



ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, March 15, 2019.

MEETING NOTICES

The Administrative Regulation Review Subcommittee is tentatively scheduled to meet on April 9, 2019, at 1:00 p.m. in room 149 Capitol Annex.
ARRS Tentative Agenda - [2839](#) [Updates published online](#)

The Education Assessment and Accountability Review Subcommittee is tentatively scheduled to meet on April 15, 2019.

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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

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The following agenda may not take into consideration all of the administrative regulations that may be deferred by promulgating agencies. Deferrals may be made any time prior to or during the meeting.

**ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA, April 9, 2019, at 1:00 p.m., Room 149 Capitol Annex**

1. Call to Order and Roll Call

2. Regulations for Committee Review

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[016 KAR 003:090](#). Certifications for advanced educational leaders. (Deferred from February)

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FINANCE AND ADMINISTRATION CABINET: Teachers' Retirement System

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[102 KAR 001:163](#). Collection of life insurance benefits. (Deferred from March)

[102 KAR 001:168](#). Survivor's benefits. (Deferred from March)

[102 KAR 001:320](#). Qualified domestic relations orders. (Deferred from March)

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[106 KAR 001:081](#). Kentucky Emergency Response Commission (KERC) Tier II reporting and fee schedule requirements; Extremely Hazardous Substance (EHS) facility planning participation requirements.

[106 KAR 001:091](#). Kentucky Emergency Response Commission (KERC) fee account grant requirements for Local Emergency Planning Committees (LEPCs).

[106 KAR 001:101](#). Kentucky Emergency Response Commission (KERC) fee account grant requirements for state agencies.

[106 KAR 001:111](#). Kentucky Emergency Response Commission (KERC) fee account grant review committee.

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[201 KAR 001:290](#). Standards of Practice.

[201 KAR 001:310](#). Expungement of minor violation.

Board of Medical Licensure

[201 KAR 009:270](#). Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with Naloxone. (Comments Received; SOC due 03-15-2019)

Board of Physical Therapy

[201 KAR 022:020](#). Eligibility and credentialing procedure.

Board of Social Work

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[202 KAR 007:575](#). Posting of fee schedules of licensed ambulance providers.

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[301 KAR 002:178](#). Deer hunting on Wildlife Management Areas, state parks, other public lands, and federally controlled areas.

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[301 KAR 003:022](#). License, tag, and permit fees.

DEPARTMENT OF AGRICULTURE

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[803 KAR 025:270 & E](#). Pharmaceutical formulary. ("E" expires 06-25-2019) (Amended After Comments)

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Department of Insurance

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[806 KAR 005:011](#). Repeal of 806 KAR 005:010 and 806 KAR 005:020. (Deferred from December)

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[810 KAR 002:010](#). Racing commission and administrative staff. (Deferred from January)

[810 KAR 002:020](#). Thoroughbred and flat racing officials. (Deferred from January)

[810 KAR 002:030](#). Chemical dependency. (Not Amended After Comments) (Deferred from March)

[810 KAR 002:040](#). Stewards. (Deferred from January)

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[810 KAR 002:070](#). Thoroughbred and other flat racing associations. (Not Amended After Comments) (Deferred from March)

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[810 KAR 003:010](#). Licensing of racing associations. (Deferred from January)

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[810 KAR 008:030](#). Disciplinary measures and penalties. (Deferred from January)
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[810 KAR 008:060](#). Post-race sampling and testing procedures. (Deferred from January)

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[810 KAR 009:010](#). Hearings, reviews and appeals. (Not Amended After Comments) (Deferred from March)

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CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General: Division of Certificate of Need

Certificate of Need

[900 KAR 006:075 & E](#). Certificate of need nonsubstantive review. ("E" expires 04-25-2019) (Amended After Comments) (Deferred from February)

Office of Health Data and Analytics: Division of Analytics

Data Reporting and Public Use Data Sets

[900 KAR 007:030](#). Data reporting by health care providers. (Deferred from March)

Division of Health Benefit Exchange

Kentucky Health Benefit Exchange

[900 KAR 010:021](#). Repeal of 900 KAR 010:010, 900 KAR 010:020, and 900 KAR 010:110. (Deferred from March)

Department for Public Health: Division of Maternal and Child Health

Kentucky Birth Surveillance Registry

[902 KAR 019:010](#). Kentucky Birth Surveillance Registry.

Office of Inspector General: Division of Healthcare

Health Services and Facilities

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[902 KAR 020:111](#). Medically managed intensive inpatient withdrawal management.

Department of Medicaid Services: Division of Policy and Operations

Medicaid Services

[907 KAR 001:022](#). Nursing facility services and intermediate care facility for individuals with an intellectual disability.

[907 KAR 001:330](#). Hospice services.

[907 KAR 001:340](#). Reimbursement for hospice services.

[907 KAR 001:441](#). Repeal of 907 KAR 001:436.

[907 KAR 001:755](#). Preadmission Screening and Resident Review Program.

Division of Program Integrity

[907 KAR 005:005](#). Health Insurance Premium Payment (HIPP) Program. (Not Amended After Comments)

Division of Fiscal Management

Hospital Service Coverage and Reimbursement

[907 KAR 010:820 & E](#). Disproportionate share hospital distributions. ("E" expires 06-26-2019) (Amended After Comments)

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Department for Behavioral Health, Developmental and Intellectual Disabilities: Division of Behavioral Health Substance Abuse

[908 KAR 001:341](#). Repeal of 908 KAR 001:340. (Deferred from March)

Office for Children with Special Health Care Needs

Aging Services

[911 KAR 001:010](#). Application to office for children with special health care needs clinical programs.

[911 KAR 001:020](#). Billing and fees.

[911 KAR 001:060](#). Office for children with special health care needs medical staff.

[911 KAR 001:071](#). Repeal of 911 KAR 001:070 and 911 KAR 001:080.

Department for Community Based Services: Division of Protection and Permanency

Child Welfare

[922 KAR 001:140](#). Foster care and adoption permanency services. (Amended After Comments)

[922 KAR 001:305](#). Licensure of child-caring facilities and child-placing agencies. (Amended After Comments)

[922 KAR 001:400](#). Supporting services. (Not Amended After Comments)

[922 KAR 001:565](#). Service array for a relative or fictive kin caregiver. (Amended After Comments)

Daycare

[922 KAR 002:160 & E](#). Child Care Assistance Program. ("E" expires 06-26-2019) (Amended After Comments)

3. REGULATIONS REMOVED FROM APRIL'S AGENDA

FINANCE AND ADMINISTRATION CABINET

Department for Facilities and Support Services

State-Owned Buildings and Grounds

[200 KAR 003:020 & E](#). Use of State-Owned facilities and grounds. ("E" expires 07-03-2019) (Comments Received; SOC ext. due 04-15-2019)

TRANSPORTATION CABINET

Department of Vehicle Regulation

Division of Driver Licensing

[601 KAR 002:030 & E](#). Ignition interlock. ("E" expires 08-07-2019) (Comments Received; SOC ext. due 04-15-2019)

CABINET FOR HEALTH AND FAMILY SERVICES

Department of Medicaid Services

Division of Policy and Operations

Medicaid Services

[907 KAR 001:604 & E](#). Recipient cost-sharing. ("E" expires 06-26-2019) (Deferred from March)(SOC not turned in by 3-15-2019 deadline)

Payments and Services

[907 KAR 003:170](#). Telehealth service coverage and reimbursement. (Deferred from March) (SOC not turned in by 3-15-2019 deadline)

Department for Behavioral Health, Developmental and Intellectual Disabilities

Division of Behavioral Health

Substance Abuse

[908 KAR 001:370](#). Licensing procedures, fees, and general requirements for nonhospital-based alcohol and other drug treatment entities. (Comments Received, SOC ext. due 4-15-2019)

[908 KAR 001:372](#). Licensure of residential alcohol and other drug treatment entities. (Comments Received, SOC ext. due 4-15-2019)

[908 KAR 001:374](#). Licensure of nonhospital-based outpatient alcohol and other drug treatment entities. (Comments Received, SOC ext. due 4-15-2019)

Department for Community Based Services

Division of Family Support

K-TAP, Kentucky Works, Welfare to Work, State Supplementation

[921 KAR 002:015 & E](#). Supplemental programs for persons who are aged, blind, or have a disability. ("E" expires 06-26-2019) (Comments Received, SOC ext. due 4-15-2019)

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.

VOLUME 45, NUMBER 10– April 1, 2019
EMERGENCY ADMINISTRATIVE REGULATIONS

NONE

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

DEPARTMENT OF STATE
Kentucky Registry of Election Finance
(As Amended at ARRS, March 11, 2019)

32 KAR 1:050. Political organization~~[committee]~~
registration.

RELATES TO: KRS 121.015(3), ~~(4)~~, 121.170
STATUTORY AUTHORITY: KRS 121.015(3), ~~(4)~~,
121.120(1)(g), (4), 121.170(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS
121.120(1)(g) authorizes the Registry to promulgate administrative
regulations necessary to carry out the provisions of KRS Chapter
121. KRS 121.120(4) requires the registry to promulgate
administrative regulations and prescribe forms for the making of
reports under KRS Chapter 121. KRS 121.015(3)(b)5. requires the
Registry to determine by administrative regulation what constitutes
a minor political party for purposes of committee registration. As
defined in KRS 121.015(4), a "contributing organization" is subject
to contribution limits and required to file periodic reports of
campaign finances under KRS 121.180(6). This administrative
regulation defines "minor political party" and "executive committee"
for purposes of Kentucky's Campaign Finance Regulation (KRS
Chapter 121), specifies the form to be used for registration by
[political] committees and contributing organizations, and
incorporates the form by reference.

Section 1. Definitions.

(1) "Executive committee" means an organizational unit or
affiliate recognized within the document governing a political party,
that raises and spends funds to promote political party nominees,
and performs other activities commensurate with the day-to-day
operation of a political party, including voter registration drives,
assisting candidate fundraising efforts, holding state conventions or
local meetings, and nominating candidates for local, state, and
federal office.

(2) "Minor political party" means an association, committee,
organization, or group having constituted authority for its
governance and regulation, which nominates or selects a
candidate for election to any federal or statewide-elected state
office in Kentucky, whose name appears on an election ballot as
the candidate of the association, committee, organization, or
group, and does not have a recognized caucus campaign
committee within the Kentucky House or Senate, as defined in
KRS 121.015(3)(b)1.-4.

(3) "Political organization" means any committee or
contributing organization, as those terms are defined in KRS
121.015(3) and (4).

Section 2. Political Organization~~[Committee]~~ Registration. The
"Political Organization~~[Committee]~~ Registration" form, KREF 010,
revised 01/2019~~[06/2014]~~, shall be the official form to be used for
the registration of campaign committees, caucus campaign
committees, political issues committees, permanent
committees, ~~[and]~~ inaugural committees, executive committees,
and contributing organizations.

Section 3[2]. Incorporation by Reference.

(1) "Political Organization~~[Committee]~~ Registration" form,
KREF 010, revised 01/2019~~[06/2014]~~, is incorporated by reference.

(2) This material may inspected, copied, or obtained, subject to
applicable copyright law, at the office of the Kentucky Registry of
Election Finance, 140 Walnut Street, Frankfort, Kentucky 40601,
Monday through Friday, 8 a.m. to 4:30 p.m.

CRAIG C. DILGER, Chairman

APPROVED BY AGENCY: January 8, 2019

FILED WITH LRC: January 14, 2019 at 4 p.m.

CONTACT PERSON: Emily Dennis, General Counsel,
Kentucky Registry of Election Finance, 140 Walnut Street,
Frankfort, Kentucky 40601, phone (502) 573-2226, fax (502) 573-
5622, email Emily.Dennis@ky.gov.

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(As Amended at ARRS, March 11, 2019)

103 KAR 16:151. Repeal of 103 KAR 16:100, 103 KAR
16:110, 103 KAR 16:120, 103 KAR 16:130, 103 KAR 16:145, and
103 KAR 16:150.

RELATES TO: KRS 141.120

STATUTORY AUTHORITY: KRS 131.130, 141.120

NECESSITY, FUNCTION, AND CONFORMITY: KRS
141.120~~[(11)(d)]~~~~[(10)(b)]~~ requires the Department of Revenue to
provide guidance on the apportioning of income of interstate
telephone and telegraph companies, interstate pipeline companies,
interstate transportation companies, and interstate businesses. HB
487 that passed during the 2018 Regular session of the Kentucky
General Assembly changed the way income is apportioned for
multistate businesses~~[these businesses are now taxed]~~ in the
Commonwealth. Sufficient guidance for the treatment of income for
these companies is now found in KRS 141.121 and 103 KAR
16:270~~[statute or other department regulations]~~. Therefore,
these administrative regulations are no longer needed and will not
be amended in the future.

Section 1. The following administrative regulations are hereby
repealed:

(1) 103 KAR 16:100, Apportionment and allocation; telephone
and telegraph companies;

(2) 103 KAR 16:110, Apportionment and allocation; pipeline
companies;

(3) 103 KAR 16:120, Apportionment and allocation; trucklines,
buslines, airlines~~[certain transportation companies]~~;

(4) 103 KAR 16:130, Apportionment and allocation; railroad
companies;

(5) 103 KAR 16:145, Apportionment and allocation; barge line
companies; and

(6) 103 KAR 16:150, Apportionment and allocation; financial
organizations and loan companies.

DANIEL BORK, Commissioner

APPROVED BY AGENCY: November 13, 2018

FILED WITH LRC: November 14, 2018 at 1 p.m.

CONTACT PERSON: Todd Renner, Executive Director, Office
of Tax Policy and Regulation, Department of Revenue, 501 High
Street, Station 1, Frankfort, Kentucky 40601, phone (502) 782-
6081, fax (502) 564-3875, email Todd.Renner@ky.gov.

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(As Amended at ARRS, March 11, 2019)

103 KAR 16:270. Apportionment; receipts~~[sales]~~ factor.

RELATES TO: KRS 141.040, 141.120, 141.121
~~[, 141.040]~~~~[(5)(b)4]~~, 141.206

STATUTORY AUTHORITY: KRS 131.130, 141.018,
141.120~~[(40)(b)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS
131.130(1) authorizes the Department of Revenue to promulgate

administrative regulations to administer and enforce Kentucky's tax laws. KRS 141.120(9)[KRS 141.120(8)] requires that all apportionable[~~business~~] income of multi-state corporations be apportioned to Kentucky by multiplying the income by a fraction[, the numerator of which is the property factor plus the payroll factor plus a weighted sales factor and the denominator of which is four (4).] KRS 141.120(11)(d)[(40)(b)] authorizes[requires] the ~~department~~[cabinet] to promulgate administrative regulations providing how to determine the receipts[sales] factor used in the multi-state apportionable[~~business~~] income apportionment formula. This administrative regulation provides guidelines for determining the receipts[sales] factor of a multistate corporation.

Section 1. Definitions.

(1) "Advertising services" means an agreement to include the broadcast customer's advertising content in the broadcaster's film programming.

(2) "Affiliated airline" is defined by KRS 141.121(1)(a).

(3) "Barrel mile" means the transportation of one (1) barrel of liquid or gas one (1) mile.

(4) "Billing address" means the location indicated in the books and records of the taxpayer as the primary mailing address relating to a customer's account that at[as of] the time of the transaction is[as] kept in good faith in the normal course of business, and not for tax avoidance purposes.

(5) "Broadcast customer" means a person, corporation, partnership, limited liability company, or other entity, such as an advertiser or a platform distribution company, that has a direct connection or contractual relationship with the broadcaster under which revenue is derived by a broadcaster.

(6)[(2)] "Broadcaster" means a taxpayer that is a television broadcast network, a cable program network, or a television distribution company. The term "broadcaster" does not include a platform distribution company.

(7)[(3)] "Broadcast customer" means a person, corporation, partnership, limited liability company, or other entity, such as an advertiser or a platform distribution company, that has a direct connection or contractual relationship with the broadcaster under which revenue is derived by a broadcaster.

(4)] "Business customer" means a customer that is a business operating in any form, including a sole proprietorship. Sales to a non-profit organization, to a trust, to the U.S. Government, to a foreign, state, or local government, or to an agency or instrumentality of that government are treated as sales to a business customer and are[~~must be~~] assigned consistent with the rules for those sales.

(8)[(5)] "Code" means the Internal Revenue Code as defined by KRS 141.010(14).

(9) "Delivered to a location" means to the location of the taxpayer's market for the service, which may not be the location of the taxpayer's employees or property.

(10)[(6)] "Film programming" means one (1) or more performances, events, or productions (or segments of performances, events, or productions) intended to be distributed for visual and auditory perception, including items such as [but not limited to] news, entertainment, sporting events, plays, stories, or other literary, commercial, educational, or artistic works.

(11) "Financial institution" is defined by KRS 136.500.

(12) "Financial organization" is defined by KRS 141.120(1)(c).

(13)[(7)] "Individual customer" means a customer that is not a business customer.

(14)[(8)] "Intangible property" [generally] means property that is not physical or whose representation by physical means is merely incidental and includes items such as[, without limitation,] copyrights; patents; trademarks; trade names; brand names; franchises; licenses; trade secrets; trade dress; information; know-how; methods; programs; procedures; systems; formulae; processes; technical data; designs; licenses; literary, musical, or artistic compositions; information; ideas; contract rights including broadcast rights; agreements not to compete; goodwill and going concern value; securities; and computer software[as otherwise provided in this administrative regulation].

(15) "Kentucky revenue passenger mile" is defined by KRS 141.121(1)(c).

(16) "Mile operated" means the movement of a barge, tug, or other watercraft one (1) mile.

(17) "Passenger airline is defined by KRS 141.121(1)(d).

(18)[(9)] "Place of order[,]" means the physical location from which a customer places an order for a sale other than a sale of tangible personal property from a taxpayer, resulting in a contract with the taxpayer.

(19)[(40)] "Platform distribution company" means a cable service provider, a direct broadcast satellite system, an Internet content distributor, or any [other] distributor that directly charges viewers for access to any film programming.

(20)[(41)] "Population" means the most recent population data maintained by the U.S. Census Bureau for the year in question as of the close of the taxable period.

(21) "Provider" is defined by KRS 141.121(1)(e).

(22) "Public service company" is defined by KRS 141.0401(6)(i).

(23) "Qualified air freight forwarder" is defined by KRS 141.121(1)(f).

(24) "Receipts" is defined by KRS 141.120(1)(e).

(25)[(42)] "Related member" is defined by KRS 141.205(1)(g).

(26) "Revenue car mile" means the movement of a loaded railroad car one (1) mile.

(27) "Revenue passenger mile" is defined by KRS 141.121(1)(g).

(28)[(13)] "State where a contract of sale is principally managed by the customer[,]" means the primary location at which an employee or other representative of a customer serves as the primary contact person for the taxpayer with respect to the day-to-day execution and performance of a contract entered into by the taxpayer with the customer.

Section 2. Additional Principles.

(1) Year to year consistency. If the taxpayer departs from or modifies the basis for excluding or including gross receipts in the receipts factor used in returns for prior years, the taxpayer shall disclose in the return for the current year the nature and extent of the modification.

(2) State to state consistency. If the returns or reports filed by the taxpayer with all states to which the taxpayer reports are not uniform in the inclusion or exclusion of gross receipts, the taxpayer shall disclose in its Kentucky return the nature and extent of the variance.

(3) Denominator. The denominator of the receipts factor shall include the gross receipts derived by the taxpayer from transactions and activity in the regular course of its trade or business, except gross receipts excluded under this administrative regulation.

(4) Numerator. The numerator of the receipts factor shall include gross receipts attributable to this state and derived by the taxpayer from transactions and activity in the regular course of its trade or business, except gross receipts excluded under this administrative regulation.

Section 3. Sales of Tangible Personal Property in This State.

(1) Gross receipts from sales of tangible personal property (except sales to the United States Government) are in this state if the property is delivered or shipped to a purchaser within this state regardless of the f.o.b. point or other conditions of sale.

(2) Property shall be **determined as[deemed to be]** delivered or shipped to a purchaser within this state if the recipient is located in this state, even though the property is ordered from outside this state.

Example. The taxpayer, with inventory in State A, sold \$100,000 of its products to a purchaser having branch stores in several states, including Kentucky. The order for the purchase was placed by the purchaser's central purchasing department located in State B. \$25,000 of the purchase order was shipped directly to purchaser's branch store in Kentucky. The branch store in Kentucky is the purchaser with respect to \$25,000 of the taxpayer's sales.

(3) Property is delivered or shipped to a purchaser within this state if the shipment terminates in this state, even though the property is subsequently transferred by the purchaser to another state.

Example. The taxpayer makes a sale to a purchaser who maintains a central warehouse in Kentucky at which all merchandise purchases are received. The purchaser reships the goods to its branch stores in other states for sale. All of the taxpayer's products shipped to the purchaser's warehouse in Kentucky constitute property delivered or shipped to a purchaser within Kentucky.

(4) ~~A~~The term "purchaser within this state" shall include the ultimate recipient of the property if the taxpayer in this state, at the designation of the purchaser, delivers to or has the property shipped to the ultimate recipient within this state.

Example. A taxpayer in Kentucky sold merchandise to a purchaser in State A. Taxpayer directed the manufacturer or supplier of the merchandise in State B to ship the merchandise to the purchaser's customer in Kentucky pursuant to purchaser's instructions. The sale by the taxpayer is in Kentucky.

(5) ~~If~~When property being shipped by a seller from the state of origin to a consignee in another state is diverted while en route to a purchaser in this state, the sales are in this state.

Example. The taxpayer, a produce grower in State A, begins shipment of perishable produce to the purchaser's place of business in State B. While en route, the produce is diverted to the purchaser's place of business in Kentucky in which state the taxpayer is subject to tax. The sale by the taxpayer is attributed to Kentucky.

