 45 KAR 1:030

AVIATION

Airport Development
Fees for services and facilities of the Capitol City Airport; 602 KAR 15:030

BOARDS AND COMMISSIONS

*See listing below for specific subject headings:
See also Occupations and Professions*

Alcohol and Drug Counselors; 201 KAR Chapter 35
Embalmers and Funeral Directors; 201 KAR Chapter 15
Diabetes Educators; 201 KAR Chapter 45
Licensed Professional Counselors; 201 KAR Chapter 36
Dietitians and Nutritionists; 201 KAR Chapter 33
Medical Licensure; 201 KAR Chapter 9
Nursing; 201 KAR Chapter 20
Occupational Therapy; 201 KAR Chapter 28
Ophthalmic Dispensers; 201 Chapter 13
Pharmacy; 201 KAR Chapter 2
Physical Therapy; 201 KAR Chapter 22

COMMUNITY BASED SERVICES

Child Welfare
Appeal of child abuse and neglect investigative findings; 922 KAR 1:480
Background checks for foster and adoptive parents, caretaker relatives, kinship caregivers, fictive kin, and reporting requirements; 922 KAR 1:490
Central registry; 922 KAR 1:470
Child protective services; 922 KAR 1:330
Child protective services in-home case planning and service delivery; 922 KAR 1:430
Foster care and adoption permanency services; 922 KAR 1:140
Operator's license for children in the custody of the cabinet; 922 KAR 1:550
Repeal of 922 KAR 1:420; 922 KAR 1:421
Service appeals; 922 KAR 1:320
Family Support
SNAP employment and training program; 921 KAR 3:042
Technical requirements; 921 KAR 3:025
Protection and Permanency
Adult Services
General adult services; 922 KAR 5:090

Repeal of 922 KAR 5:100 and 922 KAR 5:102; 922 KAR 5:111
Standards for state-funded domestic violence shelters; 922 KAR 5:040

CONTROLLED SUBSTANCES

See listing below for specific subject headings:
Inspector General (Health); 902 KAR Chapter 55
Medical Licensure; 201 KAR Chapter 9
Pharmacy; 201 KAR Chapter 2
See also specific prescribing entities
Nursing; 201 KAR Chapter 20

CORRECTIONS

Office of the Secretary
Roederer Correctional Complex; 501 KAR 6:110
Little Sandy Correctional Complex; 501 KAR 6:230
Probation and parole policies and procedures; 501 KAR 6:270

DEPARTMENT OF STATE

See Election Finance; KAR Title 32

DIABETES EDUCATORS

Application procedures; 201 KAR 45:170
Renewal, reinstatement, and inactive status; 201 KAR 45:120
Repeal of 201 KAR 45:070; 201 KAR 45:071
Supervision and work experience; 201 KAR 45:110

DIETITIANS AND NUTRITIONISTS

Application, approved programs; 201 KAR 33:015

EDUCATION

Learning Support Services
Repeal of 704 KAR 7:050
Personnel System for Certified and Equivalent Employees
Attendance, compensatory time, and leave for certified and equivalent service; 780 KAR 3:072
Extent and duration of school term, use of school day and extended employment; 780 KAR 3:080
School Terms, Attendance and Operation
Designation of agent to manage middle and high school interscholastic athletics; 702 KAR 7:065

EDUCATION AND WORKFORCE DEVELOPMENT

For Education, see listing below:
Education; KAR Titles 702, 704, and 780 (*See Education*)
Education Professional Standards Board; KAR Title 16 (*See Education Professional Standards Board*)
Higher Education Assistance Authority; KAR Title 11 (*See Higher Education Assistance Authority*)
Libraries and Archives; KAR Title 725 (*See Libraries and Archives*)
Postsecondary Education; KAR Title 13 (*See Postsecondary Education*)
For Workforce Development, see listing below:
Workplace Standards (*See Workplace Standards*)

EDUCATION PROFESSIONAL STANDARDS BOARD

Standards for certified teacher leader; 16 KAR 1:015

ELECTION FINANCE

Reports and Forms
Statement of spending intent, appointment of campaign treasurer; 32 KAR 1:020

ELECTIONS

See also Election Finance; KAR Title 32
Forms and Procedures
Absentee voting in county clerk's office; 31 KAR 4:040
Voter identification cards; 31 KAR 4:010

SUBJECT INDEX

Help America Vote Act 2002
Provisional voting; 31 KAR 6:020

EMBALMERS AND FUNERAL DIRECTORS

Apprenticeship and supervision requirements; 201 KAR 15:050
Establishment criteria; 201 KAR 15:110
Fees; 201 KAR 15:030

ENERGY AND ENVIRONMENT CABINET

See listing below for specific subject headings:
Environmental Protection, KAR Title 401
Natural Resources
Forestry, KAR Title 402 (Forestry)
Surface Mine Reclamation and Enforcement, KAR Title 405
Oil and Gas, KAR Title 805
Waste Management; KAR Title 401, Various Chapters (*See Waste Management*)

ENVIRONMENTAL PROTECTION

Division of Air Quality
New Source Standards
New indirect heat exchangers; 401 KAR 59:015
Existing Source Standards
Existing indirect heat exchangers; 401 KAR 61:015

FINANCE AND ADMINISTRATION CABINET

Office of the Controller
Repeal of 200 KAR 38:020 and 201 KAR 38:030; 200 KAR 38:021
See Revenue; Title 103

FISH AND WILDLIFE RESOURCES

Fish
Asian Carp and Scaled Rough Fish Harvest program; 301 KAR 1:152
Commercial fishing requirements; 301 KAR 1:155
Live bait for personal use; 301 KAR 1:130.
Repeal of 301 KAR 1:085; 301 KAR 1:086
Repeal of 301 KAR 1:192; 301 KAR 1:195
Taking of fish by nontraditional fishing methods; 301 KAR 1:410
Taking by traditional fishing methods; 301 KAR 1:201
Game
License, tag, and permit fees; 301 KAR 3:022
Small game and furbearer hunting and trapping on public areas; 301 KAR 2:049
Water Patrol
Boat registration fees; 301 KAR 6:005

FORESTRY

Timber sales; 402 KAR 3:010
Timber harvesting operations, management practices; 402 KAR 3:030

GEOLOGISTS, PROFESSIONAL

Fees; 201 KAR 31:010

HEALTH AND FAMILY SERVICES

See listing below for specific subject headings:
Community Based Services; KAR Title 921
Health Benefit Exchange; KAR Title 900
Health Policy; KAR Title 900
Inspector General (Health); KAR Title 902
Medicaid Services; KAR Title 907
Public Health; KAR Title 902
Office of the Secretary (Health); KAR Title 900

HEALTH BENEFIT EXCHANGE

Kentucky Health Benefit Exchange
Repeal of 900 KAR 10:030 and 900 KAR 10:100; 900 KAR 10:031

HEALTH POLICY

Certificate of Need

Filing, hearing, show cause hearing; 900 KAR 6:090
State Health Plan
State Health Plan for facilities and services; 900 KAR 5:020

HELP AMERICA VOTE ACT 2002

See Elections; 31 KAR Chapter 6

HIGHER EDUCATION ASSISTANCE AUTHORITY

Kentucky Educational Excellence Scholarship Program
KEES Program; 11 KAR 15:090

HOUSING , BUILDINGS AND CONSTRUCTION

Division of Plumbing, Boiler Section
Boilers and Pressure Vessels
Definitions for 815 KAR Chapter 15; 815 KAR 15:010
Existing boilers and pressure vessels; testing, repairs, inspection, and safety factors; 815 KAR 15:026
Fees and certificates for boiler and pressure vessel inspection; 815 KAR 15:027
New installations, general design, construction, and inspection criteria for boilers, pressure vessels, and pressure piping; 815 KAR 15:025
Repeal of 815 KAR 15:040, 815 KAR 15:051, and 815 KAR 15:060; 815 KAR 15:041

HUNTING

See Fish and Wildlife; KAR Title 301

INSPECTOR GENERAL (HEALTH)