Section 4. Sales of Tangible Personal Property to the United States Government. Gross receipts from sales of tangible personal property to the United States Government are in this state if the property is shipped from an office, store, warehouse, factory, or other place of storage in this state. For the purposes of this administrative regulation, only sales for which the United States Government makes direct payment to the seller pursuant to the terms of a contract constitute sales to the United States Government. ~~Thus,~~ Sales by a subcontractor to the prime contractor, the party to the contract with the United States Government, do not constitute sales to the United States Government.

(1) Example~~(i)~~. A taxpayer contracts with General Services Administration to deliver X number of trucks which were paid for by the United States Government. The sale is a sale to the United States Government.

(2) Example~~(ii)~~. The taxpayer, as a subcontractor to a prime contractor with the National Aeronautics and Space Administration, contracts to build a component of a rocket for \$1,000,000. The sale by the subcontractor to the prime contractor is not a sale to the United States Government.

Section 5. Sales Other Than Sales of Tangible Personal Property: General Rules. ~~In general,~~ KRS 141.120(11) provides for the inclusion in the numerator of the receipts factor of gross receipts arising from transactions other than sales of tangible personal property.

(1) Market-Based Sourcing. Receipts, other than receipts described in KRS 141.120(10) (from sales of tangible personal property), are in this state within the meaning of KRS 141.120(11) if and to the extent that the taxpayer's market for the sales is in this state. ~~In general,~~ The provisions in this section establish uniform rules for:

(a) Determining whether and to what extent the market for a sale other than the sale of tangible personal property is in this state;

(b) Reasonably approximating the state or states of assignment ~~if~~where the state or states cannot be determined;

(c) 1. Excluding receipts from the sale of intangible property from the numerator and denominator of the receipts factor pursuant to KRS 141.120(11)(a)(4)(b)iii;

2. Excluding receipts from the denominator of the receipts factor, pursuant to KRS 141.120(11)(c) ~~if~~where the state or

states of assignment cannot be determined or reasonably approximated; or

3. Excluding receipts from the denominator of the receipts factor, pursuant to KRS 141.120(11)(c) ~~if~~where the taxpayer is not taxable in the state to which the receipts are assigned as determined under KRS 141.120(3).

(2) General Principles of Application: Contemporaneous Records. In order to satisfy the requirements of this administrative regulation, a taxpayer's assignment of receipts from sales of other than tangible personal property ~~shall~~must be consistent with the following principles:

(a)1. A taxpayer shall apply the rules set forth in this administrative regulation based on objective criteria and shall consider all sources of information reasonably available to the taxpayer ~~upon~~at the time of its tax filing including, ~~items such as~~without limitation, the taxpayer's books and records kept in the normal course of business;

2. A taxpayer shall determine its method of assigning receipts in good faith, and apply it consistently with respect to similar transactions ~~and~~ year to year; and

3. A taxpayer shall retain contemporaneous records that explain the determination and application of its method of assigning its receipts, including its underlying assumptions, and shall provide those records to the department upon request.

(b) This administrative regulation provides various assignment rules that apply sequentially in a hierarchy. For each sale to which a hierarchical rule applies, a taxpayer ~~shall~~must make ~~an~~a reasonable effort to apply the primary rule applicable to the sale before seeking to apply the next rule in the hierarchy (and ~~shall~~must continue to do so with each succeeding rule in the hierarchy, ~~if~~where applicable). For example, in some cases, the applicable rule first requires a taxpayer to determine the state or states of assignment, and if the taxpayer cannot do so, the rule requires the taxpayer to reasonably approximate the state or states. In these cases, the taxpayer ~~shall~~must attempt to determine the state or states of assignment (i.e., apply the primary rule in the hierarchy) in good faith and with reasonable effort before it may reasonably approximate the state or states.

(c) A taxpayer's method of assigning its receipts, including the use of a method of approximation, ~~if~~where applicable, ~~shall~~must reflect an attempt to obtain the most accurate assignment of receipts consistent with this administrative regulation, rather than an attempt to lower the taxpayer's tax liability. A method of assignment that is reasonable for one (1) taxpayer may not necessarily be reasonable for another taxpayer, depending upon the applicable facts.

(3) Rules of Reasonable Approximation.

(a) ~~In general,~~ This administrative regulation establishes uniform rules for determining whether and to what extent the market for a sale other than the sale of tangible personal property is in this state. The administrative regulation ~~also~~ sets forth rules of reasonable approximation, which apply if the state or states of assignment cannot be determined. In some instances, the reasonable approximation ~~shall~~must be made in accordance with specific rules of approximation prescribed in this administrative regulation. In other cases, the applicable rule in this administrative regulation permits a taxpayer to reasonably approximate the state or states of assignment, using a method that reflects an effort to approximate the results that ~~may~~would be obtained under the applicable rules or standards set forth in this administrative regulation.

(b) Approximation Based Upon Known Sales.

1. ~~If in an instance where,~~ applying the applicable rules set forth in subsections (7), (8), (9), and (10) of this section, a taxpayer ~~may~~can ascertain the state or states of assignment of a substantial portion of its receipts from sales of substantially similar services ("assigned receipts"), but not all of those sales; ~~and~~

2. The taxpayer reasonably believes, based on all available information, that the geographic distribution of some or all of the remainder of those sales generally tracks that of the assigned receipts, it shall include receipts from those sales which it believes tracks the geographic distribution of the assigned receipts in its receipts factor in the same proportion as its assigned receipts. This

rule ~~false~~ applies in the context of licenses and sales of intangible property ~~if where~~ the substance of the transaction resembles a sale of goods or services.

(c) Related-Member Transactions – Information Imputed from Customer to Taxpayer. ~~If where~~ a taxpayer has receipts subject to this administrative regulation from transactions with a related-member customer, information that the customer has that is relevant to the sourcing of receipts from these transactions is imputed to the taxpayer.

(4) Rules with Respect to Exclusion of Receipts from the Receipts Factor.

(a) The receipts factor only includes those amounts defined as receipts ~~under KRS 141.120(1)(e)]~~.

(b) Certain receipts arising from the sale of intangibles are excluded from the numerator and denominator of the sales factor pursuant to KRS 141.120(11)(a)(4)(b)iii.

(c) In a case in which a taxpayer cannot ascertain the state or states to which receipts of a sale are to be assigned pursuant to the applicable rules set forth in this administrative regulation (including through the use of a method of reasonable approximation, ~~if where~~ relevant) using a reasonable amount of effort undertaken in good faith, the receipts ~~shall must~~ be excluded from the denominator of the taxpayer's receipts factor pursuant to KRS 141.120(11)(c).

(d) In a case in which a taxpayer ~~may can~~ ascertain the state or states to which receipts from a sale are to be assigned pursuant to the applicable rules set forth in this administrative regulation, but the taxpayer is not taxable in one (1) or more of those states, the receipts that ~~may would otherwise~~ be assigned to those states where the taxpayer is not taxable ~~shall must~~ be excluded from the denominator of the taxpayer's receipts factor pursuant to KRS 141.120(11)(c).

(e) Receipts of a taxpayer from hedging transactions, or from the maturity, redemption, sale, exchange, loan, or other disposition of cash or securities, shall be excluded pursuant to KRS 141.120(1)(e).

(f) Nothing in the provisions adopted here pursuant to KRS 141.120 is intended to limit the application of KRS 141.120(12) or the authority granted to the department under KRS 141.120(12).

(5) Sale, Rental, Lease, or License of Real Property. In the case of a sale, rental, lease, or license of real property, the receipts from the sale are in this state if and to the extent that the property is in this state.

(6) Rental, Lease, or License of Tangible Personal Property. In the case of a rental, lease, or license of tangible personal property, the receipts from the sale are in this state if and to the extent that the property is in this state. If property is mobile property that is located both within and without this state during the period of the lease or other contract, the receipts assigned to this state are the receipts from the contract period multiplied by the fraction computed under 103 KAR 16:290. (as adjusted ~~if when~~ necessary to reflect differences between usage during the contract period and usage during the taxable year).

(7) Sale of a Service.

(a) General Rule. The receipts from a sale of a service are in this state if and to the extent that the service is delivered to a location in this state. ~~In general, the term "delivered to a location" refers to the location of the taxpayer's market for the service, which may not be the location of the taxpayer's employees or property.~~ The rules to determine the location of the delivery of a service in the context of several specific types of service transactions are set forth in **this subsection and in subsections [(7), (8), (9), and (10) of this section.**

(b) In-Person Services.

1. ~~In general,~~ Except as ~~otherwise~~ provided in this paragraph, in-person services are services that are physically provided in person by the taxpayer, ~~if where~~ the customer or the customer's real or tangible property upon which the services are performed is in the same location as the service provider ~~when at the time~~ the services are performed. This rule includes situations ~~when where~~ the services are provided on behalf of the taxpayer by a third-party contractor. Examples of in-person services may include:

a. Warranty and repair services;

b. Cleaning services;

c. Plumbing services;

d. Carpentry;

e. Construction contractor services;

f. Pest control;

g. Landscape services;

h. Medical and dental services,

~~i.]~~ including medical testing,

~~i.]~~ x-rays and mental health care and treatment;

~~i.]~~ Child care;

~~i.]~~ Hair cutting and salon services;

~~k.]~~ Live entertainment and athletic performances; and

~~l.]~~ In-person training or lessons.

2. In-person services include services **as** described in **subparagraph 1., clauses a. through l. of this paragraph [1-a-n- above]** that are performed:

a. At a location that is owned or operated by the service provider; or

b. A location of the customer, including the location of the customer's real or tangible personal property.

3. Various professional services, including **services such as**, **but not limited to,** accounting, financial and consulting services, and other similar services are not treated as in-person services within the meaning of this **paragraph [subparagraph]**, although they may involve some amount of in-person contact.

4. ~~2.]~~ Assignment of Receipts.

~~a.]~~ Rule of Determination. Except as ~~otherwise~~ provided in this subparagraph, if the service provided by the taxpayer is an in-person service, the service is delivered to the location where the service is received. Therefore, the receipts from a sale are in this state if and to the extent the customer receives the in-person service in this state. In assigning its receipts from sales of in-person services, a taxpayer ~~shall must~~ first attempt to determine the location where a service is received, as follows:

a. If the service is performed with respect to the body of an individual customer in this state (e.g., hair cutting or x-ray services) or in the physical presence of the customer in this state (e.g., live entertainment or athletic performances), the service is received in this state.

b. If the service is performed with respect to the customer's real estate in this state or if the service is performed with respect to the customer's tangible personal property at the customer's residence or in the customer's possession in this state, the service is received in this state.

c. If the service is performed with respect to the customer's tangible personal property and the tangible personal property is to be shipped or delivered to the customer, whether the service is performed within or outside this state, the service is received in this state if the property is shipped or delivered to the customer in this state.

5. ~~3.]~~ Rule of Reasonable Approximation. ~~If in an instance in which~~ the state or states where a service is actually received cannot be determined, but the taxpayer has sufficient information regarding the place of receipt from which it ~~may can~~ reasonably approximate the state or states where the service is received, the taxpayer shall reasonably approximate ~~the such~~ state or states. If the state to which the receipts are to be assigned ~~may can~~ be determined or reasonably approximated, but the taxpayer is not taxable in that state, the receipts that ~~may would otherwise~~ be assigned to the state are excluded from the denominator of the taxpayer's receipts factor pursuant to KRS 141.120(11)(c).

6. ~~4.]~~ Examples. In these examples assume, unless otherwise stated, that the taxpayer is taxable in each state to which its receipts ~~may would~~ be assigned, so that there is no requirement that the receipts from the sale or sales be eliminated from the denominator of the taxpayer's receipts factor. ~~Note that~~ For purposes of the examples, it is irrelevant whether the services are performed by an employee of the taxpayer, or by an independent contractor acting on the taxpayer's behalf.

a. Example ~~(1)]~~. Salon Corp has retail locations in Kentucky and in other states where it provides hair cutting services to individual and business customers, the latter of whom are paid for

through the means of a company account. The receipts from sales of services provided at Salon Corp's in-state locations are in Kentucky. The receipts from sales of services provided at Salon Corp's locations outside Kentucky, even if/when provided to residents of Kentucky, are not receipts from in-state sales.

b. Example[(iii)]. Landscape Corp provides landscaping and gardening services in Kentucky and in neighboring states. Landscape Corp provides landscaping services at the in-state vacation home of an individual who is a resident of another state and who is located outside Kentucky when/at the time the services are performed. The receipts from sale of services provided at the in-state location are in Kentucky.

c. Example[(iii)]. Same facts as in Example **b. [(iii)]**, except that Landscape Corp provides the landscaping services to Retail Corp, a corporation with retail locations in several states, and the services are with respect to those locations of Retail Corp that are in Kentucky and in other states. The receipts from the sale of services provided to Retail Corp are in Kentucky to the extent the services are provided in Kentucky.

d. Example[(iv)]. Camera Corp provides camera repair services at a Kentucky retail location to walk-in individual and business customers. In some cases, Camera Corp actually repairs a camera that is brought to its in-state location at a facility that is in another state. In these cases, the repaired camera is then returned to the customer at Camera Corp's Kentucky location. The receipts from sale of these services are in Kentucky.

e. Example[(v)]. Same facts as in Example **d. [(iv)]**, except that a customer located in Kentucky mails the camera directly to the out-of-state facility owned by Camera Corp to be fixed, and receives the repaired camera back in Kentucky by mail. The receipts from sale of the service are in Kentucky.

f. Example[(vi)]. Teaching Corp provides seminars in Kentucky to individual and business customers. The seminars and the materials used in connection with the seminars are prepared outside the state.^[7] The teachers who teach the seminars include teachers that are residents/resident outside the state, and the students who attend the seminars include students that are residents/resident outside the state. Because the seminars are taught in Kentucky, the receipts from sales of the services are in Kentucky.

(8) Services Delivered to the Customer, or on Behalf of the Customer, or Delivered Electronically Through the Customer.

(a) [In general.] If the service provided by the taxpayer is not an in-person service within the meaning of subsection (7)(b) of this section, or a professional service within the meaning of subsection (10) of this section, and the service is delivered to or on behalf of the customer, or delivered electronically through the customer, the receipts from a sale are in this state if and to the extent that the service is delivered in this state. For the purposes of this subsection and subsections (8) and (9) of this section, a service that is delivered "to" a customer is a service in which the customer and not a third party is the recipient of the service. A service that is delivered "on behalf of" a customer is one in which a customer contracts for a service, but one (1) or more third parties, rather than the customer, is the recipient of the service, such as fulfillment services, or the direct or indirect delivery of advertising to the customer's intended audience. A service may/can be delivered to or on behalf of a customer by physical means or through electronic transmission. A service that is delivered electronically "through" a customer is a service that is delivered electronically to a customer for purposes of resale and subsequent electronic delivery in substantially identical form to an end user or other third-party recipient.

(b) Assignment of Receipts. The assignment of receipts to a state or states in the instance of a sale of a service that is delivered to the customer or on behalf of the customer, or delivered electronically through the customer, depends upon the method of delivery of the service and the nature of the customer. Separate rules of assignment apply to services delivered by physical means and services delivered by electronic transmission. (For purposes of this subsection^[7], a service delivered by an electronic transmission is not a delivery by a physical means). If a rule of assignment set forth in this administrative regulation, depends on whether the

customer is an individual or a business customer, and the taxpayer acting in good faith cannot reasonably determine whether the customer is an individual or business customer, the taxpayer shall treat the customer as a business customer. If the state to which the receipts from a sale are to be assigned may/can be determined or reasonably approximated, but the taxpayer is not taxable in that state, the receipts that may/would otherwise be assigned to that state are excluded from the denominator of the taxpayer's receipts factor.

1. Delivery to or on Behalf of a Customer by Physical Means Whether to an Individual or Business Customer. Services delivered to a customer or on behalf of a customer through a physical means include, for example:^[7]

a. Product delivery services if/where property is delivered to the customer or to a third party on behalf of the customer;

b. The delivery of brochures, fliers, or other direct mail services;

c. The delivery of advertising or advertising-related services to the customer's intended audience in the form of a physical medium; and

d. The sale of custom software if/where the taxpayer installs the custom software at the customer's site (e.g., if/where software is developed for a specific customer in a case when/where the transaction is properly treated as a service transaction for purposes of corporate taxation.) The rules in this administrative regulation apply whether the taxpayer's customer is an individual customer or a business customer.

2.[e.] Rule of Determination. In assigning the receipts from a sale of a service delivered to a customer or on behalf of a customer through a physical means, a taxpayer shall/must first attempt to determine the state or states where the service is delivered. If the taxpayer is able to determine the state or states where the service is delivered, it shall assign the receipts to that state or states.

3.[f.] Rule of Reasonable Approximation. If the taxpayer cannot determine the state or states where the service is actually delivered, but has sufficient information regarding the place of delivery from which it may/can reasonably approximate the state or states where the service is delivered, it shall reasonably approximate the state or states.

4.[g.] Examples. In these examples assume, unless otherwise stated, that the taxpayer is taxable in each state to which its receipts may/would be assigned, so that there is no requirement in these examples that the receipts shall/must be eliminated from the denominator of the taxpayer's receipts factor.

a. Example[(i)]. Direct Mail Corp, a corporation based outside Kentucky, provides direct mail services to its customer, Business Corp. Business Corp contracts with Direct Mail Corp to deliver printed fliers to a list of customers that is provided to it by Business Corp. Some of Business Corp's customers are in Kentucky and some of those customers are in other states. Direct Mail Corp will use the postal service to deliver the printed fliers to Business Corp's customers. The receipts from the sale of Direct Mail Corp's services to Business Corp are assigned to Kentucky to the extent that the services are delivered on behalf of Business Corp to Kentucky customers (i.e., to the extent that the fliers are delivered on behalf of Business Corp to Business Corp's intended audience in Kentucky).

b. Example[(ii)]. Ad Corp is a corporation based outside Kentucky that provides advertising and advertising-related services in Kentucky and in neighboring states. Ad Corp enters into a contract at a location outside Kentucky with an individual customer who is not a Kentucky resident to design advertisements for billboards to be displayed in Kentucky, and to design fliers to be mailed to Kentucky residents. All of the design work is performed outside Kentucky. The receipts from the sale of the design services are in Kentucky because the service is physically delivered on behalf of the customer to the customer's intended audience in Kentucky.

c. Example[(iii)]. Same facts as Example **b. [(ii)]**, except that the contract is with a business customer that is based outside Kentucky. The receipts from the sale of the design services are in Kentucky because the services are physically delivered on behalf

of the customer to the customer's intended audience in Kentucky.

d. Example[(iv)]. Fulfillment Corp, a corporation based outside Kentucky, provides product delivery fulfillment services in Kentucky and in neighboring states to Sales Corp, a corporation located outside Kentucky that sells tangible personal property through a mail order catalog and over the Internet to customers. In some cases if[when] a customer purchases tangible personal property from Sales Corp to be delivered in Kentucky, Fulfillment Corp will, pursuant to its contract with Sales Corp, deliver that property from its fulfillment warehouse located outside Kentucky. The receipts from the sale of the fulfillment services of Fulfillment Corp to Sales Corp are assigned to Kentucky to the extent that Fulfillment Corp's deliveries on behalf of Sales Corp are to recipients in Kentucky.

e. Example[(v)]. Software Corp, a software development corporation, enters into a contract with a business customer, Buyer Corp, which is physically located in Kentucky, to develop custom software to be used in Buyer Corp's business. Software Corp develops the custom software outside Kentucky, and then physically installs the software on Buyer Corp's computer hardware located in Kentucky. The development and sale of the custom software is properly characterized as a service transaction, and the receipts from the sale are assigned to Kentucky because the software is physically delivered to the customer in Kentucky.

f. Example[(vi)]. Same facts as Example **e. [(v)]**, except that Buyer Corp has offices in Kentucky and several other states, but is commercially domiciled outside Kentucky and orders the software from a location outside Kentucky. The receipts from the development and sale of the custom software service are assigned to Kentucky because the software is physically delivered to the customer in Kentucky.

(9) Delivery to a Customer by Electronic Transmission. Services delivered by electronic transmission include without limitation, services such as those that are transmitted through the means of wire, lines, cable, fiber optics, electronic signals, satellite transmission, audio or radio waves, or other similar means, whether or not the service provider owns, leases or otherwise controls the transmission equipment. In the case of the delivery of a service by electronic transmission to a customer, the following rules apply:

(a) Services Delivered By Electronic Transmission to an Individual Customer.

1.a. Rule of Determination. In the case of the delivery of a service to an individual customer by electronic transmission, the service is delivered in this state if and to the extent that the taxpayer's customer receives the service in this state. If the taxpayer may[can] determine the state or states where the service is received, it shall assign the receipts from that sale to that state or states.

b. Rules of Reasonable Approximation. If the taxpayer cannot determine the state or states where the customer actually receives the service, but has sufficient information regarding the place of receipt from which it may[can] reasonably approximate the state or states where the service is received, it shall reasonably approximate the state or states. If a taxpayer does not have sufficient information from which it may[can] determine or reasonably approximate the state or states in which the service is received, it shall reasonably approximate the state or states using the customer's billing address.