Controlled Substances
Schedule II prescription for - authorization of oral prescriptions for immediate administration, fax transmission, partial filing; 902 KAR 55:095
Schedules of; 902 KAR 55:015
Excluded nonnarcotic substances; 902 KAR 55:040
Monitoring system for prescriptions of; 902 KAR 55:110
Repeal of 902 KAR 55:020, 902 KAR 55:025, 902 KAR 55:030, and 902 KAR 55:035; 902 KAR 55:041
Services and Facilities
Abortion facilities; 902 KAR 20:360

INSURANCE

Agents, Consultants, Solicitors and Adjusters
Repeal of 806 KAR 9:050 and 806 KAR 9:300; 806 KAR 9:051
Authorization of Insurers and General Requirements
Privacy of consumer financial and health information; 806 KAR 3:210
Repeal of 806 KAR 3:010, 806 KAR 3:020, and 806 KAR 3:220; 806 KAR 3:011
Domestic Stock and Mutual Insurers
Repeal of 806 KAR 24:020; 806 KAR 24:022
Investments
Repeal of 806 KAR 7:010; 806 KAR 7:011
Kinds of Insurance; Limits of Risk; Reinsurance
Repeal of 806 KAR 5:030 and 806 KAR 5:040

JAILS

See Corrections; 501 KAR Chapter 6

JUSTICE AND PUBLIC SAFETY CABINET

See also Corrections; KAR Title 501

Breath Analysis Operators

Administration of breath alcohol tests and chemical analysis tests; 500 KAR 8:030
Certification of breath alcohol analysis instrument operators; 500 KAR 8:010
See Juvenile Justice; KAR Title 503

JUVENILE JUSTICE

Parole Board

Department of Juvenile Justice policies and procedures:
Prison Rape Elimination Act of 2003 (PREA); 505 KAR 1:170

SUBJECT INDEX

KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Governor's Commission on Fire Protection Personnel Standards
Commission on Fire Protection Personnel Standards and
Education
Volunteer fire department aid; 739 KAR 2:050

LABOR CABINET

See listing below for specific subject headings:
Workplace Standards; KAR Title 803

LIBRARIES AND ARCHIVES

Libraries
Certification renewal of public librarians; 725 KAR 2:070

LICENSED PROFESSIONAL COUNSELORS

Application, education, and examination requirements; 201
KAR 36:070
Complaint management process; 201 KAR 36:050
Continuing education requirements; 201 KAR 36:030
Licensed professional clinical counselor supervisor; 201 KAR
36:065
Qualifying experience under supervision; 201 KAR 36:060
Reciprocity requirements for applicants licensed or certified in
another state; 201 KAR 36:072

MILITARY AFFAIRS

Military Assistance Trust Funds
Survivor Benefits for death of a National Guard or Reserve
Component member; 106 KAR 2:040

MEDICAID SERVICES

Medicaid Services
Advanced Practice Registered Nurse:
Reimbursement for; 907 KAR 1:104
Services; 907 KAR 1:102
Community mental health center:
Reimbursement; 907 KAR 1:045
Services; 907 KAR 1:047
Durable medical equipment covered benefits and
reimbursement; 907 KAR 1:479
Payment/Services
Nonemergency medical transportation waiver; 907 KAR 3:066
Physicians' Services:
Coverage; 907 KAR 3:005
Reimbursement; 907 KAR 3:010

MEDICAL LICENSURE

Professional standards for prescribing and dispensing
controlled substances; 201 KAR 9:260

MINING - PERMITS

Bond and Insurance Requirements
Definitions for 405 KAR Chapter 10; 405 KAR 10:001
General Provisions
Assessment of civil penalties; 405 KAR 7:095
Definitions for 405 KAR Chapter 7; 405 KAR 7:001
Inspection and Enforcement
Definitions for 405 KAR Chapter 12; 405 KAR 12:001
Oil and Gas; *KAR Title 805 (See Oil and Gas)*
Permits
Definitions for 405 KAR Chapter 8; 405 KAR 8:001
General provisions for permits; 405 KAR 8:010.
Permits for special categories of mining; 405 KAR 8:050
Underground coal mining permits; 405 KAR 8:040
Performance Standards for Surface Mining Activities
Definitions for 405 KAR Chapter 16; 405 KAR 16:001
Surface and groundwater monitoring; 405 KAR 16:110
Performance Standards for Underground Mining Activities
Casing, sealing underground openings; 405 KAR 18:040
Definitions for 405 KAR Chapter 18; 405 KAR 18:001
General hydrologic requirements; 405 KAR 18:060
General provisions; 405 KAR 18:010

Surface and groundwater monitoring; 405 KAR 18:110
Special Performance Standards
Definitions for 405 KAR Chapter 20; 405 KAR 20:001
In situ processing; 405 KAR 20:080
Underground only permits; 405 KAR 20:090

MINING - SAFETY

Miner Training, Education and Certification
Annual retraining; 805 KAR 7:030
Program approval; 805 KAR 7:060
Training and certification of inexperienced miners; 805 KAR
7:020
Training of miners for new work assignments; 805 KAR 7:050
Training of newly employed miners; 805 KAR 7:040
Sanctions and Penalties
Criteria for the imposition and enforcement of sanctions
against certified miners; 805 KAR 8:030
Criteria for the imposition and enforcement of sanctions
against noncertified personnel; 805 KAR 8:050
Criteria for the imposition and enforcement of sanctions
against owners and part-owners of licensed premises; 805
KAR 8:040

NATURAL RESOURCES

Coal Bed Methane
Repeal of 805 KAR 9:040; 805 KAR 9:041
Forestry, *KAR Title 402 (See Forestry)*
Mining - Permits; *KAR Title 405 (See Mining - Permits)*
Mining - Safety; *805 KAR Chapters 7 & 8 (See Mining - Safety)*

NURSING

Advanced Practice Registered Nurses
Enhanced nurse licensure compact; 201 KAR 20:505E.
Professional standards for prescribing Buprenorphine-Mono-
Product or Buprenorphine-Combined-with-Naloxone by
APRNs for medication assisted treatment for opioid use
disorder; 201 KAR 20:065
Scope and standards of practice of; 201 KAR 20:057

OCCUPATIONS AND PROFESSIONS

See listing below for specific subject headings:
See also Boards and Commissions
Geologists, Professional; 201 KAR Chapter 31

OCCUPATIONAL THERAPY

Continuing competence; 201 KAR 28:200
Telehealth services; 201 KAR 28:235

OFFICE OF THE GOVERNOR

Department of Veterans' Affairs
Charges for room and board, goods and services at state
veterans nursing homes; 17 KAR 3:020

OFFICE OF THE SECRETARY

Medical Review Panels
Medical review panels; 900 KAR 11:010

OIL AND GAS

Plugging wells; 805 KAR 1:060
Repeal of 805 KAR 1070; 805 KAR 1:071

OPHTHALMIC DISPENSERS

Licensing; application, examination, experience, renewal, and
inactive status; 201 KAR 13:040
Military service; reciprocity; 201 KAR 13:060

PERSONNEL CABINET

Office of the Secretary: Personnel Cabinet, Classified
2018 Plan year handbook for the public employee health
insurance program; 101 KAR 2:210

PHARMACY

Outsourcing facility; 201 KAR 2:400
Protocols, board authorized; 201 KAR 2:380

SUBJECT INDEX

Third-party logistics provider, 201 KAR 2:390

PHYSICAL THERAPY

Eligibility and credentialing procedure; 201 KAR 22:020
Foreign-educated physical therapists, requirements; 201 KAR 22:070
Renewal or reinstatement of a credential for physical therapist or physical therapist assistant; 201 KAR 22:040

POSTSECONDARY EDUCATION

Public Educational Institutions
Allocation of state general fund appropriations to:
Kentucky community and technical college system institutions; 13 KAR 2:130
Public universities; 13 KAR 2:120
Adult Education and Literacy
GED® eligibility requirements; 13 KAR 3:050

PUBLIC HEALTH

Public Health Protection and Safety
Technologically enhanced naturally occurring radioactive material related to oil and gas development; 902 KAR 100:180

PUBLIC PROTECTION CABINET

See listing below for specific subject headings:
Alcoholic Beverage Control; KAR Title 804
Housing, Buildings and Construction; KAR Title 815
Insurance; KAR Title 806