2. Services Delivered By Electronic Transmission to a Business Customer.

a. Rule of Determination. In the case of the delivery of a service to a business customer by electronic transmission, the service is delivered in this state if and to the extent that the taxpayer's customer receives the service in this state. If the taxpayer may[can] determine the state or states where the service is received, it shall assign the receipts from that sale to the state or states. For purposes of paragraph (b)2.[this subsection 9(b)(2)] of this subsection[section] it is intended that the state or states where the service is received reflect the location at which the service is directly used by the employees or designees of the customer.

b. Rule of Reasonable Approximation. If the taxpayer cannot determine the state or states where the customer actually receives

the service, but has sufficient information regarding the place of receipt from which it may[can] reasonably approximate the state or states where the service is received, it shall reasonably approximate the state or states.

c. Secondary Rule of Reasonable Approximation. In the case of the delivery of a service to a business customer by electronic transmission if[where] a taxpayer does not have sufficient information from which it may[can] determine or reasonably approximate the state or states in which the service is received, the taxpayer shall reasonably approximate the state or states as set forth in this administrative regulation. In these cases, unless the taxpayer may[can] apply the safe harbor set forth in this subsection the taxpayer shall reasonably approximate the state or states in which the service is received as follows:

i. By assigning the receipts from the sale to the state where the contract of sale is principally managed by the customer;

ii. If the state where the customer principally manages the contract is not reasonably determinable, by assigning the receipts from the sale to the customer's place of order; and

iii. If the customer's place of order is not reasonably determinable, by assigning the receipts from the sale using the customer's billing address; except[provided, however,] if the taxpayer derives more than five (5) percent of its receipts from sales of services from any single customer, then the taxpayer shall[is required to] identify the state in which the contract of sale is principally managed by that customer.

d. Safe Harbor. In the case of the delivery of a service to a business customer by electronic transmission a taxpayer may not be able to determine, or reasonably approximate the state or states in which the service is received. In these cases, the taxpayer may, in lieu of the rule stated in paragraph (a)[at subsection (9)(b)2.c. of this subsection[section]], apply the safe harbor stated in this clause[subsubsection]. Under this safe harbor, a taxpayer may assign its receipts from sales to a particular customer based upon the customer's billing address in a taxable year in which the taxpayer:

(i)[(1)] Engages in substantially similar service transactions with more than 250 customers, whether business or individual; and

(ii)[(2)] Does not derive more than five (5) percent of its receipts from sales of all services from that customer. This safe harbor applies only for purposes of services delivered by electronic transmission to a business customer and not otherwise.

e. Related Member Transactions. In the case of a sale of a service by electronic transmission to a business customer that is a related member, the taxpayer may not use the secondary rule of reasonable approximation in subclause[subparagraph] iii of clause c. within this subparagraph.[section] but may use the rule of reasonable approximation and the safe harbor if[provided that] the department may aggregate sales to related members in determining whether the sales exceed five (5) percent of receipts from sales of all services under that safe harbor provision if necessary or appropriate to prevent distortion.

f. Examples. In these examples, unless otherwise stated, assume that the taxpayer is not related to the customer to which the service is delivered. [Also, unless otherwise stated,] Assume that the taxpayer is taxable in each state to which its receipts may[would] be assigned, so that there is no requirement in these examples that the receipts shall[must] be eliminated from the denominator of the taxpayer's receipts factor. Further, assume if relevant, unless otherwise stated, that the safe harbor set forth in clause d. of this subparagraph[d. above] does not apply.

(i) Example[(i)]. Support Corp, a corporation that is based outside Kentucky, provides software support and diagnostic services to individual and business customers that have previously purchased certain software from third-party vendors. These individual and business customers are located in Kentucky and other states. Support Corp supplies its services on a case-by-case basis if[when] directly contacted by its customer. Support Corp generally provides these services through the Internet, but sometimes provides these services by phone. In all cases, Support Corp verifies the customer's account information before providing any service. Using the information that Support Corp verifies

before performing a service, Support Corp may[can] determine where its services are received, and therefore shall[must] assign its receipts to these locations. The receipts from sales made to Support Corp's individual and business customers are in Kentucky to the extent that Support Corp's services are received in Kentucky.

(ii) Example[(ii)]. Online Corp, a corporation based outside Kentucky, provides Web-based services through the means of the Internet to individual customers who are residents in Kentucky and in other states. These customers access Online Corp's Web services primarily in their states of residence, and sometimes, while traveling, in other states. For a substantial portion of its receipts from the sale of services, Online Corp may[can] either determine the state or states where the services are received, or, if[where] it cannot determine the state or states, it has sufficient information regarding the place of receipt to reasonably approximate the state or states. However, Online Corp cannot determine or reasonably approximate the state or states of receipt for all of the sales of its services. Assuming that Online Corp reasonably believes, based on all available information, that the geographic distribution of the receipts from sales for which it cannot determine or reasonably approximate the location of the receipt of its services generally tracks those for which it does have this information, Online Corp shall[must] assign to Kentucky the receipts from sales for which it does not know the customers' locations in the same proportion as those receipts for which it has this information.

(iii) Example[(iii)]. Same facts as in Example (ii), except that Online Corp reasonably believes that the geographic distribution of the receipts from sales for which it cannot determine or reasonably approximate the location of the receipt of its Web-based services do not generally track the sales for which it does have this information. Online Corp shall[must] assign the receipts from sales of its services for which it lacks information as provided to its individual customers using the customers' billing addresses.

(iv) Example[(iv)]. Same facts as in Example (iii), except that Online Corp is not taxable in one (1) state to which some of its receipts from sales may[would] be [otherwise] assigned. The receipts that may[would] be [otherwise] assigned to that state are excluded from the denominator of Online Corp's receipts factor.

(v) Example[(v)]. Net Corp, a corporation based outside Kentucky, provides Web-based services to a business customer, Business Corp, a company with offices in Kentucky and two (2) neighboring states. Particular employees of Business Corp access the services from computers in each Business Corp office. Assume that Net Corp determines that Business Corp employees in Kentucky were responsible for seventy-five (75) percent of Business Corp's use of Net Corp's services, and Business Corp employees in other states were responsible for twenty-five (25) percent of Business Corp's use of Net Corp's services. [In this case,] Seventy-five (75) percent of the receipts from the sale are received in Kentucky. Assume alternatively that Net Corp lacks sufficient information regarding the location or locations where Business Corp's employees used the services to determine or reasonably approximate the location or locations. Under these circumstances, if Net Corp derives five (5) percent or less of its receipts from sales to Business Corp, Net Corp shall[must] assign the receipts under the secondary rule of approximation to the state where Business Corp principally managed the contract, or if that state is not [reasonably] determinable, to the state where Business Corp placed the order for the services, or if that state is not reasonably determinable, to the state of Business Corp's billing address. If Net Corp derives more than five (5) percent of its receipts from sales of services to Business Corp, Net Corp shall[is required to] identify the state in which its contract of sale is principally managed by Business Corp and shall[must] assign the receipts to that state.

(vi) Example[(vi)]. Net Corp, a corporation based outside Kentucky, provides Web-based services through the means of the Internet to more than 250 individual and business customers in Kentucky and in other states. Assume that for each customer Net Corp cannot determine the state or states where its Web services

are actually received, and lacks sufficient information regarding the place of receipt to reasonably approximate the state or states. [Also] Assume that Net Corp does not derive more than five (5) percent of its receipts from sales of services to a single customer. Net Corp may apply the safe harbor, and may assign its receipts using each customer's billing address. If Net Corp is not taxable in one (1) or more states to which some of its receipts may[would] be [otherwise] assigned, it shall[must] exclude those receipts from the denominator of its receipts factor.

(b) Services Delivered Electronically Through or "on Behalf of" an Individual or Business Customer. A service delivered electronically "on behalf of" the customer is one in which a customer contracts for a service to be delivered electronically, but one (1) or more third parties, rather than the customer, is the recipient of the service, such as the direct or indirect delivery of advertising on behalf of a customer to the customer's intended audience. A service delivered electronically "through" a customer to third-party recipients is a service that is delivered electronically to a customer for purposes of resale and subsequent electronic delivery in substantially identical form to end users or other third-party recipients.

1. Rule of Determination. In the case of the delivery of a service by electronic transmission, if[where] the service is delivered electronically to end users or other third-party recipients through or on behalf of the customer, the service is delivered in this state if and to the extent that the end users or other third-party recipients are in this state. For example, in the case of the direct or indirect delivery of advertising on behalf of a customer to the customer's intended audience by electronic means, the service is delivered in this state to the extent that the audience for the advertising is in this state. In the case of the delivery of a service to a customer that acts as an intermediary in reselling the service in substantially identical form to third-party recipients, the service is delivered in this state to the extent that the end users or other third-party recipients receive the services in this state. These rules [in this subsection] apply whether the taxpayer's customer is an individual customer or a business customer and whether the end users or other third-party recipients to which the services are delivered through or on behalf of the customer are individuals or businesses.

2. Rule of Reasonable Approximation. If the taxpayer cannot determine the state or states where the services are actually delivered to the end users or other third-party recipients either through or on behalf of the customer, but has sufficient information regarding the place of delivery from which it may[can] reasonably approximate the state or states where the services are delivered, it shall reasonably approximate the state or states.

3. Select Secondary Rules of Reasonable Approximation.

a. If a taxpayer's service is the direct or indirect electronic delivery of advertising on behalf of its customer to the customer's intended audience, and if the taxpayer lacks sufficient information regarding the location of the audience from which it may[can] determine or [reasonably] approximate that location, the taxpayer shall [reasonably] approximate the audience in a state for the advertising using the following secondary rules of reasonable approximation. If a taxpayer is delivering advertising directly or indirectly to a known list of subscribers, the taxpayer shall [reasonably] approximate the audience for advertising in a state using a percentage that reflects the ratio of the state's subscribers in the specific geographic area in which the advertising is delivered relative to the total subscribers in that area. For a taxpayer with less information about its audience, the taxpayer shall [reasonably] approximate the audience in a state using the percentage that reflects the ratio of the state's population in the specific geographic area in which the advertising is delivered relative to the total population in that area.

b. The taxpayer shall approximate the extent to which the service is received in a state by using the percentage that reflects the ratio of the state's population in the specific geographic area in which the taxpayer's intermediary resells the services, relative to the total population in that area:

(i) If a taxpayer's service is the delivery of a service to a customer that then acts as the taxpayer's intermediary in reselling

that service to end users or other third party recipients; or

(ii) If the taxpayer lacks sufficient information regarding the location of the end users or other third party recipients from which it may[can] determine or reasonably approximate that location; the taxpayer shall reasonably approximate the extent to which the service is received in a state by using the percentage that reflects the ratio of the state's population in the specific geographic area in which the taxpayer's intermediary resells the services, relative to the total population in that area.

c. Examples. Assume in each of these examples that the taxpayer that provides the service is taxable in this state and shall[must] apportion its income pursuant to KRS 141.120.

(i) Example: Web Corp, a corporation that is based outside Kentucky, provides Internet content to viewers in Kentucky and other states. Web Corp sells advertising space to business customers pursuant to which the customers' advertisements shall[will] appear in connection with Web Corp's Internet content. Web Corp receives a fee for running the advertisements that is determined by reference to the number of times the advertisement is viewed or clicked upon by the viewers of its Web site[website]. Web Corp's sale of advertising space to its business customers is assigned to Kentucky to the extent that the viewers of the Internet content are in Kentucky, as measured by viewings or clicks. If Web Corp is unable to determine the actual location of its viewers, and lacks sufficient information regarding the location of its viewers to reasonably approximate the[such] location, Web Corp shall[must] approximate the amount of its Kentucky sales by multiplying the amount of the[such] sales by a percentage that reflects the Kentucky population in the specific geographic area in which the content containing the advertising is delivered relative to the total population in the[such] area.

(ii) Example[(iii)]. Retail Corp, a corporation that is based outside of Kentucky, sells tangible property through its retail stores located in Kentucky and other states, and through a mail order catalog. Answer Co, a corporation that operates call centers in multiple states, contracts with Retail Corp to answer telephone calls from individuals placing orders for products found in Retail Corp's catalogs. [In this case,] The phone answering services of Answer Co are being delivered to Retail Corp's customers and prospective customers. Therefore, Answer Co is delivering a service electronically to Retail Corp's customers or prospective customers on behalf of Retail Corp, and shall[must] assign the proceeds from this service to the state or states from which the phone calls are placed by the[such] customers or prospective customers. If Answer Co cannot determine the actual locations from which phone calls are placed, and lacks sufficient information regarding the locations to reasonably approximate the[such] locations, Answer Co shall[must] approximate the amount of its Kentucky sales by multiplying the amount of its fee from Retail Corp by a percentage that reflects the Kentucky population in the specific geographic area from which the calls are placed relative to the total population in the[such] area.

(iii) Example[(iii)]. Web Corp, a corporation that is based outside of Kentucky, sells tangible property to customers via its Internet Web site[website]. Design Co designed and maintains Web Corp's Web site[website], including making changes to the site based on customer feedback received through the site. Design Co's services are delivered to Web Corp, the proceeds from which are assigned pursuant to this subsection[Section 5(9) of this administrative regulation]. The fact that Web Corp's customers and prospective customers incidentally benefit from Design Co's services, and may even interact with Design Co in the course of providing feedback, does not transform the service into one delivered "on behalf of" Web Corp to Web Corp's customers and prospective customers.

(iv) Example [(iv)]. Wholesale Corp, a corporation that is based outside Kentucky, develops an Internet-based information database outside Kentucky and enters into a contract with Retail Corp under which[whereby] Retail Corp will market and sell access to this database to end users. Depending on the facts, the provision of database access may be either the sale of a service or the license of intangible property, or may have elements of both. Assume that on the particular facts applicable in this example,

Wholesale Corp is selling database access in transactions properly characterized as involving the performance of a service. If[When] an end user purchases access to Wholesale Corp's database from Retail Corp, Retail Corp in turn compensates Wholesale Corp in connection with that transaction. [In this case,] Wholesale Corp's services are being delivered through Retail Corp to the end user. Wholesale Corp shall[must] assign its sales to Retail Corp to the state or states in which the end users receive access to Wholesale Corp's database. If Wholesale Corp cannot determine the state or states where the end users actually receive access to Wholesale Corp's database, and lacks sufficient information regarding the location from which the end users access the database to reasonably approximate the[such] location, Wholesale Corp shall[must] approximate the extent to which its services are received by end users in Kentucky. Wholesale Corp shall approximate by using a percentage that reflects the ratio of the Kentucky population in the specific geographic area in which Retail Corp regularly markets and sells Wholesale Corp's database relative to the total population in the[such] area. [Note that] It does not matter for purposes of the analysis whether Wholesale Corp's sale of database access constitutes a service or a license of intangible property, or some combination of both.

(10) Professional Services.

(a) Except as [otherwise] provided in this subsection, professional services are services that require specialized knowledge, and in some cases, require a professional certification, license, or degree. These services include the performance of technical services that require the application of specialized knowledge. Professional services include, services such as[without limitation]:

1. Management services;
2. Bank and financial services;
3. Financial custodial services;
4. Investment and brokerage services;
5. Fiduciary services;
6. Tax preparation;
7. Payroll and accounting services;
8. Lending services;
9. Credit card services (including credit card processing services);

10. Data processing services;
11. Legal services;
12. Consulting services;
13. Video production services;
14. Graphic and other design services;
15. Engineering services; and
16. Architectural services.

(b) Overlap with Other Categories of Services.

1. Certain services that are under/fall within the definition of "professional services" as set forth in paragraph (a)1. through 16. of this subsection are nevertheless treated as "in-person services", and are assigned under the rules of [that] subsection (7)(b) of this section. [Specifically,] Professional services that are physically provided in person by the taxpayer such as carpentry, certain medical and dental services or child care services, if[where] the customer or the customer's real or tangible property upon which the services are provided is in the same location as the service provider when[at the time] the services are performed, are "in-person services". In-person services[and] are assigned as these[such], but[notwithstanding that they] may [also] be considered to be "professional services." However, professional services if[where] the service is of an intellectual or intangible nature, such as legal, accounting, financial, and consulting services [,] are assigned as professional services under the rules of this subsection, notwithstanding the fact that these services may involve some amount of in-person contact.

2. Professional services may in some cases include the transmission of one (1) or more documents or other communications by mail or by electronic means. In some cases, all or most communications between the service provider and the service recipient may be by mail or by electronic means. However, in these cases, despite this transmission, the assignment rules that apply are those set forth in this subsection and not those set forth

in subsection (8) of this section pertaining to services delivered to a customer or through or on behalf of a customer.

(c) Assignment of Receipts. In the case of a professional service, it is generally possible to characterize the location of delivery in multiple ways by emphasizing different elements of the service provided, no one (1) of which will consistently represent the market for the services. Therefore, the location of delivery in the case of professional services is not susceptible to a general rule of determination, and ~~shall~~**[must]** be reasonably approximated. The assignment of receipts from a sale of a professional service depends in many cases upon whether the customer is an individual or business customer. In any instance in which the taxpayer, acting in good faith, cannot reasonably determine whether the customer is an individual or business customer, the taxpayer shall treat the customer as a business customer. For purposes of assigning the receipts from a sale of a professional service, a taxpayer's customer is the person that contracts for the service, irrespective of whether another person pays for or ~~also~~ benefits from the taxpayer's services. In any instance in which the taxpayer is not taxable in the state to which receipts from a sale is assigned, the receipts are excluded from the denominator of the taxpayer's receipts factor.

1. General Rule. Receipts from sales of professional services are assigned in accordance with ~~this section [5 of this administrative regulation]~~, other than those services described in:

a. ~~Subparagraph 2. of this paragraph on[Subsection (10)(c)2. of this section. (Architectural and engineering services)]~~;

b. ~~Subparagraph 3. of this paragraph on[Subsection (10)(c)3. of this section. (Services provided by a financial institution)]~~; and

c. ~~Subparagraph 4. of this paragraph on[Subsection (10)(c)4. of this section. (Transactions with related members.)]~~

d. Professional Services Delivered to Individual Customers. Except as ~~otherwise~~ provided in this subsection, in any instance in which the service provided is a professional service and the taxpayer's customer is an individual customer, the state or states in which the service is delivered ~~shall~~**[must]** be reasonably approximated as set forth in this subsection. ~~[In particular,]~~ The taxpayer shall assign the receipts from a sale to the customer's state of primary residence, or, if the taxpayer cannot reasonably identify the customer's state of primary residence, to the state of the customer's billing address. ~~Except; provided, however,~~ in any instance in which the taxpayer derives more than five (5) percent of its receipts from sales of all services from an individual customer, the taxpayer shall identify the customer's state of primary residence and assign the receipts from the service or services provided to that customer to that state.

e. Professional Services Delivered to Business Customers. Except as ~~otherwise~~ provided in this subsection, in any instance in which the service provided is a professional service and the taxpayer's customer is a business customer, the state or states in which the service is delivered ~~shall~~**[must]** be reasonably approximated as set forth in this section. ~~[In particular,]~~ Unless the taxpayer may use the safe harbor set forth in ~~clause f. [subsection (10)(f)] of this subparagraph[section]~~, the taxpayer shall assign the receipts from the sale as follows:

~~(i)[first,]~~ By assigning the receipts to the state where the contract of sale is principally managed by the customer;

~~(ii)[second,]~~ If the place of customer management is not reasonably determinable, to the customer's place of order; and

~~(iii)[third,]~~ If the ~~customer's~~**[customer]** place of order is not reasonably determinable, to the customer's billing address. ~~Except; provided, however,~~ in any instance in which the taxpayer derives more than five (5) percent of its receipts from sales of all services from a customer, the taxpayer ~~shall~~**[is required to]** identify the state in which the contract of sale is principally managed by the customer.

f. Safe Harbor: Large Volume of Transactions. ~~Except as provided in, [Notwithstanding]~~ the rules set forth in ~~clauses d. and e. of this subparagraph[paragraph (d) and (e) of this subsection]~~, a taxpayer may assign its receipts from sales to a

particular customer based on the customer's billing address in any taxable year in which the taxpayer engages in substantially similar service transactions with more than 250 customers, whether individual or business, and does not derive more than five (5) percent of its receipts from sales of all services from that customer. ~~This safe harbor applies only for purposes of clause d. of this subparagraph[subsection (10)(d) of this section, and not otherwise].~~

2. Architectural and Engineering Services with respect to Real or Tangible Personal Property. Architectural and engineering services with respect to real or tangible personal property are professional services within the meaning of ~~this subsection[(10) of this section]~~. However, unlike in the case of the general rule that applies to professional services:~~;~~

a. The receipts from a sale of an architectural service are assigned to a state or states if and to the extent that the services are with respect to real estate improvements located, or expected to be located, in the state or states; and

b. The receipts from a sale of an engineering service are assigned to a state or states if and to the extent that the services are with respect to tangible or real property located in the state or states, including real estate improvements located in, or expected to be located in, the state or states. These rules apply whether or not the customer is an individual or business customer. In any instance in which architectural or engineering services are not described in ~~this subparagraph[subsection (10)(d)2. of this section]~~, the receipts from a sale of these services ~~shall~~**[must]** be assigned under the general rule for professional services.

3. Services Provided by Financial Organizations and Institutions. The apportionment rules that apply to ~~["]~~ financial organizations~~[" as defined by KRS 141.120(1)(c).]~~ are set forth in KRS 141.121(5) and ~~in this administrative regulation~~. In any instance in which a financial ~~organization[institution]~~ performs services that are to be assigned pursuant to KRS 141.121(5) and this administrative regulation, including, for example, financial custodial services, those services are considered professional services within the meaning of ~~this subsection[(10) of this section]~~, and are assigned according to the general rule for professional service transactions as set forth in ~~paragraph[subsection (10)(c)1. of this subsection[section]]~~. ~~[Note that "Financial institutions," as defined by KRS 136.500(10),]~~ are subject to the franchise tax imposed by KRS 136.505 and related statutes and administrative regulations under KRS Chapter 136 and are exempt from the corporation income tax per KRS 141.040(1)(a) and the limited liability entity tax per KRS 141.040(1)(a).

4. Related Member Transactions. In any instance in which the professional service is sold to a related member, rather than applying the rule for professional services delivered to business customers in ~~paragraph (c)1.e.[subsection (10)(e)] of this subsection[section]~~, the state or states to which the service is assigned is the place of receipt by the related member as reasonably approximated using the following hierarchy:

a.~~[(1)]~~ If the service primarily relates to specific operations or activities of a related member conducted in one (1) or more locations, then to the state or states in which those operations or activities are conducted in proportion to the related member's payroll at the locations to which the service relates in the state or states; or

b.~~[(2)]~~ If the service does not relate primarily to operations or activities of a related member conducted in particular locations, but instead relates to the operations of the related member generally, then to the state or states in which the related member has employees, in proportion to the related member's payroll in those states. The taxpayer may use the safe harbor provided by this administrative regulation ~~if~~**[provided that]** the department may aggregate the receipts from sales to related members in applying the five (5) percent rule if necessary or appropriate to avoid distortion.

5. Broadcast Advertising Services. Notwithstanding anything ~~contained in this administrative regulation[herein]~~ to the contrary, receipts from a broadcaster's sale of advertising services to a broadcast customer are assigned to this state if the

commercial domicile of the broadcast customer is in this state. ~~For purposes of this provision, "advertising services" means an agreement to include the broadcast customer's advertising content in the broadcaster's film programming.]~~

6. Examples. Unless otherwise stated, assume in each of these examples, ~~if[where]~~ relevant, that the taxpayer is taxable in each state to which its receipts ~~may[would]~~ be assigned, so that there is no requirement in the examples that the receipts ~~shall[must]~~ be excluded from the denominator of the taxpayer's receipts factor. Assume ~~also~~ that the customer is not a related member and that the safe harbor does not apply.

a. Example[(i)]. Broker Corp provides securities brokerage services to individual customers who are resident in Kentucky and in other states. Assume that Broker Corp knows the state of primary residence for many of its customers, and ~~if[where]~~ it does not know this state of primary residence, it knows the customer's billing address. ~~Also,~~ Assume that Broker Corp does not derive more than five (5) percent of its receipts from sales of all services from any one (1) individual customer. If Broker Corp knows its customer's state of primary residence, it shall assign the receipts to that state. If Broker Corp does not know its customer's state of primary residence, but rather knows the customer's billing address, it shall assign the receipts to that state.

b. Example[(ii)]. Same facts as in Example **a. [(i)]**, except that Broker Corp has several individual customers from whom it derives, in each instance, more than five (5) percent of its receipts from sales of all services. Receipts from sales to customers from whom Broker Corp derives five (5) percent or less of its receipts from sales of all services ~~shall[must]~~ be assigned as described in Example **a. [(i)]**. For each customer from whom it derives more than five (5) percent of its receipts from sales of all services, Broker Corp ~~shall[is required to]~~ determine the customer's state of primary residence and ~~shall[must]~~ assign the receipts from the services provided to that customer to that state. In any case in which a five (5) percent customer's state of primary residence is Kentucky, receipts from a sale made to that customer ~~shall[must]~~ be assigned to Kentucky. ~~f.]~~ In any case in which a five (5) percent customer's state of primary residence is not Kentucky receipts from a sale made to that customer are not assigned to Kentucky. ~~If[Where]~~ receipts from a sale are assigned to a state other than Kentucky, if the state of assignment (i.e., the state of primary residence of the individual customer) is a state in which Broker Corp is not taxable, receipts from the sales ~~shall[must]~~ be excluded from the denominator of Broker Corp's receipts factor.

c. Example[(iii)]. Architecture Corp provides building design services as to buildings located, or expected to be located, in Kentucky to individual customers who are resident in Kentucky and other states, and to business customers that are based in Kentucky and other states. The receipts from Architecture Corp's sales are assigned to Kentucky because the locations of the buildings to which its design services relate are in Kentucky, or are expected to be in Kentucky. For purposes of assigning these receipts, it is not relevant where, in the case of an individual customer, the customer primarily resides or is billed for the services, and it is not relevant where, in the case of a business customer, the customer principally manages the contract, placed the order for the services, or is billed for the services. Further, these receipts are assigned to Kentucky even if Architecture Corp's designs are either physically delivered to its customer in paper form in a state other than Kentucky or are electronically delivered to its customer in a state other than Kentucky.

d. Example[(iv)]. Law Corp provides legal services to individual clients who are residents in Kentucky and in other states. In some cases, Law Corp may prepare one (1) or more legal documents for its client as a result of these services ~~or[and/or]~~ the legal work may be related to litigation or a legal matter that is ongoing in a state other than where the client is resident. Assume that Law Corp knows the state of primary residence for many of its clients, and ~~if[where]~~ it does not know this state of primary residence, it knows the client's billing address. ~~Also,~~ Assume that Law Corp does not derive more than five (5) percent of its receipts from sales of all services from any one (1) individual client. If Law Corp knows its client's state of primary residence, it shall assign

the receipts to that state. If Law Corp does not know its client's state of primary residence, but rather knows the client's billing address, it shall assign the receipts to that state. For purposes of the analysis it is irrelevant whether the legal documents relating to the service are mailed or otherwise delivered to a location in another state, or the litigation or other legal matter that is the underlying predicate for the services is in another state.

e. Example[(v)]. Same facts as in Example **d. [(iv)]**, except that Law Corp provides legal services to several individual clients who it knows have a primary residence in a state where Law Corp is not taxable. Receipts from these services are excluded from the denominator of Law Corp's receipts factor even if the billing address of one (1) or more of these clients is in a state in which Law Corp is taxable, including Kentucky.

f. Example[(vi)]. Law Corp provides legal services to several multistate business clients. In each case, Law Corp knows the state in which the agreement for legal services that governs the client relationship is principally managed by the client. In one (1) case, the agreement is principally managed in Kentucky; in the other cases, the agreement is principally managed in a state other than Kentucky. If the agreement for legal services is principally managed by the client in Kentucky the receipts from sale of the services are assigned to Kentucky; in the other cases, the receipts are not assigned to Kentucky. In the case of receipts that are assigned to Kentucky, the receipts are so assigned even if:

(i)[(1)] The legal documents relating to the service are mailed or otherwise delivered to a location in another state; ~~f.]~~ or

(ii)[(2)] the litigation or other legal matter that is the underlying predicate for the services is in another state.

g. Example[(vii)]. Same facts as in Example **f. [(vi)]**, except that Law Corp is not taxable in one (1) of the states other than Kentucky in which Law Corp's agreement for legal services that governs the client relationship is principally managed by the business client. Receipts from these latter services are excluded from the denominator of Law Corp's receipts factor.

h. Example[(viii)]. Consulting Corp, a company that provides consulting services to law firms and other customers, is hired by Law Corp in connection with legal representation that Law Corp provides to Client Co. Specifically, Consulting Corp is hired to provide expert testimony at a trial being conducted by Law Corp on behalf of Client Co. Client Co pays for Consulting Corp's services directly. Assuming that Consulting Corp knows that its agreement with Law Corp is principally managed by Law Corp in Kentucky, the receipts from the sale of Consulting Corp's services are assigned to Kentucky. It is not relevant for purposes of the analysis that Client Co is the ultimate beneficiary of Consulting Corp's services, or that Client Co pays for Consulting Corp's services directly.

i. Example[(ix)]. Bank Corp provides financial custodial services, including the safekeeping of some of its customers' financial assets, to 100 individual customers who are resident in Kentucky and in other states. Assume for purposes of this example that Bank Corp knows the state of primary residence for many of its customers, and ~~if[where]~~ it does not know the state of primary residence, it knows the customer's billing address. ~~Also~~ Assume that Bank Corp does not derive more than five (5) percent of its receipts from sales of all of its services from any single customer. ~~[Note that]~~ Because Bank Corp does not have more than 250 customers, it may not apply the safe harbor for professional services stated in **this subsection[Section 5(10) of this administrative regulation]**. If Bank Corp knows its customer's state of primary residence, it ~~shall[must]~~ assign the receipts to that state. If Bank Corp does not know its customer's state of primary residence, but rather knows the customer's billing address, it ~~shall[must]~~ assign the receipts to that state. Bank Corp's receipts are assigned to Kentucky if the customer's state of primary residence (or billing address, in cases **when[where]** it does not know the customer's state of primary residence) is in Kentucky, even if Bank Corp's financial custodial work, including the safekeeping of the customer's financial assets, takes place in a state other than Kentucky.

j. Example[(x)]. Same facts as Example **i. [(ix)]**, except that Bank Corp has more than 250 customers, individual or business.

Bank Corp may apply the safe harbor for professional services stated in paragraph (c)1.f.[Section 5(10)(f)] of this subsection[administrative regulation], and may assign its receipts from sales to a state or states using each customer's billing address.

k. Example[(xi)]. Same facts as Example **j.[(x)]**, except that Bank Corp derives more than five (5) percent of its receipts from sales from a single individual customer. As to the sales made to this customer, Bank Corp shall[is required to] determine the individual customer's state of primary residence and shall[must] assign the receipts from the service or services provided to that customer to that state. Receipts from sales to all other customers are assigned as described in Example **j.[(x)]**.

l. Example[(xii)]. Advisor Corp, a corporation that provides investment advisory services, provides these advisory services to Investment Co. Investment Co is a multistate business client of Advisor Corp that uses Advisor Corp's services in connection with investment accounts that it manages for individual clients, who are the ultimate beneficiaries of Advisor Corp's services. Assume that Investment Co's individual clients are persons that are residents in numerous states, which may or may not include Kentucky. Assuming that Advisor Corp knows that its agreement with Investment Co is principally managed by Investment Co in Kentucky, receipts from the sale of Advisor Corp's services are assigned to Kentucky. It is not relevant for purposes of the analysis that the ultimate beneficiaries of Advisor Corp's services may be Investment Co's clients, who are residents of numerous states.

m. Example[(xiii)]. Advisor Corp provides investment advisory services to Investment Fund LP, a partnership that invests in securities and other assets. Assuming that Advisor Corp knows that its agreement with Investment Fund LP is principally managed by Investment Fund LP in Kentucky, receipts from the sale of Advisor Corp's services are assigned to Kentucky. **[Note that]** It is not relevant for purposes of the analysis that the partners in Investment Fund LP are residents of numerous states.

n. Example[(xiv)]. Design Corp is a corporation based outside Kentucky that provides graphic design and similar services in Kentucky and in neighboring states. Design Corp enters into a contract at a location outside Kentucky with an individual customer to design fliers for the customer. Assume that Design Corp does not know the individual customer's state of primary residence and does not derive more than five (5) percent of its receipts from sales of services from the individual customer. All of the design work is performed outside Kentucky. Receipts from the sales are in Kentucky if the customer's billing address is in Kentucky.

(11) License or Lease of Intangible Property.

(a)1. The receipts from the license of intangible property are in this state if and to the extent the intangible is used in this state. **[In general, the term]** "Use" is construed to refer to the location of the taxpayer's market for the use of the intangible property that is being licensed and is not to be construed to refer to the location of the property or payroll of the taxpayer. The rules that apply to determine the location of the use of intangible property in the context of several specific types of licensing transactions are set forth in paragraphs/subsection (11)(b)-(f) of this subsection[section]. For purposes of the rules set forth in this subsection, a lease of intangible property is to be treated the same as a license of intangible property.

2. [In general.] A license of intangible property that conveys all substantial rights in that property is treated as a sale of intangible property for purposes of this administrative regulation. **[Note, however, that]** For purposes of this subsection[(11)] and subsection (12) of this section, a sale or exchange of intangible property is treated as a license of that property if[where] the receipts from the sale or exchange derived from payments that are contingent on the productivity, use or disposition of the property.

3. Intangible property licensed as part of the sale or lease of tangible property is treated under this section[Section 5 of this administrative regulation] as the sale or lease of tangible property.

4. In any instance in which the taxpayer is not taxable in the state to which the receipts from the license of intangible property are assigned, the receipts are excluded from the denominator of

the taxpayer's receipts factor.

5. Nothing in this administrative regulation shall be construed to allow or require inclusion of receipts in the receipts factor that are not included in the definition of "receipts" pursuant to KRS 141.120(1)(e), or that are excluded from the numerator and the denominator of the receipts factor pursuant to KRS 141.120(11)(a)(4)(b)iii. **[So,]** To the extent that the transfer of either a security or business "goodwill" or similar intangible value, including, [without limitation,] "going concern value" or "workforce in place," may be characterized as a license or lease of intangible property, receipts from the[such] transaction shall be excluded from the numerator and the denominator of the taxpayer's receipts factor.

(b) License of a Marketing Intangible. If[Where] a license is granted for the right to use intangible property in connection with the sale, lease, license, or other marketing of goods, services, or other items (i.e., a marketing intangible) to a consumer, the royalties or other licensing fees paid by the licensee for that marketing intangible are assigned to this state to the extent that those fees are attributable to the sale or other provision of goods, services, or other items purchased or otherwise acquired by consumers or other ultimate customers in this state. Examples of a license of a marketing intangible include [without limitation,] the license of a service mark, trademark, or trade name; certain copyrights; the license of a film, television or multimedia production or event for commercial distribution; and a franchise agreement. In each of these instances, the license of the marketing intangible is intended to promote consumer sales. In the case of the license of a marketing intangible, if[where] a taxpayer has actual evidence of the amount or proportion of its receipts that is attributable to this state, it shall assign that amount or proportion to this state. In the absence of actual evidence of the amount or proportion of the licensee's receipts that are derived from consumers in this state, the portion of the licensing fee to be assigned to this state shall[must] be reasonably approximated by multiplying the total fee by a percentage that reflects the ratio of the population of this state in the specific geographic area in which the licensee makes material use of the intangible property to regularly market its goods, services or other items relative to the total population in that area. If the license of a marketing intangible is for the right to use the intangible property in connection with sales or other transfers at wholesale rather than directly to retail customers, the portion of the licensing fee to be assigned to this state shall[must] be reasonably approximated by multiplying the total fee by a percentage that reflects the ratio of the population of this state in the specific geographic area in which the licensee's goods, services, or other items are ultimately and materially marketed using the intangible property relative to the total population of that area. Unless the taxpayer demonstrates that the marketing intangible is materially used in the marketing of items outside the United States, the fees from licensing those marketing intangible shall[will] be presumed to be derived from within the United States.

(c) License of a Production Intangible. If a license is granted for the right to use intangible property other than in connection with the sale, lease, license, or other marketing of goods, services, or other items, and the license is to be used in a production capacity (a "production intangible"), the licensing fees paid by the licensee for that right are assigned to this state to the extent that the use for which the fees are paid takes place in this state. Examples of a license of a production intangible include items such as[without limitation,] the license of a patent, a copyright, or trade secrets to be used in a manufacturing process. if[where] the value of the intangible lies predominately in its use in that process. In the case of a license of a production intangible to a member other than a related member if[where] the location of actual use is unknown, it is presumed that the use of the intangible property takes place in the state of the licensee's commercial domicile (where the licensee is a business) or the licensee's state of primary residence (where the licensee is an individual). If the department may[can] reasonably establish that the actual use of intangible property pursuant to a license of a production intangible takes place in part in this state, it is presumed that the entire use is in this state,

except to the extent that the taxpayer may[can] demonstrate that the actual location of a portion of the use takes place outside this state. In the case of a license of a production intangible to a related member, the taxpayer shall[must] assign the receipts to where the intangible property is actually used.

(d) License of a Broadcasting Intangible. If[Where] a broadcaster grants a license to a broadcast customer for the right to use film programming, the licensing fees paid by the licensee for the[such] right are assigned to this state to the extent that the broadcast customer is located in this state. In the case of business customers, the broadcast customer's location shall be determined using the broadcast customer's commercial domicile. In the case of individual customers, the broadcast customer's location shall be determined using the address of the broadcast customer listed in the broadcaster's records.

(e) License of a Mixed Intangible. If a license of intangible property includes both a license of a marketing intangible and a license of a production intangible (a "mixed intangible") and the fees to be paid in each instance are separately and reasonably stated in the licensing contract, the department shall[will] accept that separate statement for purposes of this administrative regulation. If a license of intangible property includes both a license of a marketing intangible and a license of a production intangible and the fees to be paid in each instance are not separately and reasonably stated in the contract, it is presumed that the licensing fees are paid entirely for the license of the marketing intangible, except to the extent that the taxpayer or the department may[can] reasonably establish otherwise.

(f) License of Intangible Property if[where] Substance of Transaction Resembles a Sale of Goods or Services.

1. In some cases, the license of intangible property will resemble the sale of an electronically-delivered good or service rather than the license of a marketing intangible or a production intangible. In these cases, the receipts from the licensing transaction are assigned by applying the rules set forth in subsection (9)(a) and (b) of this section, as if the transaction were a service delivered to an individual or business customer or delivered electronically through an individual or business customer, as applicable. Examples of transactions to be assigned under this subsection include transactions such as[, without limitation,] the license of database access, the license of access to information, the license of digital goods and the license of certain software (e.g., if[where] the transaction is not the license of pre-written software that is treated as the sale of tangible personal property).

2. Sublicenses. Pursuant to this paragraph/subsection (11)(f), section], the rules of subsection (9)(b) of this subsection may apply if[where] a taxpayer licenses intangible property to a customer that in turn sublicenses the intangible property to end users as if the transaction were a service delivered electronically through a customer to end users. [In particular,] The rules set forth in subsection (9)(b) of this subsection that apply to services delivered electronically to a customer for purposes of resale and subsequent electronic delivery in substantially identical form to end users or other recipients may[also] apply with respect to licenses of intangible property for purposes of sublicense to end users. For this purpose, the intangible property sublicensed to an end user shall not fail to be substantially identical to the property that was licensed to the sublicensor merely because the sublicense transfers a reduced bundle of rights with respect to that property (e.g., because the sublicensee's rights are limited to its own use of the property and do not include the ability to grant a further sublicense), or because that property is bundled with additional services or items of property.

3. Examples. In these examples, unless otherwise stated, assume that the taxpayer is taxable in each state to which its receipts may[would] be assigned so that there is no requirement in these examples that the receipts shall[must] be eliminated from the denominator of the taxpayer's receipts factor. [Also] Assume that the customer is not a related member.

a. Example (i). Crayon Corp and Dealer Co enter into a license contract under which Dealer Co as licensee may[is permitted to] use trademarks that are owned by Crayon Corp in

connection with Dealer Co's sale of certain products to retail customers. Under the contract, Dealer Co shall[is required to] pay Crayon Corp a licensing fee that is a fixed percentage of the total volume of monthly sales made by Dealer Co of products using the Crayon Corp trademarks. Under the contract, Dealer Co may[is permitted to] sell the products at multiple store locations, including store locations that are both within and without Kentucky. Further, the licensing fees that are paid by Dealer Co are broken out on a per-store basis. The licensing fees paid to Crayon Corp by Dealer Co represent fees from the license of a marketing intangible. The portion of the fees to be assigned to Kentucky are determined by multiplying the fees by a percentage that reflects the ratio of Dealer Co's receipts that are derived from its Kentucky stores relative to Dealer Co's total receipts.

b. Example (ii). Network Corp is a broadcaster that licenses rights to its film programming to both platform distribution companies and individual customers. Platform distribution companies pay licensing fees to Network Corp for the rights to distribute Network Corp's film programming to the platform distribution companies' customers. Network Corp's individual customers pay access fees to Network Corp for the right to directly access and view Network Corp's film programming. Network Corp's receipts from each platform distribution company shall[will] be assigned to Kentucky if the broadcast customer's commercial domicile is in Kentucky. Network Corp's receipts from each individual broadcast customer shall[will] be assigned to Kentucky if the address of the broadcast customer listed in the broadcaster's records is in Kentucky.

c. Example (iii). Moniker Corp enters into a license contract with Wholesale Co. Pursuant to the contract, Wholesale Co may[is granted the right to] use trademarks owned by Moniker Corp to brand sports equipment that is to be manufactured by Wholesale Co or an unrelated entity, and to sell the manufactured equipment to unrelated companies that will ultimately market the equipment to consumers in a specific geographic region, including a foreign country. The license agreement confers a license of a marketing intangible, even though the trademarks in question shall[will] be affixed to property to be manufactured. In addition, the license of the marketing intangible is for the right to use the intangible property in connection with sales to be made at wholesale rather than directly to retail customers. The component of the licensing fee that constitutes the Kentucky receipts of Moniker Corp is determined by multiplying the amount of the fee by a percentage that reflects the ratio of the Kentucky population in the specific geographic region relative to the total population in that region. If Moniker Corp is able to reasonably establish that the marketing intangible was materially used throughout a foreign country, then the population of that country shall[will] be included in the population ratio calculation. However, if Moniker Corp is unable to reasonably establish that the marketing intangible was materially used in the foreign country in areas outside a particular major city, then none of the foreign country's population beyond the population of the major city is included[include] in the population ratio calculation. If Moniker Corp is not taxable in any state (including a foreign country) in which Wholesale Co's ultimate consumers are located, the receipts that may[would] be assigned to that state are excluded from the denominator of Moniker Corp's receipts factor.

d. Example (iv). Formula, Inc and Appliance Co enter into a license contract under which Appliance Co may[is permitted to] use a patent owned by Formula, Inc to manufacture appliances. The license contract specifies that Appliance Co is to pay Formula, Inc a royalty that is a fixed percentage of the gross receipts from the products that are later sold. The contract does not specify any other fees. The appliances are both manufactured and sold in Kentucky and several other states. Assume the licensing fees are paid for the license of a production intangible, even though the royalty is to be paid based upon the sales of a manufactured product (i.e., the license is not one that includes a marketing intangible). Because the department may[can] reasonably establish that the actual use of the intangible property takes place in part in Kentucky, the royalty is assigned based to the location of that use rather than to location of the licensee's commercial

domicile. It is presumed that the entire use is in Kentucky, except to the extent that the taxpayer may[can] demonstrate that the actual location of some or all of the use takes place outside Kentucky. Assuming that Formula, Inc may[can] demonstrate the percentage of manufacturing that takes place in Kentucky using the patent relative to the manufacturing in other states, that percentage of the total licensing fee paid to Formula, Inc under the contract shall[will] constitute Formula, Inc's Kentucky receipts.