REVENUE

General Administration
Employee access to federal tax information (FTI); 103 KAR 1:120
Income Tax; Corporations
Repeal of 103 KAR 16:390 and 103 KAR 16:020; 103 KAR 16:391
Income Tax; Individual
Repeal of 103 KAR 17:150; 103 KAR 17:151
Sales and Use Tax; Service and Professional Occupations
Motor carrier repair and replacement parts; 103 KAR 26:110
Sales and Use Tax; Miscellaneous Retail Transactions
Collection of sales tax on certain motor vehicle sales; 103 KAR 28:150
Sales and Use Tax; Administration and Accounting
Alternative fuel, gasification, and renewable energy facility refunds on construction costs; 103 KAR 31:190
Energy efficiency projects; 103 KAR 31:200
Returned merchandise; 103 KAR 31:050
Signature project refunds on construction costs; 103 KAR 31:180
Selective Excise Tax; Motor Vehicle Usage
Incorrect statement of origin or certificate of title; 103 KAR 44:120
Motor vehicle usage tax valuation; 103 KAR 44:060
Procedures for refund based on vehicle condition; 103 KAR 44:100
Taxation of loaner and rental motor vehicles; 103 KAR 44:070
Tax Increment Financing
Repeal of 103 KAR 50:020, 103 KAR 50:030 and 103 KAR 50:040; 103 KAR 50:021

TEACHERS' RETIREMENT SYSTEM

Application for retirement; 102 KAR 1:070

TRANSPORTATION CABINET

See Aviation; 602 KAR Chapter 15

TOURISM, ARTS AND HERITAGE CABINET

See listing below for specific subject headings:
Fish and Wildlife Resources; KAR Title 301