e. Example[(v)]. Axel Corp enters into a license agreement with Biker Co in which Biker Co may[is granted the right to] produce motor scooters using patented technology owned by Axel Corp, and [also] to sell the scooters by marketing the fact that the scooters were manufactured using the special technology. The contract is a license of both a marketing and production intangible, i.e., a mixed intangible. The scooters are manufactured outside Kentucky. Assume that Axel Corp lacks actual information regarding the proportion of Biker Co.'s receipts that are derived from Kentucky customers. [Also] Assume that Biker Co is granted the right to sell the scooters in a U.S. geographic region in which the Kentucky population constitutes twenty-five (25) percent of the total population during the period in question. The licensing contract requires an upfront licensing fee to be paid by Biker Co to Axel Corp and does not specify what percentage of the fee derives from Biker Co's right to use Axel Corp's patented technology. Because the fees for the license of the marketing and production intangible are not separately and reasonably stated in the contract, it is presumed that the licensing fees are paid entirely for the license of a marketing intangible, unless either the taxpayer or the department reasonably establishes otherwise. Assuming that neither member establishes otherwise, twenty-five (25) percent of the licensing fee constitutes Kentucky receipts.

f. Example[(vi)]. Same facts as Example **e.[(v)]**, except that the license contract specifies separate fees to be paid for the right to produce the motor scooters and for the right to sell the scooters by marketing the fact that the scooters were manufactured using the special technology. The licensing contract constitutes both the license of a marketing intangible and the license of a production intangible. Assuming that the separately stated fees are reasonable, the department shall[will]:

(i) [(4)] Assign no part of the licensing fee paid for the production intangible to Kentucky; f.1 and

(ii) [(2)] Assign twenty-five (25) percent of the licensing fee paid for the marketing intangible to Kentucky.

g. Example[(vii)]. Better Burger Corp, which is based outside Kentucky, enters into franchise contracts with franchisees that agree to operate Better Burger restaurants as franchisees in various states. Several of the Better Burger Corp franchises are in Kentucky. In each case, the franchise contract between the individual and Better Burger provides that the franchisee is to pay Better Burger Corp an upfront fee for the receipt of the franchise and monthly franchise fees, which cover, among other things, the right to use the Better Burger name and service marks, food processes and cooking know-how, as well as fees for management services. The upfront fees for the receipt of the Kentucky franchises constitute fees paid for the licensing of a marketing intangible. These fees constitute Kentucky receipts because the franchisees are for the right to make Kentucky sales. The monthly franchise fees paid by Kentucky franchisees constitute fees paid for:

(i) [(4)] The license of marketing intangibles (the Better Burger name and service marks);

(ii) [(2)] The license of production intangibles (food processes and know-how); f.1 and

(iii) [(3)] Personal services (management fees). The fees paid for the license of the marketing intangibles and the production intangibles constitute Kentucky receipts because in each case the use of the intangibles is to take place in Kentucky. The fees paid for the personal services are to be assigned pursuant to this section.

h. Example[(viii)]. Online Corp, a corporation based outside Kentucky, licenses an information database through the means of the Internet to individual customers that are resident in Kentucky and in other states. These customers access Online Corp's

information database primarily in their states of residence, and sometimes, while traveling, in other states. The license is a license of intangible property that resembles a sale of goods or services and are assigned in accordance with this paragraph/subsection (11)(f) of this section. If Online Corp may[can] determine or reasonably approximate the state or states where its database is accessed, it shall[must] do so. Assuming that Online Corp cannot determine or reasonably approximate the location where its database is accessed, Online Corp shall[must] assign the receipts made to the individual customers using the customers' billing addresses to the extent known. Assume for purposes of this example that Online Corp knows the billing address for each of its customers. [In this case,] Online Corp's receipts from sales made to its individual customers are in Kentucky in any case in which the customer's billing address is in Kentucky.

i. Example[(ix)]. Net Corp, a corporation based outside Kentucky, licenses an information database through the means of the Internet to a business customer, Business Corp, a company with offices in Kentucky and two (2) neighboring states. The license is a license of intangible property that resembles a sale of goods or services and are assigned in accordance with this paragraph/subsection (11)(f) of this section. Assume that Net Corp cannot determine where its database is accessed, but reasonably approximates that seventy-five (75) percent of Business Corp's database access took place in Kentucky, and twenty-five (25) percent of Business Corp's database access took place in other states. In that case, seventy-five (75) percent of the receipts from database access is in Kentucky. Assume alternatively that Net Corp lacks sufficient information regarding the location where its database is accessed to reasonably approximate the location. Under these circumstances, if Net Corp derives five (5) percent or less of its receipts from database access from Business Corp, Net Corp shall[must] assign the receipts under subsection/Section 5(9)(b) of this section/administrative regulation to the state where Business Corp principally managed the contract, or if that state is not reasonably determinable to the state where Business Corp placed the order for the services, or if that state is not reasonably determinable to the state of Business Corp's billing address. If Net Corp derives more than five (5) percent of its receipts from database access from Business Corp, Net Corp shall[is required to] identify the state in which its contract of sale is principally managed by Business Corp and shall[must] assign the receipts to that state.

j. Example[(x)]. Net Corp, a corporation based outside Kentucky, licenses an information database through the means of the Internet to more than 250 individual and business customers in Kentucky and in other states. The license is a license of intangible property that resembles a sale of goods or services and receipts from that license are assigned in accordance with this paragraph/Section 5(11)(f) of this administrative regulation. Assume that Net Corp cannot determine or reasonably approximate the location where its information database is accessed. [Also] Assume that Net Corp does not derive more than five (5) percent of its receipts from sales of database access from any single customer. Net Corp may apply the safe harbor stated in subsection/Section 5(9)(a)2.d. of this section/administrative regulation, and may assign its receipts to a state or states using each customer's billing address. If Net Corp is not taxable in one (1) or more states to which some of its receipts may[would] be otherwise assigned, it shall[must] exclude those receipts from the denominator of its receipts factor.

k. Example[(xi)]. Web Corp, a corporation based outside Kentucky, licenses an Internet-based information database to business customers who then sublicense the database to individual end users that are resident in Kentucky and in other states. These end users access Web Corp's information database primarily in their states of residence, and sometimes, while traveling, in other states. Web Corp's license of the database to its customers includes the right to sublicense the database to end users, while the sublicenses provide that the rights to access and use the database are limited to the end users' own use and prohibit the individual end users from further sublicensing the database. Web Corp receives a fee from each customer based upon the

number of sublicenses issued to end users. The license is a license of intangible property that resembles a sale of goods or services and are assigned by applying the rules set forth in subsection [Section 5](9)(b) of this section [administrative regulation]. If Web Corp may[can] determine or reasonably approximate the state or states where its database is accessed by end users, it shall[must] do so. Assuming that Web Corp lacks sufficient information from which it may[can] determine or reasonably approximate the location where its database is accessed by end users, Web Corp shall[must] approximate the extent to which its database is accessed in Kentucky using a percentage that represents the ratio of the Kentucky population in the specific geographic area in which Web Corp's customer sublicenses the database access relative to the total population in that area.

(12) Sale of Intangible Property.

(a) Assignment of Receipts. The assignment of receipts to a state or states in the instance of a sale or exchange of intangible property depends upon the nature of the intangible property sold. For purposes of this subsection, a sale or exchange of intangible property includes a license of that property if[where] the transaction is treated for tax purposes as a sale of all substantial rights in the property and the receipts from transaction are not contingent on the productivity, use or disposition of the property. For the rules that apply if[where] the consideration for the transfer of rights is contingent on the productivity, use or disposition of the property, see KRS 141.120(11)(a)(4)(b)ii.

1. Contract Right or Government License that Authorizes Business Activity in Specific Geographic Area. In the case of a sale or exchange of intangible property if[where] the property sold or exchanged is a contract right, government license or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area, the receipts from the sale are assigned to a state if and to the extent that the intangible property is used or may[is authorized to] be used within the state. If the intangible property is used or may be used only in Kentucky, the taxpayer shall assign the receipts from the sale to this state. If the intangible property is used or may[is authorized to] be used in this state and one (1) or more other states, the taxpayer shall assign the receipts from the sale to this state to the extent that the intangible property is used in or authorized for use in this state, through the means of a reasonable approximation.

2. Sale that Resembles a License (Receipts are Contingent on Productivity, Use or Disposition of the Intangible Property). In the case of a sale or exchange of intangible property if[where] the receipts from the sale or exchange are contingent on the productivity, use or disposition of the property, the receipts from the sale are assigned by applying the rules set forth in subsection (11) of this section (pertaining to the license or lease of intangible property).

3. Sale that Resembles a Sale of Goods and Services. In the case of a sale or exchange of intangible property if[where] the substance of the transaction resembles a sale of goods or services and if[where] the receipts from the sale or exchange do not derive from payments contingent on the productivity, use or disposition of the property, the receipts from the sale are assigned by applying the rules set forth in subsection (11)(f) of this section (relating to licenses of intangible property that resemble sales of goods and services). Examples of these transactions include those that are analogous to the license transactions cited as examples in subsection (11)(f)3. of this section.

4. Excluded Receipts. Receipts from the sale of intangible property are not included in the receipts factor in any case in which the sale does not give rise to receipts within the meaning of KRS 141.120(1)(e). In addition, pursuant to KRS 141.120(11)(a)(4)(b)(iii), receipts from the sale of intangible property are excluded from the numerator and the denominator of the taxpayer's receipts factor if the receipts are not referenced in KRS 141.120(11)(a)(4)(b)(i) or KRS 141.120(11)(a)(4)(b)(ii). The sale of intangible property that is excluded from the numerator and denominator of the taxpayer's receipts factor under KRS 141.120(11)(a)(4)(b)(iii) includes [without limitation] the sale of a partnership interest, the sale of business "goodwill," the sale of

an agreement not to compete, or similar intangible value. [Also] In any instance in which, the state to which the receipts from a sale is to be assigned may[can] be determined or reasonably approximated, but if[where] the taxpayer is not taxable in the[such] state, the receipts that may[would otherwise] be assigned to the[such] state shall be excluded from the denominator of the taxpayer's receipts factor.

5. Examples. In these examples, unless otherwise stated, assume that the taxpayer is taxable in each state to which some of its receipts may[would] be assigned, so that there is no requirement in these examples that the receipts to other states shall[must] be excluded from the taxpayer's denominator pursuant to subsection (11)(a) of this section and KRS 141.120(11)(c).

a. Example[(i)]. Airline Corp, a corporation based outside Kentucky, sells its rights to use several gates at an airport located in Kentucky to Buyer Corp, a corporation that is based outside Kentucky. The contract of sale is negotiated and signed outside of Kentucky. The receipts from the sale are in Kentucky because the intangible property sold is a contract right that authorizes the holder to conduct a business activity solely in Kentucky.

b. Example[(ii)]. Wireless Corp, a corporation based outside Kentucky, sells a license issued by the Federal Communications Commission (FCC) to operate wireless telecommunications services in a designated area in Kentucky to Buyer Corp, a corporation that is based outside Kentucky. The contract of sale is negotiated and signed outside of Kentucky. The receipts from the sale are in Kentucky because the intangible property sold is a government license that authorizes the holder to conduct business activity solely in Kentucky.

c. Example[(iii)]. Same facts as in Example b. [(ii)] except that Wireless Corp sells to Buyer Corp an FCC license to operate wireless telecommunications services in a designated area in Kentucky and an adjacent state. Wireless Corp shall[must] attempt to reasonably approximate the extent to which the intangible property is used in or may be used in Kentucky. For purposes of making this reasonable approximation, Wireless Corp may rely upon credible data that identifies the percentage of persons that use wireless telecommunications in the two (2) states covered by the license.

d. Example[(iv)]. Same facts as in Example c. [(iii)] except that Wireless Corp is not taxable in the adjacent state in which the FCC license authorizes it to operate wireless telecommunications services. The receipts paid to Wireless Corp that may[would] be assigned to the adjacent state shall[must] be excluded from the denominator of Wireless Corp's receipts factor.

e. Example[(v)]. Sports League Corp, a corporation that is based outside Kentucky, sells the rights to broadcast the sporting events played by the teams in its league in all fifty (50) U.S. states to Network Corp. Although the games played by Sports League Corp will be broadcast in all fifty (50) states, the games are of greater interest in the southeast region of the country, including Kentucky. Because the intangible property sold is a contract right that authorizes the holder to conduct a business activity in a specified geographic area, Sports League Corp shall[must] attempt to reasonably approximate the extent to which the intangible property is used in or may be used in Kentucky. For purposes of making this reasonable approximation, Sports League Corp may rely upon audience measurement information that identifies the percentage of the audience for its sporting events in Kentucky and the other states.

f. Example[(vi)]. Same facts as in Example e. [(v)], except that Sports League Corp is not taxable in one (1) state. The receipts paid to Sports League Corp that may[would] be assigned to that state shall[must] be excluded from the denominator of Sports League Corp's receipts factor.

g. Example [(vii)]. Inventor Corp, a corporation that is based outside Kentucky, sells patented technology that it has developed to Buyer Corp, a business customer that is based in Kentucky. Assume that the sale is not one in which the receipts derive from payments that are contingent on the productivity, use, or disposition of the property. Inventor Corp understands that Buyer Corp is likely to use the patented technology in Kentucky, but the

patented technology may[can] be used anywhere (i.e., the rights sold are not rights that authorize the holder to conduct a business activity in a specific geographic area). The receipts from the sale of the patented technology are excluded from the numerator and denominator of Inventor Corp's receipts factor.

(13) Special Rules.

(a) **Software Transactions.** A license or sale of pre-written software for purposes other than commercial reproduction (or other exploitation of the intellectual property rights) transferred on a tangible medium is treated as the sale of tangible personal property, rather than as either the license or sale of intangible property or the performance of a service. In these cases, the receipts are in this state as determined under the rules for the sale of tangible personal property set forth under KRS 141.120(10) and related administrative regulations. In all other cases, the receipts from a license or sale of software are to be assigned to this state as determined otherwise under this administrative regulation. (e.g., depending on the facts, as the development and sale of custom software, see subsection (8) of this section, as a license of a marketing intangible, see subsection (11)(b) of this section, as a license of a production intangible, see subsection (11)(c) of this section, as a license of intangible property if[where] the substance of the transaction resembles a sale of goods or services, see subsection (11)(f) of this section, or as a sale of intangible property, see subsection (12) of this section.

(b) Sales or Licenses of Digital Goods or Services.

1. In the case of a sale or license of digital goods or services, including, among other things, the sale of various video, audio, and software products, or similar transactions, the receipts from the sale or license are assigned by applying the same rules as are set forth in subsection (9)(a) and (b) or subsection 10(c) 5.[(5)] of this section, as if the transaction were a service delivered to an individual or business customer or delivered through or on behalf of an individual or business customer. For purposes of the analysis, it is not relevant what the terms of the contractual relationship are or whether the sale or license might be characterized, depending upon the particular facts, as, for example, the sale or license of intangible property or the performance of a service.

2. Providers of communication services, cable service, and Internet access. Providers [, as defined by KRS 141.121(1)(e),] shall apportion income to this state using a three (3) factor formula as provided in KRS 141.901 pursuant to KRS 141.121(3).

Section 6. Special Rules: Receipts Factor. The following special rules are established in respect to the receipts factor of the apportionment formula:

(1) Bank holding company. For any corporation or other business entity registered under state law as a bank holding company or registered under 12 U.S.C. 1841, et. seq., the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under 12 U.S.C. 1701 to 1750, the Federal National Housing Act, as amended, and any entity more than fifty (50) percent owned, directly or indirectly, by these[such] holding companies, receipts are included in the receipts factor denominator and assigned to the receipts factor numerator in this state to the extent those receipts may[would] be included in the denominator and assigned to this state under KRS 136.530.

(2) Bargeine. Bargeines shall determine receipts in this state by multiplying total transportation revenues by a fraction, the numerator of which is miles operated in this state and the denominator of which is total miles operated for the taxable year. Miles operated in this state shall be fifty (50) percent of the miles operated on the Ohio River, the Big Sandy River, and the Mississippi River adjacent to this state's shoreline plus all miles operated on other inland waterways within this state. [A "mile operated" shall mean the movement of a barge, tug, or other watercraft one (1) mile.]

(3)[(2)] Busline. Buslines shall determine receipts in this state by multiplying total transportation revenues by a fraction, the numerator of which is miles operated in this state and the denominator of which is total miles operated for the taxable year.

(4)[(3)] Passenger airline. Pursuant to KRS 141.121(2)(b)(1), passenger airlines [, as defined by KRS 141.121(1)(d),] shall determine receipts in this state by multiplying total transportation revenues by a fraction, the numerator of which is Kentucky revenue passenger miles in this state and the denominator of which is total revenue passenger miles for the taxable year. [The term "Kentucky revenue passenger mile" is defined by KRS 141.121(1)(c), and the term "revenue passenger mile" is defined by KRS 141.121(1)(g).]

(5)[(4)] Pipeline. Pipeline companies shall determine receipts in this state by multiplying total operating revenues by a fraction, the numerator of which is barrel miles transported in this state and the denominator of which is total barrel miles transported for the taxable year. [The term "barrel mile" shall mean the transportation of one (1) barrel of liquid or gas one (1) mile.]

(6)[(5)] Public service company. Public service companies [, as defined by KRS 141.0401(6)(i),] shall allocate and apportion net income in accordance with KRS 141.121(5).

(7)[(6)] Qualified air freight forwarder. Pursuant to KRS 141.121(2)(b)(2), qualified air freight forwarders [, as defined by KRS 141.121(1)(f),] shall determine receipts in this state by multiplying total freight forwarding revenues by a fraction, the numerator of which is miles operated in this state and the denominator of which is total miles operated by the affiliated airline for the taxable year. [The term "affiliated airline" is defined by KRS 141.121(1)(a).]

(8)[(7)] Railroad. Railroads shall determine receipts in this state by multiplying total transportation revenues by a fraction, the numerator of which is revenue car miles in this state and the denominator of which is total revenue car miles for the taxable year. [The term "revenue car mile" shall mean the movement of a loaded railcar one (1) mile.]

(9)[(8)] Regulated investment company. Regulated investment companies shall apportion income pursuant to KRS 141.120 and this administrative regulation; except[provided, however,] that a regulated investment company may elect an alternative method for determining receipts pursuant to KRS 141.121(4)(b).

(10)[(9)] Securities brokerage services. Securities brokers operating within certain Kentucky Enterprises Zones defined by KRS 141.121(4)(c), shall apportion income pursuant to KRS 141.120 and this administrative regulation, except[provided, however,] that a securities broker so defined may elect an alternative method for determining receipts pursuant to KRS 141.121(4)(c).

(11)[(10)] Truckline. Trucklines shall determine receipts in this state by multiplying total transportation revenues by a fraction, the numerator of which is miles operated in this state and the denominator of which is total miles operated for the taxable year.

Section 7. This administrative regulation shall apply to tax periods beginning on or after January 1, 2018. [Definition. (1)

"Gross receipts" means the total amount of consideration, including cash, credit, property, and services, paid for the sale, lease, rental, or use of property.

Section 2. The following shall be examples of activities that result in the assignments of gross receipts to Kentucky and shall be included in the numerator described in KRS 141.120(8)(c), if the receipts are business income:

- (1) The sale, lease, rental, or other use of tangible personal property in this state;
- (2) The sale of real property located in Kentucky;
- (3) The lease, rental or other use of real property located in Kentucky;
- (4) The provision of services performed entirely in Kentucky during the tax period;
- (5) The provision of services performed within and without Kentucky during the tax period;
- (6) Intangible property received by a business with a commercial domicile in Kentucky;
- (7) Intangible property, if the intangible has acquired a Kentucky business situs;
- (8) Franchise fees received from a franchisee located in

Kentucky; and

(9) The distributive share of net income received from a general partnership that is required to file a Kentucky income tax return under the provisions of KRS 141.206.

Section 3. Assignment of Sales to Kentucky. (1) Sales of real or tangible personal property shall be assigned to Kentucky if the property is in Kentucky or is shipped or delivered to a purchaser in Kentucky.

(2) Sales of goods destined for delivery outside of Kentucky shall not be assigned to Kentucky, irrespective of method of shipment or delivery.

(3) Sales of tangible personal property to the U.S. Government shall be assigned to Kentucky if the property is shipped from Kentucky.

(4) Receipts from intangibles shall be assigned to Kentucky if the corporation's commercial domicile is in Kentucky or the intangible has acquired a Kentucky business situs. Examples of receipts from intangibles which are deemed to have acquired a Kentucky business situs shall be franchise fees from a franchisee located in Kentucky and a corporation's Kentucky distributive share of net income from a general partnership doing business in Kentucky.

(5) Rents or royalties from real or tangible personal property shall be assigned to Kentucky if the property is located in Kentucky or in the case of mobile property the rent is assigned to Kentucky, if the lessee's base of operations for the property is in Kentucky.

(6) Receipts from the performance of services shall be assigned to Kentucky if the services are performed entirely in Kentucky, or the services are performed both within and without Kentucky but a greater portion is performed in Kentucky than in any other state based on cost of performance.

(7) If the corporation has income from a general partnership, the distributive share income shall be included in the sales factor. The denominator shall include the total distributive share; the numerator shall include the amount of the distributive share apportioned to Kentucky pursuant to KRS 141.206(9).

Section 4.(1) Receipts from intangible property shall be assigned to Kentucky, regardless of the corporation's or general partnership's commercial domicile, if possession and control of the intangible personal property is localized in connection with a trade or business, creating business situs with Kentucky, so that substantial use or value attaches to the intangible property in Kentucky.

(2) In determining if possession and control is localized in connection with a trade or business, the following factors shall be considered:

(a) The use of the intangible property in the continuous course of the trade or business in Kentucky;

(b) The permanency of the location of the intangible property in Kentucky;

(c) The independent control and management of the intangible property in Kentucky;

(d) The possession and control of the intangible property in Kentucky by an independent local agent for the purpose of transacting a permanent business; and

(e) The establishment or use of the intangible property in Kentucky in a manner that attaches substantial use and value of the intangible property to the Kentucky trade or business.

Section 5. This administrative regulation shall apply to tax periods beginning on or after January 1, 2005.]

DANIEL BORK, Commissioner

APPROVED BY AGENCY: February 12, 2019

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GENERAL GOVERNMENT CABINET
Board of Nursing
(As Amended at ARRS, March 11, 2019)

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, 21 U.S.C. 823[Pub.L. 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" or "APRN" is defined by 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 for Opioid Use Disorder unless that APRN possesses the minimum qualifications established in this section. (1) The APRN shall obtain and maintain in good standing a DATA 2000 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:

(a) Be a DEA-registered prescriber of Buprenorphine; and

(b) Have obtained medication assisted treatment education through completion of a Substance Abuse and Mental Health Services Administration (SAMHSA) sponsored course.

(3)[Only an APRN designated nurse practitioner may prescribe Buprenorphine.

(4)] The APRN shall provide to the board a copy of the DEA Controlled Substance Registration Certificate as required by 201 KAR 20:057, Section 6(4).

(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 established 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, or observed induction 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:

1. A physician certified in addiction medicine or psychiatry as required by 201 KAR 9:270;

2. An APRN who is certified in addiction therapy by the:

- a. Addictions Nursing Certification Board;
- b. American Academy of Health Care Providers in the Addictive Disorders; or
- c. National Certification Commission for Addiction Professionals; or

3. A psychiatric-mental health nurse practitioner.

(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 comprehensive quantitative 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;

7. If the patient is a female of childbearing potential and age, meet the requirements of paragraph (b) of this subsection; and

8. Develop a treatment plan that incorporates objective behavior modification including counseling or a twelve (12) step program for the duration of the treatment.

(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 as established in subsection (3)(a) of this section.

(c) Except as provided by paragraph (d) of this subsection, while initiating treatment with Buprenorphine, the APRN shall comply with the following requirements:

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:

a. Evaluate the patient to determine whether the patient's dosage should be continued or modified; and

b. 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 non-compliance 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:

a. Incorporate those findings into the treatment plan to support the continuation or modification of treatment; and

b. 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 coupled with a pill count. At least one (1) of those two (2) drug screens 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, gabapentin, and cocaine.

c. If a drug screen indicates the presence of any of the drugs screened, the APRN shall:

(i) Incorporate those findings into appropriate clinical evaluation to support the continuation or modification of treatment; and

(ii) 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 who is not certified in addiction therapy shall:

1. Refer the patient for an evaluation by a physician or an APRN as established in subsection (3)(a) of this section for an opinion as to whether continued treatment and dosage is appropriate; and

2. 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 (1.5) contact hours of continuing education required annually by 201 KAR 20:215, Section 5(1)(b) in addiction disorders.

KELLY JENKINS, President

APPROVED BY AGENCY: February 8, 2019

FILED WITH LRC: February 8, 2019 at 4 p.m.

CONTACT PERSON: Megan LaFollette, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 429-7192, fax (502) 429-1248, email Megan.LaFollette@ky.gov.

**GENERAL GOVERNMENT
Board of Physical Therapy
(As Amended at ARRS, March 11, 2019)**

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

RELATES TO: KRS 327.050, 327.060

STATUTORY AUTHORITY: KRS 327.040(1), (11), (13), 327.060(3), 327.310

NECESSITY, FUNCTION, AND CONFORMITY: KRS 327.040(11) authorizes the Board of Physical Therapy to promulgate and enforce reasonable administrative regulations for the effectuation of the purposes of KRS Chapter 327. KRS 327.040(13) authorizes the board to promulgate and enforce reasonable administrative regulations regarding certification, limitations of activities, supervision, and educational qualifications for physical therapist assistants. KRS 327.060(3) authorizes the board to approve services to provide an evaluation of a foreign-educated physical therapist applicant's educational credentials. This administrative regulation establishes the requirements a foreign-educated physical therapist shall satisfy to become credentialed in the state of Kentucky.

Section 1. A foreign-educated physical therapist applicant shall be credentialed if the applicant:

(1) Complies with the requirements of KRS 327.060(1)(b).

(2) In accordance with KRS 327.060(1)(b), meets the following requirements:

(a) Furnishes the board a favorable educational credentials evaluation report from a credentialing agency that uses the appropriate edition of the "Coursework Evaluation Tool" (CWT) copyrighted by the Federation of State Boards of Physical Therapy (FSBPT). An academic deficiency in general education coursework identified by the CWT shall be satisfied by the applicant through submission of evidence identifying one (1) of the following:

1. Completion of appropriate coursework at a regionally accredited academic institution;

2. Continuing education in a course approved by the board; or

3. Submission of a portfolio including a detailed resume and description of relevant work experience approved by the board;

(b) Shows proof of English Language Proficiency by:

1. A score of not less than fifty (50) on the Test of Spoken English (TSE);

2. Verification that the applicant has achieved the following minimum scores for each category of the Test of English as a Foreign Language, TOEFL Internet-based test (TOEFL IBT):

(a) Writing, twenty-two (22);

(b) Speaking, twenty-four (24);

(c) Listening, twenty-one (21);

(d) Reading, twenty-two (22); or

(e) With an overall score of not less than eighty-nine (89); or

3. Verification that English is the native language of the country of origin.

(c) Submits a satisfactorily-completed application and appropriate fee as required by 201 KAR 22:135;

(d) Completes the Jurisprudence Exam; and

(e) Obtains a passing score on the National Physical Therapy Examination (NPTE). The requirements of 201 KAR 22:020, Section 2(3) and (4) shall be applicable to examination candidates; and

(f) Has successfully completed a minimum of three (3) months and no more than six (6) months of practice under the on-site supervision of a physical therapist credentialed under KRS Chapter 327 at a Kentucky facility previously approved by the board that satisfies the following requirements:

1. The supervised practice shall be a minimum of 390 hours in a three (3) month period, in a facility that is serving as a clinical education site for students enrolled in a program in physical therapist education accredited by the Commission for Accreditation of Physical Therapy Education (CAPTE);

2. The applicant shall furnish the board a favorable evaluation of on-site supervision performed by a clinical supervisor who utilizes the "Performance Evaluation Tool for Foreign Educated Therapists Completing a Supervised Clinical Practice in the United States" copyrighted by FSBPT. The clinical supervisor shall submit the evaluation to the board after three (3) months practice, and if required, after the sixth (6th) month, when the required score denoting clinical competency shall have been reached;

3. The supervising physical therapist shall, within the three (3) years prior to serving as a supervisor, have previously acted as clinical supervisor for a physical therapist student as part of a CAPTE accredited program; and

4. The supervisor shall countersign all of the candidate's physical therapy records within fourteen (14) days.

(3) Effective six (6) months after the Board receives an Originating Agency Number from the Federal Bureau of Investigation, submits to the Board a completed nationwide criminal background check as required by KRS 327.310 with the background investigation completed no later than six (6) months prior to the date of the filing of the application.

Section 2. Temporary Permits for Foreign-educated Physical Therapist Applicants.

(1) An applicant who has not satisfactorily completed three (3) months of supervised practice as a physical therapist shall be issued a temporary permit to complete Section 1(2)(f) of this administrative regulation if the applicant has:

(a) Completed the requirements of Section 1(2)(a) through (e) of this administrative regulation; and

(b) Submitted an approved "Supervisory Agreement for Physical Therapists Educated in a Foreign Country".

(2) The temporary permit shall be revoked if the applicant has not satisfactorily completed the supervised practice within a six (6) month period.

Section 3. A foreign-educated physical therapist assistant applicant shall be credentialed if the applicant has:

(1) Completed the application process;

(2) Provided written proof that the education institution in which the applicant received his or her education to be a physical therapist assistant is recognized by its own ministry of education;

(3) Provided proof of legal authorization to reside and seek employment in the United States or its territories;

(4) Provided proof of authorization to practice as a physical therapist assistant without limitations in the country where the professional education occurred;

(5) Furnished the board a favorable educational credentials evaluation report from a credentialing agency that uses the appropriate edition of the "Coursework Evaluation Tool" (CWT) copyrighted by the Federation of State Boards of Physical Therapy (FSBPT). An academic deficiency in general education coursework identified by the CWT shall be satisfied by the applicant through submission of evidence identifying one (1) of the following:

(a) Completion of appropriate coursework at a regionally accredited academic institution;

(b) Continuing education in a course approved by the board; or

(c) Submission of a portfolio including a detailed resume and description of relevant work experience approved by the board;

(6) Shows proof of English Language Proficiency by:

(a) A score of not less than fifty (50) on the Test of Spoken English (TSE);

(b) Verification that the applicant has achieved the following minimum scores for each category of the Test of English as a Foreign Language, TOEFL Internet-based test (TOEFL IBT):

1. Writing, twenty-two (22);

2. Speaking, twenty-four (24);

3. Listening, twenty-one (21);

4. Reading, twenty-two (22); or

5. With an overall score of not less than eighty-nine (89); or

(c) Verification that English is the native language of the country of origin.

(7) Submits a satisfactorily-completed application and appropriate fee as required by 201 KAR 22:135;

(8) Completes the Jurisprudence Exam; ~~and~~

(9) Obtains a passing score on the National Physical Therapy Examination (NPTE);

(10) Completes the requirements of Section 1(3) of this administrative regulation; and

(11) To be eligible for a temporary permit, a foreign-educated Physical Therapist Assistant applicant must complete the requirements of 201 KAR 22:020 Sections 4 and 5.

Section 4[3]. Incorporation by Reference.

(1) The "Supervisory Agreement for Physical Therapists

Educated in a Foreign Country, August 2017" is incorporated by reference.~~The following material is incorporated by reference:~~

~~(a) "Supervisory Agreement for Physical Therapists Educated in a Foreign Country, August 2017".~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Physical Therapy, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

SCOTT D. MAJORS, Executive Director

APPROVED BY AGENCY: November 15, 2018

FILED WITH LRC: December 10, 2018 at 10 a.m.

n the proposed administrative regulation to the contact person.

CONTACT PERSON: Scott D. Majors, Executive Director, Board of Physical Therapy, 312 Whittington Parkway, Suite 102, Louisville, Kentucky 40222, phone (502) 429-7140, fax (502) 429-7142, email ScottD.Majors@ky.gov.

**PUBLIC PROTECTION CABINET
Kentucky Boxing and Wrestling Commission
(As Amended at ARRS, March 11, 2019)**

201 KAR 27:005. Definitions for 201 KAR Chapter 27.

RELATES TO: KRS 229.011,[229.024,] 229.031,[229.051, 229.071, 229.081, 229.091,] 229.111, 229.131, 229.155, 229.171(1)[,229.180(1), EO 2016-270]

STATUTORY AUTHORITY: KRS 229.171(1), ~~(2)~~, 229.180]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) authorizes the commission[authority] to exercise sole control, authority, and jurisdiction over all unarmed combat[boxing, kickboxing, mixed martial arts, and wrestling] shows[, ~~exhibitions, and licensees~~] in the commonwealth. KRS 229.171(2) authorizes the commission to promulgate administrative regulations it considers necessary or expedient for the performance of its functions provided in KRS Chapter 229.[Executive Order 2016-270, effective May 16, 2016, abolished the Kentucky Boxing and Wrestling Authority and established the Kentucky Boxing and Wrestling Commission.] This administrative regulation establishes the definitions used in 201 KAR Chapter 27.

Section 1. Definitions.

(1) "Battle royal" means more than two (2) contestants~~[in a boxing, kickboxing, mixed martial arts, or]~~[elimination event] competing in a "last man standing wins" format.

(2) "Bout" means a single competition or exhibition of unarmed combat pitting two (2) opponents against one another in which the contestants strive earnestly and in good faith to win, are judged, and a winner declared.

(3) "Boxing" is defined by KRS 229.011(2)[229.011(3)].

(4) "Card" means a series of bouts, matches, or exhibitions scheduled or occurring as part of a single program.

(5) "Commission" is defined by KRS 229.011(3)~~[means the body formerly known as the "Authority", defined by KRS 229.011(2) and created by EO 2016-270].~~

(6) "Contestant" means any person engaging in a show of unarmed combat coming under the commission's jurisdiction.

~~(7) ["Elimination event" means a boxing show in which the winner of each bout continues to box against additional opponents in a tournament format until an overall winner is determined.~~

~~(8) "Exhibition" is defined by KRS 229.011(4).~~

~~(8) [(9) "Healthcare professional" means any person licensed in Kentucky as a physician, chiropractor, podiatrist, nurse practitioner, physician assistant, registered nurse, physical therapist, paramedic, emergency medical technician, or athletic trainer.~~

~~(9) [(40)] "Inspector" means any person assigned by the executive director of the commission or the executive director's designee to supervise shows coming under the commission's jurisdiction.~~

~~(10) [(44)] "Judge" means an official[, other than a referee,]~~

licensed by the commission to score bouts and ~~cast~~[have] a vote in determining the winner of any bout.

(11)[(42)] "Kickboxing" is defined by KRS 229.011(5).

(12)[(43)] "Manager":

(a) Means a person who:

1. Undertakes to represent the interest of another person, in procuring, arranging, or conducting a professional bout or exhibition in which the person is to participate as a contestant;

2. Directs or controls the professional unarmed combat activities of a contestant;

3. Receives or is entitled to receive ten (10) percent or more of the gross purse or gross income of any professional contestant for services relating to participation of the contestant in a professional bout or exhibition; or

4. Receives compensation for service as an agent or representative of a bout; and

(b) Does not mean an attorney licensed to practice in this state if his or her participation in these activities is restricted solely to legal representation of the interests of a contestant as his or her client.

(13)[(44)] "Match" means a single event or exhibition in wrestling pitting two (2) or more opponents against one another.

(14)[(45)] "Medical advisory panel" means the Kentucky Boxing and Wrestling Medical Advisory Panel created by KRS 229.260[EO 2016-270].

(15)[(46)] "Mixed martial arts" is defined by KRS 229.011(6).

(16)[(47)] "Professional" is defined by KRS 229.011(8).

(18)] "Promoter" means any individual, corporation, association, partnership, or club that is licensed[has been issued a license] to promote or conduct professional boxing, wrestling, mixed martial arts,[elimination event,] or kickboxing shows within the commonwealth and who is responsible for the arranging, organizing, matchmaking, and booking of a show.

(17)[(49)] "Ring official" means any person who performs an official function during a bout, match, or exhibition, including an announcer, judge, healthcare professional, referee, or timekeeper.

(18)[(20)] "Second" means any person aiding, assisting, or advising a contestant during a show.

(19)[(24)] "Serious physical injury" means physical injury that creates a substantial risk of death or causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(20)[(22)] "Show" is defined by KRS 229.011(9).

(21)[(23)] "Technical knockout" means the ending of a bout by the referee or physician on the grounds of one (1) contestant's inability to continue, the opponent being declared the winner.

(22)[(24)] "Trainer" means any person who participates in the guidance and instruction of any contestant so as to make that individual proficient or qualified to engage in unarmed combat, if the training occurs within this commonwealth.

(23)[(25)] "Unarmed combat" **is defined by KRS 229.011(10) [means engaging in boxing, kickboxing, wrestling, or mixed martial arts], or an elimination event**.

(24)[(26)] "Wrestling event staff" means anyone other than a wrestler or referee permitted to be inside the six (6) foot barrier around the ring during a wrestling event.

JASON P. SMITH, Vice-Chairman

K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: December 19, 2018

FILED WITH LRC: January 15, 2019 at noon

CONTACT PERSON: Cindy Stinnett, Executive Director, 656 Chamberlin Ave., Suite B, Frankfort, Kentucky 40601; phone 502-564-0085, fax 502-696-3938, email kbwc@ky.gov.

**PUBLIC PROTECTION CABINET
Boxing and Wrestling Commission
(As Amended at ARRS, March 11, 2019)**

201 KAR 27:008. License requirements and fees.

RELATES TO: KRS 229.025, 229.035, 229.065[229.021,

229.051, 229.071, 229.081, 229.091,] 229.171, Chapter 311, 15 U.S.C. **6304**, 6305,][EO 2016-270]

STATUTORY AUTHORITY: KRS 229.025, 229.035, 229.065, [229.021, 229.071, 229.081, 229.091,] 229.171[229.180,] 15 U.S.C. **6304**, 6305

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) ~~authorizes~~vests[authorizes] the ~~commission to exercise~~with[authority to exercise] sole ~~control, authority, and jurisdiction over all unarmed combat~~[boxing, kickboxing, mixed martial arts, and wrestling] shows ~~to be conducted, held, or given within~~[, exhibitions, and licensees in] the commonwealth. **KRS 229.171(2) authorizes the commission to promulgate administrative regulations it considers necessary or expedient for the performance of its functions provided in KRS Chapter 229. KRS 229.025(3) requires**~~the commission~~[the authority] to promulgate administrative regulations to establish license types, the eligibility requirements for each license type, the expiration date of each license type, the annual license fee, and method for submitting all applications for licensure. KRS 229.025(2)~~fees through administrative regulations and~~ prohibits participation in an unarmed combat show in any capacity without holding a license issued by the commission. **KRS 229.035 requires a promoter license and a bond approved as to form and sufficiency of sureties by the commission. KRS 229.065 requires a license by the commission for wrestling training. 15 U.S.C. 6304 requires protection of the health and safety of boxers, and includes requirements for a physical examination, a physician to be present at ringside, an ambulance or resuscitation equipment, and health insurance coverage.**~~Executive Order 2016-270, effective May 16, 2016, abolished the Kentucky Boxing and Wrestling Authority and established the Kentucky Boxing and Wrestling Commission. KRS 229.021, 229.071, and 229.081 require that a person shall not engage in certain activities regulated by the authority without a license. KRS 229.071(4), 229.081, and 229.091 authorize the authority the power to establish license fees. KRS 229.091(4) requires that every licensee shall be subject to administrative regulations promulgated by the authority. 15 U.S.C. 6305 requires the commission to issue an identification card to each professional boxer who registers with the commission~~[is a resident of the commonwealth]. This administrative regulation establishes license requirements and fees for persons who conduct activities regulated by the commission.

Section 1. General Provisions.

(1) A person shall not participate in ~~an unarmed combat~~[a boxing, kickboxing, professional mixed martial arts, amateur mixed martial arts, wrestling, or an elimination event] show or exhibition unless the person is licensed by the commission.

(2) Each license shall be separate. A person shall not use a license in one (1) capacity or sport to serve in a different capacity or sport, except:

(a) A manager may act as a second; and

(b) A contestant may act as a second.

(3)(a) A promoter license shall be valid for one (1) year from the date of issuance.

(b) All other licenses shall be valid from January 1 through December 31.

(4) Information provided on or with a license application shall be complete and correct. Any false statement of a material matter shall be grounds for:

(a) Denial of a license; or

(b) If the license has been issued, suspension, probation, or revocation of the license.

(5) The commission may require an applicant to appear before the commission to answer questions or provide documents in conjunction with an application for a license if:

(a) The person has not been licensed by the commission within the previous five (5) years;

(b) The person has a history of violations in any jurisdiction;

(c) The applicant has not fully completed the required application; or

(d) The applicant's written submissions have not met the

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applicant's burden of proof to prove his or her qualifications for a license.

(6) A licensee shall be governed by KRS Chapter 229 and 201 KAR Chapter 27 and shall be subject to any event-related orders given by the commission or an inspector.

Section 2. Licenses, Applications, and Fees.

(1) The applicant shall complete the appropriate application as established in the table in subsection (2) of this section. The application shall be signed by the applicant under penalty of perjury.

(2) The following applications and non-refundable annual fees shall be required before any person may be licensed:

(a) Boxing and kickboxing licenses:

Boxing and Kickboxing License Type	License Required	Application	License Fee
Boxer	Contestant Application		\$25
Kickboxer	Contestant Application		\$25
Manager	Non-Contestant Application		\$25
Trainer	Non-Contestant Application		\$25
Second	Non-Contestant Application		\$25
Referee	Non-Contestant Application		\$25
Judge	Non-Contestant Application		\$25
Timekeeper	Non-Contestant Application		\$25

(b) Mixed martial arts licenses:

Mixed Martial Arts License Type	License Required	Application	License Fee
Professional mixed martial artist	Contestant Application		\$25
Amateur mixed martial artist	Contestant Application		\$25
Manager	Non-Contestant Application		\$25
Trainer	Non-Contestant Application		\$25
Second	Non-Contestant Application		\$25
Referee	Non-Contestant Application		\$25
Judge	Non-Contestant Application		\$25
Timekeeper	Non-Contestant Application		\$25

(c) Wrestling licenses:

Wrestling License Type	License Required	Application	License Fee
Wrestler	Contestant Application		\$25
Referee	Non-Contestant Application		\$25
Wrestling event staff	Non-Contestant Application		\$25

(d) Elimination event license:

Elimination Event License Type	License Required	Application	License Fee
Elimination Event Contestant	Contestant Application		\$40

(e) Promoter license:

Promoter License Type	License Required	Application	License Fee
Promoter	Promoter Application		\$300

(e)(f) Medical Provider licenses:

Medical Provider License Type	License Application Required	License Fee
Physician	Medical Provider Application	\$25
Healthcare Professional	Medical Provider Application	\$25

Section 3. Health Physical and Application Timing Requirements.

(1) The following applicants for licensure shall submit the form Physical Report to demonstrate the results of a physical that was completed by a physician not more than ninety (90) days before the licensing application is submitted:

- Boxer;
- Kickboxer;
- Professional mixed martial artist;
- Amateur mixed martial artist;
- Boxing and kickboxing referee; and

(f) Mixed martial arts referee.