WASTE MANAGEMENT

Certificates of Environmental Safety and Public Necessity

Repeal of 410 KAR 1:010 & 410 KAR 1:020; 410 KAR 1:002
Generators of Hazardous Waste, Standards Applicable to
Repeal of 401 KAR 32:005, 401 KAR 32:010, 401 KAR 32:020, 401 KAR 32:030, 401 KAR 32:040, 401 KAR 32:050, 401 KAR 32:060, 401 KAR 32:065, and 401 KAR 32:100; 401 KAR 32:002
Hazardous Waste Permitting Process
Repeal of 401 KAR 38:005, 401 KAR 38:010, 401 KAR 38:020, 401 KAR 38:025, 401 KAR 38:030, 401 KAR 38:040, 401 KAR 38:050, 401 KAR 38:060, 401 KAR 38:070, 401 KAR 38:080, 401 KAR 38:090, 401 KAR 38:150, 401 KAR 38:160, 401 KAR 38:170, 401 KAR 38:180, 401 KAR 38:190, 401 KAR 38:200, 401 KAR 38:210, 401 KAR 38:230, 401 KAR 38:240, 401 KAR 38:250, 401 KAR 38:260, 401 KAR 38:270, 401 KAR 38:290, 401 KAR 38:300, 401 KAR 38:310, 401 KAR 38:320, 401 KAR 38:330, 401 KAR 38:500; 401 KAR 38:002
Hazardous Waste Fees
Definitions for 401 KAR Chapter 39; 401 KAR 39:005
Repeal of 401 KAR 39:100 and 401 KAR 39:110; 401 KAR 39:011
General requirements; 401 KAR 39:060
Hazardous waste handlers; 401 KAR 39:080
Hazardous waste permit program; 401 KAR 39:090
Permit review, determination timetables, and fees; 401 KAR 39:120
Identification and Listing of Hazardous Waste
Repeal of 401 KAR 31:005, 401 KAR 31:010, 401 KAR 31:020, 401 KAR 31:030, 401 KAR 31:035, 401 KAR 31:040, 401 KAR 31:050, 401 KAR 31:070, 401 KAR 31:100, 401 KAR 31:110, 401 KAR 31:160, and 401 KAR 31:170; 401 KAR 31:002
Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities
Repeal of 401 KAR 35:005, 401 KAR 35:010, 401 KAR 35:020, 401 KAR 35:030, 401 KAR 35:040, 401 KAR 35:050, 401 KAR 35:060, 401 KAR 35:070, 401 KAR 35:080, 401 KAR 35:090, 401 KAR 35:100, 401 KAR 35:110, 401 KAR 35:120, 401 KAR 35:130, 401 KAR 35:180, 401 KAR 35:190, 401 KAR 35:200, 401 KAR 35:210, 401 KAR 35:220, 401 KAR 35:230, 401 KAR 35:240, 401 KAR 35:245, 401 KAR 35:250, 401 KAR 35:260, 401 KAR 35:270, 401 KAR 35:275, 401 KAR 35:280, 401 KAR 35:281, 401 KAR 35:285, 401 KAR 35:290, 401 KAR 35:310, 401 KAR 35:320, 401 KAR 35:330, 401 KAR 35:340, and 401 KAR 35:350; 401 KAR 35:002
Land Disposal Restrictions
Repeal of 401 KAR 37:005, 401 KAR 37:010, 401 KAR 37:020, 401 KAR 37:030, 401 KAR 37:040, 401 KAR 37:050, 401 KAR 37:060, and 401 KAR 37:110; 401 KAR 37:002
Owners and Operators of Hazardous Waste Storage, Treatment and Disposal Facilities, Standards for
Repeal of 401 KAR 34:005, 401 KAR 34:010, 401 KAR 34:020, 401 KAR 34:030, 401 KAR 34:040, 401 KAR 34:050, 401 KAR 34:060, 401 KAR 34:070, 401 KAR 34:080, 401 KAR 34:090, 401 KAR 34:100, 401 KAR 34:110, 401 KAR 34:120, 401 KAR 34:130, 401 KAR 34:180, 401 KAR 34:190, 401 KAR 34:200, 401 KAR 34:210, 401 KAR 34:220, 401 KAR 34:230, 401 KAR 34:240, 401 KAR 34:245, 401 KAR 34:250, 401 KAR 34:275, 401 KAR 34:280, 401 KAR 34:281, 401 KAR 34:285, 401 KAR 34:287, 401 KAR 34:290, 401 KAR 34:320, 401 KAR 34:330, 401 KAR 34:340, 401 KAR 34:350, 401 KAR 34:360, and 401 KAR 34:370; 401 KAR 34:002
Solid Waste Facilities, Standards for
Definitions related to 401 KAR Chapter 48; 401 KAR 48:005
Operating requirements for contained landfills; 401 KAR 48:090
Special Collection System Wastes, Standards for
Repeal of 401 KAR 43:005, 401 KAR 43:010, 401 KAR

SUBJECT INDEX

43:020, 401 KAR 43:030, 401 KAR 43:040, 401 KAR
43:050, 401 KAR 43:060, and 401 KAR 43:070; 401 KAR
43:002

Special Waste

Special waste permit-by-rule; 401 KAR 45:060

Specific Hazardous Wastes and Specific Types of Hazardous Waste, Standards for the Management of

Repeal of 401 KAR 36:005, 401 KAR 36:020, 401 KAR
36:025, 401 KAR 36:030, 401 KAR 36:060, 401 KAR
36:070, 401 KAR 36:080, and 401 KAR 36:090; 401 KAR
36:002

Transporters of Hazardous Waste, Standards Applicable to

Repeal of 401 KAR 33:005, 401 KAR 33:010, 401 KAR
33:020, and 401 KAR 33:030; 401 KAR 33:002

Used Oil, Standards for the Management of

Repeal of 401 KAR 44:005, 401 KAR 44:010, 401 KAR

44:020, 401 KAR 44:030, 401 KAR 44:040, 401 KAR
44:050, 401 KAR 44:060, 401 KAR 44:070, and 401 KAR
44:080; 401 KAR 44:002

WORKPLACE STANDARDS

Division of Wages and Hours

Labor Standards; Wages and Hours

Child labor; 803 KAR 1:100

Repeal of 803 KAR 1:030 and 803 KAR 1:040; 803 KAR
1:121

Kentucky Labor Management Matching Grant Program

Repeal of 803 KAR 6:010; 803 KAR 6:011

Occupational Safety and Health

Toxic and hazardous substances; 803 KAR 2:425