(2) An applicant for licensure as a wrestler or wrestling referee shall submit the form Physical Report to demonstrate the results of a physical that was completed by a physician not more than (90) days before the licensing application is submitted if the applicant:

(a) Has not held a wrestler license in the past two (2) years;

(b) Is forty-five (45) years of age or older; or

(c) Has had an in-patient surgical procedure or overnight hospital stay in the past one (1) year.

(3) An applicant who is subject to subsection (1) or subsection (2) of this section shall submit his or her physical and bloodwork[license application] to the commission no less than two (2) business[fifteen (15) calendar] days prior to the applicant's first event.

Section 4. Determination of Ability to Obtain a License as a Contestant.

(1) An applicant for a license as a boxer, kickboxer, or professional mixed martial artist shall demonstrate [~~that the applicant has~~] the ability to:

(a) Be competitive in the sport; and

(b) Compete without the risk of serious physical injury.

(2) An applicant for a license as a wrestler or an amateur mixed martial artist shall demonstrate that the applicant has the ability to compete without the risk of serious physical injury.

(3)(a) Individual consideration from a member of the medical advisory panel shall be required if an applicant for licensure as a boxer, kickboxer, professional mixed martial artist, or amateur mixed martial artist:

1. Is thirty-eight (38)[thirty-five (35)] or more years old;

2. Has accrued six (6) consecutive losses;

3. Has lost more than twenty-five (25) fights in his or her career;

4. Has fought in 350 or more career rounds;

5. Has lost more than five (5) bouts by knockout in his or her career; or

6. Has been inactive for more than thirty (30) months.

(b) A member of the medical advisory panel may order additional[further] medical testing if the medical evidence before it is inconclusive or incomplete.

(c) The medical advisory panel or member of the panel shall report its recommendation to the commission within forty-five (45) days of being referred a physical[an application].

Section 5. Medical Provider License. (1) An applicant for a physician license shall be a physician licensed pursuant to KRS Chapter 311.

(2) A person licensed or seeking licensure as a physician or healthcare professional shall maintain an active license in his or her field of practice and certification to administer cardiopulmonary resuscitation.

Section 6. Promoter License. An applicant for licensure as a promoter shall obtain a \$10,000[\$5,000] Surety bond. To obtain a surety the applicant shall complete and have notarized the Promoter Bond Form.

Section 7. Change from Amateur Status to Professional Status.

(1) The commission shall consider the applicant's previous fighting experience in deciding whether [~~or not~~] to permit a person licensed as an amateur to become a professional. This consideration shall include the:

(a) Number of sanctioned bouts the applicant has competed in;

(b) Number of sanctioned rounds the applicant has competed in;

(c) Date of the applicant's bouts;

(d) Applicant's performance in previous bouts, including the applicant's win-loss record; and

(e) Level of competition the applicant has competed against.

(2) A person shall not be licensed as a professional unless the person has fought in a minimum of three (3) bouts.

(3) A licensee who seeks to change his or her status from amateur to professional shall submit his or her license application

to the commission no less than fifteen (15) calendar days prior to the applicant's first professional event.

Section 8. Boxer's Federal Identification Card.

(1) To obtain a boxer's federal identification card, an applicant shall complete and submit to the commission a Boxer's Federal Identification Card Application.

(2) The fee for a boxer's federal identification card shall be ten (10) dollars, which shall be submitted with the Boxer's Federal Identification Card Application.

(3) The boxer's federal identification card shall be valid for four (4) years from the date issued.

Section 9. Change of address. A licensee shall provide his or her new address to the commission within thirty (30) days of a change in address.

Section 10. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Contestant Application", October 2016;
- (b) "Non-Contestant Application", October 2016;
- (c) "Promoter Application", October 2016;
- (d) "Medical Provider Application", October 2016;
- (e) "Physical Report", March/January 2019[October 2016];
- (f) "Promoter Bond Form", January 2019[October 2016]; and
- (g) "Boxer's Federal Identification Card Application", October 2016.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Boxing and Wrestling Commission office at 656 Chamberlin Avenue, Suite B, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., and is available online at <http://kbwa.ky.gov/Pages/Appsforms.aspx>.

JASON P. SMITH, Vice-Chairman

K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: December 19, 2018

FILED WITH LRC: January 15, 2019 at noon

CONTACT PERSON: Cindy Stinnett, Executive Director, 656 Chamberlin Ave., Suite B, Frankfort, Kentucky 40601; phone 502-564-0085 fax 502-696-3938; email kbwc@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Boxing and Wrestling Commission
(As Amended at ARRS, March 11, 2019)

201 KAR 27:011. General requirements for boxing and kickboxing shows.

RELATES TO: KRS 229.025[229.024,] 229.031, 229.055, 229.111,[229.074, 229.084, 229.094, 229.104,] 229.131, 229.155, 229.171, 15 U.S.C. 6304, 6305(a), (b),[EO 2016-270]

STATUTORY AUTHORITY: KRS 229.025[229.024, 229.074, 229.094(4),] 229.171,[229.180,] 15 U.S.C. 6304, 6305

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) authorizes[vests] the Kentucky Boxing and Wrestling Commission to exercise[with] [authorizes the authority to exercise] sole direction, management, control, and jurisdiction over all unarmed combat[boxing, kickboxing, mixed martial arts, and wrestling] shows[, exhibitions, and licensees] in the commonwealth. KRS 229.171(2) authorizes the commission to promulgate administrative regulations it considers necessary or expedient for the performance of its functions provided in KRS Chapter 229. KRS 229.025 requires every licensee to be subject to administrative regulations promulgated by the commission. 15 U.S.C. 6304 requires protection of the health and safety of boxers, and includes requirements for a physical examination, a physician to be present at ringside, an ambulance or resuscitation equipment, and health insurance coverage. 15 U.S.C. 6305 requires the commission to issue an identification card to each professional boxer who registers with the commission. [Executive Order 2016-270, effective May

~~16, 2016, abolished the Kentucky Boxing and Wrestling Authority and established the Kentucky Boxing and Wrestling Commission.] This administrative regulation establishes the requirements for boxing and kickboxing shows, and for participants in boxing and kickboxing shows.~~

Section 1. Show Date.

(1) A promoter shall request a show date by completing and submitting to the commission the Show Notice Form.

(2) The Show Notice Form shall be submitted to the commission for approval no less than thirty (30) calendar days before the requested show date.

(3) A promoter shall not advertise a show until the date has been approved by the commission. Approval is effective upon the commission:

- (a) Placing the event on the Calendar of Events available on the commission's Web site at <http://ins.kbwa.ky.gov/ecal.asp>; or
- (b) Providing written notice that the event is approved.

Section 2. Program and Changes.

(1) If a contestant is unable to participate in a show for which the contestant has a contract, the contestant shall immediately notify the promoter and the commission. A contestant with repeated and unexcused absences or a cancelation shall[may] be issued a violation.

(2) The proposed card for a show shall be filed with the commission at least five (5) business days prior to the show date. Notice of a change in a program or substitution in a show shall be immediately filed with the commission.

(3) If the commission determines that a proposed bout may not be reasonably competitive, the bout may be denied. Bout approval does not exempt contestant from individual physical approval as required by 201 KAR 27:008, Section 3. The commission's determination shall be based upon the contestants' previous fighting experience, including:

- (a) The number of bouts the contestants have competed in;
- (b) The number of rounds the contestants have competed in;
- (c) The date of the contestants' bouts;
- (d) The contestants' performance in previous bouts, including the contestants' win-loss record;
- (e) The level of competition the contestants have faced; and
- (f) The contestants' medical histories.

[4/4.] The final approved card for a show shall comprise a minimum of five (5) complete bouts, no later than two (2) business days prior to the show date.

Section 3. Compensation.

(1) If a show or exhibition is cancelled with less than twenty-four (24) hours' notice to the commission, ring officials shall be paid one-half (1/2) the compensation agreed upon prior to the bout.

(2) Before the commencement of a show or exhibition, the promoter shall tender to the inspector payment to each ring official. The schedule of compensation for a ring official shall be at least as follows:

- (a) Judge: seventy-five (75) dollars each;
- (b) Timekeeper: seventy-five (75) dollars;
- (c) Physician: \$350;
- (d) Referee: \$100 each; and
- (e) Bout assistant: seventy-five (75) dollars each.

(3) Each contestant's compensation agreement shall be in writing and submitted to the commission for approval not less than two (2) calendar days prior to the date of the proposed show.

Section 4. Pre-Fight.

(1) A contestant shall weigh in stripped at a time set by the commission, which shall not be more than thirty-six (36) hours before the first scheduled bout of the show.

(a) A contestant shall produce one (1) form of picture identification at the weigh-in.

(b) The inspector and the promoter or a representative of the promoter conducting the show shall be in attendance to record the official weights.

(2) A contestant shall check in with the commission at least

one (1) hour prior to the event start time. A contestant shall produce one (1) form of picture identification at check-in.

(3) A contestant shall attend a pre-fight meeting as directed by the commission.

(4)(a) A contestant shall remain in the locker room area until it is time to compete unless approved by the inspector.

(b) The promoter shall supply a separate locker room for males and females.

(5) A contestant shall submit an original or certified copy of his or her HIV Antibody, Hepatitis B Antigen, and Hepatitis C Antibody test results to the commission at least forty-eight (48)~~twenty-four (24)~~ hours prior to the event.

(a) The results of these tests shall be no more than 365~~180~~ days old.

(b) A person with a positive test result shall not compete.

(6) A contestant shall undergo a pre-fight physical conducted by a physician within eight (8) hours of the show. Prior to undergoing the physical, a contestant shall submit a completed Pre-Fight Medical Questionnaire under penalty of perjury.

(7) A contestant shall report to and be under the general supervision of the inspector in attendance at the show and shall comply with instructions given by the inspector.

Section 5. The Ring.

(1) The area between the ring and the first row of spectators on all four (4) sides and the locker room area shall be under the exclusive control of the commission. Commission staff and licensees shall be the only people allowed inside the areas under the control of the commission without inspector approval.

(2) An event held outdoors if the heat index is at or exceeds 100 degrees Fahrenheit shall be conducted under a roof or cover that casts shade over the entire ring.

(3)(a) A ring shall have a canvas mat or similar material, unless the event is held outdoors in which case only canvas shall be used.

(b) A bout may be held in a mixed martial arts cage if the bout is in conjunction with a mixed martial arts event.

(4) There shall be an area of at least six (6) feet between the edge of the ring floor and the first row of spectator seats on all four (4) sides of the ring. A partition, barricade, or some type of divider shall be placed:

(a) Between the first row of the spectator seats and the six (6) foot area surrounding the ring; and

(b) Along the sides of the entry lane for contestants to enter the ring.

(5) Ring specifications shall be as established in this subsection.

(a) A bout shall be held in a four (4) sided roped ring.

1. The floor of the ring inside the ropes shall not be less than sixteen (16) feet square.

2. The floor of the ring shall extend beyond the ropes for a distance of not less than one (1) foot.

3. The floor of the ring shall be elevated not more than six (6) feet above the arena floor.

4. The ring shall have steps to enter the ring on two (2) sides.

(b) The ring shall be formed of ropes.

1. There shall be a minimum of three (3) ropes extended in a triple line at the following heights above the ring floor:

a. Twenty-four (24) inches;

b. Thirty-six (36) inches; and

c. Forty-eight (48) inches.

2. A fourth rope may be used if the inspector finds that it will not pose a health or safety concern.

3. The ropes shall be at least one (1) inch in diameter.

4. The ropes shall be wrapped in a clean, soft material and drawn taut.

5. The ropes shall be held in place with two (2) vertical straps on each of the four (4) sides of the ring.

6. The ropes shall be supported by ring posts that shall be:

a. Made of metal or other strong material;

b. Not less than three (3) inches in diameter; and

c. At least eighteen (18) inches from the ropes.

(c) The ring floor shall be padded or cushioned with a clean, soft material that:

1. Is at least one (1) inch thick and uses slow recovery foam matting;

2. Extends over the edge of the platform;

3. Is covered with a single canvas stretched tightly; and

4. Is, at the commencement of the event, clean, sanitary, dry, and free from:

a. Grit;

b. Dirt;

c. Resin; and

d. Any other foreign object or substance.

(d) A ring rope shall be attached to a ring post by turnbuckles padded with a soft vertical pad at least six (6) inches in width.

Section 6. Equipment.

(1) A bell or horn shall be used by the timekeeper to indicate the time.

(2) In addition to the ring and ring equipment, the promoter shall supply:

(a) A public address system in good working order;

(b) Chairs for judges and timekeepers elevated sufficiently to provide an unobstructed view of the ring and the ring floor;

(c) Items for each contestant's corner, to include:

1. A stool or chair;

2. A clean bucket;

3. Towels; and

4. Rubber gloves;

(d) A complete set of numbered round-cards, if needed;

(e) Gloves for each boxer or kickboxer; and

(f) A scale used for weigh-in, which shall be approved as accurate in advance by the inspector.

Section 7. Contestant Equipment and Attire.

(1) A contestant shall be clean and neatly attired in proper ring attire, and the trunks of opponents shall be of distinguishing colors.

(2) A contestant shall not use a belt that:

(a) Extends above the waistline of the contestant; or

(b) Contains any metal substance during a bout.~~[The belt shall not extend above the waistline of the contestant.]~~

(3) A contestant shall wear shoes during a bout. The shoes shall not be fitted with spikes, cleats, hard soles, or hard heels.

(4) A contestant shall wear a properly fitted:

(a) Groin protector; and

(b) Double-arch mouthpiece.

(5) If a contestant has long hair, the hair shall be secured by a soft, non-abrasive material so that the hair does not interfere with the vision or safety of either contestant.

(6) If cosmetics are used, a contestant shall use a minimum of cosmetics.

(7) ~~Boxing gloves shall meet the requirements established in this subsection.~~

(a) Contestants shall wear boxing gloves that shall be of the same weight for each contestant and:

1. Dry, clean, and sanitary;

2. Furnished by the promoter;

3. Of equal weight, not to exceed twelve (12) ounces per glove;

4. A minimum of eight (8) ounces per glove for a contestant weighing no more than 154 pounds;

5. A minimum of ten (10) ounces per glove for a contestant weighing over 154 pounds; and

6. Thumbless or thumb-attached.

(b) Gloves shall be new for main events and for bouts and exhibitions scheduled for ten (10) or more rounds.

(c) Gloves shall be approved or denied in accordance with this administrative regulation by the commission prior to a bout.

(d) Gloves for all main events shall be dry and free from defects and shall be put on in the ring or locker room while supervised by the inspector.

(e) Breaking, roughing, or twisting of gloves shall not be permitted.

(f) The laces on gloves shall be tied on the back of the wrist and taped.

(g) Kickboxing contestants shall wear padded kickboxing boots. The padding shall be sufficient to protect the kickboxer and

his or her competitor.

(8) Bandages~~[shall meet the requirements established in this subsection]~~.

(a) For boxing and kickboxing, only soft cotton or linen bandages shall be used for the protection of the boxer or kickboxer's hands.

(b) Bandages shall not be more than two (2) inches in width and twelve (12) yards in length for each hand.

(c) If adhesive tape is used:

1. Medical adhesive tape not more than one (1) inch in width shall be used to hold bandages in place;

2. Adhesive tape shall not be lapped more than one-eighth (1/8) of one (1) inch;

3. Adhesive tape not to exceed one (1) layer shall be crossed over the back of the hand for its protection; and

4. Three (3) strips of adhesive tape, lapping not to exceed one-eighth (1/8) of one (1) inch, may be used for protection of the knuckles.

(d) Hand wraps shall be applied in the dressing room in the presence of an inspector or ring official. The inspector or ring official shall sign the hand wrap and the tape around the strings of the gloves.

Section 8. Weight Classes.

(1) The class weights permitted in boxing and kickboxing bouts shall be as follows:

CLASS	WEIGHT
Flyweight	Up to 112 lbs.
Bantamweight	Up to 118 lbs.
Jr. Featherweight	Up to 122 lbs.
Featherweight	Up to 126 lbs.
Jr. Lightweight	Up to 130 lbs.
Lightweight	Up to 135 lbs.
Jr. Welterweight	Up to 140 lbs.
Welterweight	Up to 147 lbs.
Jr. Middleweight	Up to 154 lbs.
Middleweight	Up to 160 lbs.
Light Heavyweight	Up to 175 lbs.
Cruiserweight	Up to 195 lbs.
Heavyweight	Over 195 lbs.

(2) After the weigh-in, a contestant shall not change weight in excess of eight (8) percent prior to the bout.

(3) After the weigh-in, a contestant shall not re-hydrate by the use of intravenous fluids unless approved by the inspector for medical purposes. A contestant may be subject to a random urine specific gravity test to determine compliance with this subsection.

Section 9. Fight Length.

(1) Bouts and rounds shall:

(a) Be three (3) minutes in duration; and

(b) Have a one (1) minute rest period between rounds.

(2) A bout shall consist of no less than four (4) and no more than twelve (12) rounds. A championship bout shall be twelve (12) rounds in length.

(3) A contestant who has not fought within the last twelve (12) months shall not be scheduled to box or kickbox more than ten (10) rounds without commission approval.

Section 10. Judging and Scoring.

(1) Scoring shall be as established in this subsection.

(a) Each round shall be accounted for on the scorecard, using the ten (10) point system. Scoring shall be expressed in ratio of merit and demerit.

(b) Score cards shall be:

1. Signed;

2. Handed to the referee in the ring; and

3. Filed by the referee with the inspector.

(c) The decision shall then be announced from the ring.

(2) Decisions shall be rendered as established in this subsection.

(a) If a bout lasts the scheduled limit, the winner of the bout shall be decided by:

1. A majority vote of the judges, if three (3) judges are employed to judge the bout; or

2. A majority vote of the judges and the referee, if two (2) judges are employed to judge the bout.

(b) Decisions shall be based primarily on boxing or kickboxing effectiveness, with points awarded for display of the following attributes, and points deducted for an opposite showing:

1. Clean, forceful hitting;

2. Aggressiveness;

3. Defensive work; and

4. Ring generalship.

(c) The requirements governing knockdowns shall be as established in this paragraph.

1. If a contestant is knocked to the floor by the contestant's opponent, or falls from weakness or other causes, the contestant's opponent shall:

a. Immediately retire to the farthest neutral corner of the ring; and

b. Remain there until the referee completes the count or signals a resumption of action.

2. The timekeeper shall commence counting off the seconds and indicating the count with a motion of the arm while the contestant is down.

3. The referee shall pick up the count from the timekeeper.

4. If a contestant fails to rise to his or her feet before the count of ten (10), the referee shall declare the contestant the loser by waving both arms to indicate a knockout.

5. If a contestant who is down rises to his or her feet during the count, the referee may step between the contestants long enough to assure that the contestant just arisen is in condition to continue the bout.

6. If a contestant who is down arises before the count of ten (10) is reached, and again goes down from weakness or the effects of a previous blow without being struck again, the referee shall resume the count where he or she left off.

7. A standing eight (8) count shall be used at the discretion of~~[by]~~ the referee.

8. If a contestant is knocked down three (3) times during a round, the bout shall be stopped. The contestant scoring the knockdowns shall be the winner by a technical knockout.

9. If a round ends before a contestant who was knocked down rises, the count shall continue, and if the contestant fails to arise before the count of ten (10), the referee shall declare the contestant knocked out.

(3) A contestant shall be considered down if:

(a) Any part of the contestant's body other than his or her feet is on the ring floor;

(b) The contestant is hanging helplessly over the ropes and in the judgment of the referee, is unable to stand; or

(c) The contestant is rising from the down position.

(4) Failure to resume a bout.

(a) If a contestant fails to resume the bout for any reason after a rest period, or leaves the ring during the rest period and fails to be in the ring when the bell rings to begin the next round, the referee shall count the contestant out the same as if the contestant were down in that round.

(b) If a contestant who has been knocked out of or has fallen out of the ring during a bout fails to return immediately to the ring and be on his or her feet before the expiration of ten (10) seconds, the referee shall count the contestant out as if the contestant were down.

Section 11. Fouls.

(1) The following shall be considered fouls:

(a) Hitting below the belt;

(b) Hitting an opponent who is down or who is getting up after having been down;

(c) Holding an opponent and deliberately maintaining a clinch;

(d) Holding an opponent with one (1) hand and hitting with the other;

(e) Butting with the head or shoulder or using the knee;

(f) Hitting with the inside, or butt, of the hand, the wrist, or the elbow;

- (g) Hitting, or flicking, with the glove open or thumbing;
 - (h) Wrestling, or roughing, against the ropes;
 - (i) Purposely going down without having been hit;
 - (j) Deliberately striking at the part of an opponent's body over the kidneys;
 - (k) Using a pivot blow or rabbit punch;
 - (l) Biting of the opponent;
 - (m) Using abusive or profane language;
 - (n) Failing to obey the referee;
 - (o) Engaging in any unsportsmanlike trick or action that causes injury to another person;
 - (p) Hitting after the bell has sounded at the end of the round; or
 - (q) Backhand blows except in kickboxing.
- (2)(a) A contestant who commits a foul may be disqualified and the decision awarded to the opponent by the referee.
- (b) The referee shall immediately disqualify a contestant who commits a deliberate and willful foul that prevents the opponent from continuing in the bout.
- (c) The referee may take one (1) or more points away from a contestant who commits an accidental foul.
- (3) A contestant committing a foul may be issued a violation by an inspector.
- (4)(a) If a bout is temporarily stopped by the referee due to fouling, the referee, with the aid of the physician, if necessary, shall decide if the contestant who has been fouled is in physical condition to continue the bout.
- (b) If in the referee's opinion the contestant's chances have not been seriously jeopardized as a result of the foul, the referee shall order the bout resumed after a reasonable time set by the referee, but not exceeding five (5) minutes.
- (5)(a) If a contestant is unable to continue as the result of an accidental foul and the bout is in one (1) of the first three (3) rounds, the bout shall be declared a technical draw.
- (b) If an accidental foul occurs after the third round, or if an injury sustained from an accidental foul in the first three (3) rounds causes the bout to be subsequently stopped, the bout shall be scored on the basis of the judges' scorecards.
- (6) If a bout is ended by reason of fouling or failure to give an honest demonstration of skill, as determined by an inspector or referee, the compensation of the offending contestant shall be withheld by the promoter.

Section 12. Prohibitions.

- (1) The following shall be prohibited:
 - (a) Battle royal type events; and
 - (b) Use of excessive grease or other substance that may handicap an opponent.
- (2) A contestant shall not engage at a show in boxing or sparring with a member of the opposite sex.

Section 13. Non-Contestant Participants.

- (1) A promoter shall provide a minimum of two (2) security guards on the premises for each show.
- (2) All ring officials shall be selected, licensed, and assigned to each show by the commission. For each show, a minimum of the following shall be required:
 - (a) A minimum of three (3) judges and a maximum of five (5) judges;
 - (b) One (1) timekeeper;
 - (c) One (1) physician, except two (2) physicians shall be assigned to a bout designated a championship bout by a national sanctioning body recognized by the commission; and
 - (d) One (1) referee, unless the card has more than thirty (30) rounds, in which case a minimum of two (2) referees shall be required.

Section 14. Judges.

- (1) A judge shall arrive at least one (1) hour prior to the start of a show.
- (2) At the beginning of a bout, the judges shall locate themselves on opposite sides of the ring and shall carefully observe the performance of the contestants.
- (3) At the conclusion of the bout, the judges shall render their

decision based on the requirements of Section 10 of this administrative regulation.

- (4) Upon request of the referee, the judges shall assist in determining:
 - (a) Whether or not a foul has been committed;
 - (b) Whether or not each contestant is competing in earnest; and
 - (c) Whether or not there is collusion affecting the result of the bout.

Section 15. Timekeeper.

- (1) The timekeeper shall be seated outside the ring near the bell and shall take the cue from the referee to commence or take time out.
- (2) The timekeeper shall be equipped with a whistle and a stop watch. Prior to the first bout, the inspector shall ensure that the whistle and stopwatch function properly.
- (3) Ten (10) seconds before the start of each round, the timekeeper shall give notice by sounding the whistle.
- (4) The timekeeper shall indicate the starting and ending of each round by striking the bell with a metal hammer.
- (5) If a bout terminates before the scheduled limit, the timekeeper shall inform the announcer of the exact duration of the bout.
- (6) Ten (10) seconds prior to the end of each round, the timekeeper shall give warning by striking a gavel three (3) times.

Section 16. Physicians and Healthcare Requirements.

- (1) There shall be at least one (1) physician licensed by the commission at ringside at all times during a bout. A bout shall not begin or continue if a physician is not at ringside.
- (2) The physician shall have general supervision over the physical condition of each contestant at all times while on the premises of a show or exhibition.
- (3) The physician's pre-bout duties:~~shall be established in this subsection.~~
- (a) A physician shall make a thorough physical examination of each contestant within eight (8) hours prior to a bout.
 - 1. The physician's examination shall include a review of the Pre-Fight Medical Questionnaire of each contestant.
 - 2. The physician shall deliver to the inspector the Pre-Fight Examination form that documents the results of the examination prior to the contestant entering the ring.
- (b) The physician shall ensure that all equipment required by subsection (5) of this section is present before the start of the first bout or exhibition.
- (c) The physician shall prohibit a contestant from competing if the physician believes the contestant is physically unfit for competition or impaired by alcohol or a controlled substance.
- (4) The physician's duties during the bout or exhibition:~~shall be established in this subsection.~~
- (a) The physician shall remain at ringside during the progress of any bout or exhibition unless attending to a person.
- (b) The physician shall observe the physical condition of each contestant during a bout.
- (c) The physician shall administer medical aid if needed or requested.
- (d) The physician shall order the referee to pause or end a bout or exhibition if necessary to prevent serious physical injury to a contestant.
- (5) The physician shall have at ringside medical supplies necessary to provide medical assistance for the type of injuries reasonably anticipated to occur in a boxing or kickboxing show. The physician shall not permit a referee to begin a bout if the medical supplies are not present. At a minimum, these medical supplies shall include:
 - (a) A clean stretcher and blanket, placed under or adjacent to the ring throughout each bout;
 - (b) Spine board;
 - (c) Cervical collar;
 - (d) Oxygen apparatus or equipment; and
 - (e) First aid kit.
- (6) The promoter shall ensure that a certified ambulance with

an emergency medical technician is on the premises of a show at all times. A show shall not begin or continue if the ambulance and emergency medical technician are not on the premises.

(7) The physician shall make a thorough physical examination of each contestant after each bout. The physician shall deliver to the inspector the form Post-Fight Examination that documents the results of the examination.

Section 17. Announcers.

(1) The announcer shall have general supervision over all announcements made to spectators.

(a) The announcer shall announce the name of contestants, their weight, decisions at the end of each bout, and any other matters as are necessary.

(b) A person other than the official announcer shall not make an announcement, unless deemed necessary by an inspector.

(2) If a bout is stopped before its scheduled termination, the announcer shall immediately confer with the referee and judges and then shall immediately announce the decision.

(3) The announcer shall not enter the ring during the actual progress of a bout.

Section 18. Referees.

(1) The referee shall be the chief official of the show, be present in the ring at all times, and have general supervision over each contestant, manager, and second during the entire event.

(2)(a) The referee shall have the authority to disqualify a contestant who commits a foul and award the decision to the opponent.

(b) The referee shall immediately disqualify a contestant who commits an intentional or deliberate foul that causes serious physical injury to an opponent.

(3) The referee's duties and responsibilities shall be as established in this subsection.

(a) The referee shall, before starting a bout, ascertain from each contestant the name of the contestant's chief second. The referee shall hold the chief second responsible for the conduct of the chief second's assistants during the progress of the bout.

(b) The referee shall call the contestants together in the ring immediately preceding a bout for final instructions. During the instructional meeting, each contestant shall be accompanied in the ring by the contestant's chief second only.

(c) The referee shall inspect the person, attire, and equipment of each contestant and make certain that no foreign substances that are prohibited by KRS Chapter 229 or 201 KAR Chapter 27 have been applied on a contestant's body or equipment or used by a contestant.

(d) The referee shall stop a bout at any time if the referee has grounds to believe either contestant is:

1. Unable to protect himself or herself from possible injury;
2. Not competing in earnest; or
3. Colluding with another person to affect the results of the bout.

(e) The referee may take one (1) or more points away from a contestant who commits an accidental foul, and the referee may permit a rest period not exceeding five (5) minutes for the contestant who was fouled.

(f) The referee shall not touch a contestant during the bout except upon failure of a contestant to obey the referee's orders or to protect a contestant.

(g) The referee shall decide all questions arising during a bout that are not otherwise specifically covered by KRS Chapter 229 or 201 KAR Chapter 27.

Section 19. Trainers and Seconds.

(1) A trainer or second shall be equipped with a first aid kit and the necessary supplies for proper medical attendance upon the contestant.

(2) There shall be no more than three (3) persons total serving as a trainer or second in any bout and only two (2) shall be allowed in the ring at the same time.

(3) A trainer and a second shall leave the ring at the timekeeper's ten (10) seconds whistle before the beginning of each

round and shall remove all equipment from the ring. Equipment shall not be placed on the ring floor until after the bell has sounded at the end of the round or period.

(4) A trainer and a second shall wear surgical gloves at all times while carrying out their duties.

Section 20. Medical Prohibitions.

(1) A contestant who has been repeatedly knocked out and severely beaten shall be retired and not permitted to compete in unarmed combat again if, after subjecting the boxer or kickboxer to a thorough examination by a physician licensed by the commission, the medical advisory panel determines the action is necessary to protect the health and welfare of the contestant.

(2) A contestant who has suffered five (5) consecutive defeats by knockout or medical stoppage shall not be allowed to compete in unarmed combat until the contestant has been evaluated and subsequently cleared for further competition by the medical advisory panel.

(3) A contestant who has been knocked out shall be prohibited from all competition for a minimum of sixty (60) days.

(4) Any contestant who has suffered a technical knockout may be prohibited from competition for up to thirty (30) days if the contestant's health or safety would be jeopardized without the prohibition.

~~(5)[A contestant shall serve a mandatory seven (7) day rest period from competition after competing in an event. Day one (1) of the rest period shall commence on the first day following the bout in which the contestant competed.~~

~~(6)](a) A female boxer or kickboxer shall submit proof she is not pregnant prior to her bout. The proof may be either:~~

~~1. An original or certified copy of the result of a medical test taken no more than one (1) week before the day of the bout that shows she is not pregnant; or~~

~~2. From an over-the-counter home pregnancy test taken while on the premises of the show that tests for human chorionic gonadotropin.~~

~~(b) A female boxer or kickboxer shall be prohibited from competing if:~~

- ~~1. She is pregnant; or~~
- ~~2. She fails to comply with this subsection.~~

Section 21. Insurance.

(1) A promoter shall provide insurance for a contestant for any injuries sustained in the boxing or kickboxing show.

(2) The minimum amount of coverage per contestant shall be \$5,000 health and \$5,000 accidental death benefits.

(3) A certificate of insurance coverage shall be provided to the commission no less than two (2) business days before the event.

(4) The deductible expense under the policy for a contestant shall not exceed \$1,000.

Section 22. Other Provisions.

(1) A promoter shall maintain an account with the recognized national database as identified by the commission and submit contestant's names to that database upon approval of the show date. The promoter shall be responsible for the costs associated with the use of this service.

(2) All shows shall be video recorded and retained by the promoter for at least for one (1) year. Upon request of the commission, the promoter shall provide the video recording of a show to the commission.

(3) Smoking shall be prohibited inside the gymnasium, room, or hall in which the ring is located.

(4) Alcohol shall be prohibited inside the six-foot area alongside the ring.

Section 23. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Show Notice Form", October 2016;
- (b) "Pre-Fight Medical Questionnaire", October 2016;
- (c) "Pre-Fight Examination", October 2016; and
- (d) "Post-Fight Examination", October 2016.

(2) This material may be inspected, copied, or obtained,

subject to applicable copyright law, at the Kentucky Boxing and Wrestling Commission office at 656 Chamberlin Avenue, suite B, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., and is available online at <http://kbwa.ky.gov/Pages/Appsforms.aspx>.

JASON P. SMITH, Vice-Chairman

K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: December 19, 2018

FILED WITH LRC: January 15, 2019 at noon

CONTACT PERSON: Cindy Stinnett, Executive Director, 656 Chamberlin Ave., Suite B, Frankfort, Kentucky 40601; phone 502-564-0085; fax 502-696-3938, email kbwc@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Boxing and Wrestling Commission
(As Amended at ARRS, March 11, 2019)

201 KAR 27:016. General requirements for[all] mixed martial arts matches, shows, or exhibitions.

RELATES TO: KRS 229.025,~~[229.024,]~~ 229.031, 229.055,~~[229.071, 229.081, 229.091, 229.101,]~~ 229.111, 229.131, 229.155,~~229.171, [229.180, EO 2016-270]~~

STATUTORY AUTHORITY: KRS 229.025, ~~[229.024,]~~ 229.031,~~[229.071, 229.081, 229.091, 229.101,]~~ 229.111, 229.131,~~229.171, [229.180]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) authorizes[vests] the Kentucky Boxing and Wrestling Commission to exercise[with]~~[authorizes the authority to exercise]~~ sole direction, management, control, and jurisdiction over all unarmed combat~~[boxing, kickboxing, mixed martial arts, and wrestling]~~ shows, exhibitions, and licensees in the commonwealth. KRS 229.171(2) authorizes the commission to promulgate administrative regulations it considers necessary or expedient for the performance of its functions provided in KRS Chapter 229. KRS 229.025 requires every licensee to be subject to administrative regulations promulgated by the commission.~~[Executive Order 2016-270, effective May 16, 2016, abolished the Kentucky Boxing and Wrestling Authority and established the Kentucky Boxing and Wrestling Commission.]~~ This administrative regulation establishes the requirements for mixed martial arts shows and for participants in mixed martial arts shows.

Section 1. Show Date.

(1) A promoter shall request a show date by completing and submitting to the commission the Show Notice Form, which is incorporated by reference in 201 KAR 27:011, Section 23(1)(a).

(2) The Show Notice Form shall be submitted for approval no less than thirty (30) calendar days before the requested show date.

(3) A promoter shall not advertise a show until the date has been approved by the commission. Approval is effective upon the commission:

(a) Placing the event on the Calendar of Events available on the commission's Web site at <http://ins.kbwa.ky.gov/ecal.asp>; or

(b) Providing written notice that the event is approved.

Section 2. Program and Changes.

(1) If a contestant is unable to participate in a show for which the contestant has a contract, the contestant shall immediately notify the promoter and the commission. A contestant with repeated and unexcused absences or a cancellation shall result in a violation.

(2) The proposed card for a show shall be filed with the commission at least five (5) business days prior to the show date. Notice of a change in a program or substitution in a show shall be immediately filed with the commission.

(3) If the commission determines that a proposed bout may not be reasonably competitive, the bout may be denied. Bout approval does not exempt contestant from individual physical approval as required by 201 KAR 27:008[201 KAR 27:009], Section 3. The commission's determination shall be based upon the contestants'

previous fighting experience, including:

- (a) The number of bouts the contestants have competed in;
- (b) The number of rounds the contestants have competed in;
- (c) The date of the contestants' bouts;
- (d) The contestants' performance in previous bouts, including the contestants' won-loss record;
- (e) The level of competition the contestants have faced; and
- (f) The contestants' medical histories.

(4) The final approved card for a show shall comprise a minimum of five (5) complete bouts, no later than two (2) business days prior to the show date.

Section 3. Compensation.

(1) If a show or exhibition is cancelled with less than twenty-four (24) hours' notice to the commission, ring officials shall be paid one-half (1/2) the compensation agreed upon prior to the bout.

(2) Before the commencement of a show or exhibition, the promoter shall tender to the inspector payment to each ring official. The schedule of compensation for a ring official shall be at least as established in this section.

(a) A judge shall be paid \$150 unless the show card has twelve (12) or fewer bouts, in which case each judge's pay shall be \$100;

(b) A timekeeper shall be paid \$100 unless the show card has twelve (12) or fewer bouts, in which case the timekeeper's pay shall be seventy-five (75) dollars;

(c) A physician shall be paid \$350;

(d) A referee shall be paid \$150; and

(e) A bout assistant shall be paid seventy-five (75) dollars.

(3) Each contestant's compensation agreement shall be in writing and submitted to the commission for approval not less than two (2) calendar days prior to the date of the proposed show.

Section 4. Pre-Fight.

(1) A contestant shall weigh in stripped at a time set by the commission, which shall not be more than thirty-six (36) hours before the first scheduled bout of the show.

(a) A contestant shall produce to the inspector one (1) form of picture identification at the weigh-in.

(b) The inspector and the promoter or a representative of the promoter conducting the show shall be in attendance to record the official weights.

(2) A contestant shall check in with the commission at least one (1) hour prior to the event start time. A contestant shall produce one (1) form of picture identification at check-in.

(3) A contestant shall attend a pre-fight meeting as directed by the commission.

(4)(a) A contestant shall remain in the locker room area until it is time to compete unless approved by the inspector.

(b) The promoter shall supply a separate locker room for males and females.

(5) A contestant shall submit an original or certified copy of his or her HIV Antibody, Hepatitis B Antigen, and Hepatitis C Antibody test results to the commission at least forty-eight (48)~~[twenty-four (24)]~~ hours prior to the event.

(a) The results of these tests shall be no more than 365~~[180]~~ days old.

(b) A person with a positive test result shall not compete.

(6) A contestant shall undergo a pre-fight physical conducted by a physician within eight (8) hours of the show. Prior to undergoing the physical, a contestant shall submit a completed Pre-Fight Medical Questionnaire, which is incorporated by reference in 201 KAR 27:011, Section 23(1)(b), under penalty of perjury.

(7) A contestant shall not assume or use the name of another and shall not change his or her ring name nor be announced by any name other than that appearing on his or her license, except upon approval of the inspector.

(8) A contestant shall report to and be under the general supervision of the inspector in attendance at the show and shall be subject to instructions given by the inspector.

Section 5. The Cage.

(1) The area between the cage and the first row of spectators

on all sides and the locker room shall be under the exclusive control of the commission.

(2) Commission staff and licensees shall be the only people allowed inside the areas under the control of the commission.

(3) There shall be an area of at least six (6) feet between the edge of the cage floor and the first row of spectator seats on all sides of the cage. A partition, barricade, or similar divider shall be placed:

(a) Between the first row of the spectator seats and the six (6) foot area surrounding the cage; and

(b) Along the sides of the entry lane for contestants to enter the cage and the spectator area.

(4) A bout or exhibition of mixed martial arts shall be held in a fenced area meeting the requirements established in this subsection.

(a) The fenced area shall be circular or have equal sides and shall be no smaller than twenty (20) feet wide and no larger than thirty-two (32) feet wide.

(b) The floor of the fenced area shall be padded with closed-cell foam, with at least a one (1) inch layer of foam padding, with a top covering of a single canvas or a synthetic material stretched tightly and laced to the platform of the fenced area, unless the event is held outdoors, in which case only canvas shall be used.

(c) The platform of the fenced area shall not be more than six (6) feet above the floor of the building and shall have steps suitable for the use of the contestants.

(d) Fence posts shall be made of metal, shall not be more than six (6) inches in diameter, and shall extend from the floor of the building to between five (5) and seven (7) feet above the floor of the fenced area, and shall be properly padded.

(e) The fencing used to enclose the fenced area shall be made of a material that shall prevent a contestant from falling out of the fenced area or breaking through the fenced area onto the floor of the building or onto the spectators, and the fencing shall be coated with vinyl or a similar covering to minimize injuries to a contestant.

(f) Any metal portion of the fenced area shall be properly covered and padded and shall not be abrasive to the unarmed combatants.

(g) The fenced area shall have at least one (1) entrance.

(h) There shall not be a protrusion or obstruction on any part of the fence surrounding the area in which the contestants are to be competing.

(i) Any event held outdoors while the heat index is or exceeds 100 degrees Fahrenheit shall be conducted under a roof or cover that casts shade over the entire cage.

(j) A cage shall have a canvas mat or a synthetic material, unless the event is held outdoors, in which case only canvas shall be used.

Section 6. Equipment.

(1) A bell or horn shall be used by the timekeeper to indicate the time.

(2) In addition to the cage and cage equipment, the promoter shall supply:

(a) A public address system in good working order;

(b) Chairs for judges and timekeepers elevated sufficiently to provide an unobstructed view of the cage and the cage floor;

(c) Items for each contestant's corner, to include:

1. A stool or chair;

2. A clean bucket;

3. Towels;

4. Rubber gloves; and

(d) A complete set of numbered round-cards, if needed.

(3) A scale used for any weigh-in shall be approved as accurate in advance by the inspector.

Section 7. Contestant Equipment and Attire.

(1) A contestant shall be clean and neatly clothed in proper ring attire, and the trunks of opponents shall be of distinguishing colors.

(2) A contestant shall not use a belt that contains a metal substance during a bout. The belt shall not extend above the waistline of the contestant.

(3) A contestant shall not wear shoes or any padding on his or her feet during the bout.

(4) A contestant shall wear a properly fitted:

(a) Groin protector; and

(b) Double-arch mouthpiece.

(5) If a contestant has long hair, the hair shall be secured by a soft, non-abrasive material so that the hair does not interfere with the vision or safety of either contestant.

(6) If cosmetics are used, a contestant shall use a minimum of cosmetics.

Section 8. Weight Classes.

(1) The classes for contestants competing in bouts or exhibitions of mixed martial arts and the weights for each class shall be as established in the following schedule:

CLASS	WEIGHT
Flyweight	Up to 125 lbs.
Bantamweight	Up to 135 lbs.
Featherweight	Up to 145 lbs.
Lightweight	Up to 155 lbs.
Welterweight	Up to 170 lbs.
Middleweight	Up to 185 lbs.
Light Heavyweight	Up to <u>195</u> [205] lbs.
Heavyweight	Up to <u>230</u> [265] lbs.
Super Heavyweight	Over <u>230</u> [265] lbs.

(2) After the weigh-in, a contestant shall not change weight in excess of eight (8) percent prior to the bout.

(3) After the weigh-in, a contestant shall not re-hydrate by the use of intravenous fluids unless approved by the inspector for medical purposes. A contestant may be subject to a random urine specific gravity test to determine compliance with this subsection.

Section 9. Fight Length. Unless the commission approves an exception upon finding that the health and safety of the contestants will not be compromised:

(1) A non-championship bout or exhibition of mixed martial arts shall not exceed three (3) rounds in duration;

(2) A championship bout of mixed martial arts shall not exceed five (5) rounds in duration;

(3) The length of a round in a professional bout or exhibition of mixed martial arts shall be a maximum of five (5) minutes in duration, and a period of rest following a round shall be one (1) minute in duration; and

(4) The length of a round in an amateur bout or exhibition of mixed martial arts shall be a maximum of three (3) minutes in duration, and a rest period following a round shall be ninety (90) seconds in duration.

Section 10. Judging and Scoring.

(1) Each judge of a bout or exhibition of mixed martial arts shall score the bout or exhibition and determine the winner through the use of the system established in this section.

(a) The better contestant of a round shall receive ten (10) points, and the opponent shall receive proportionately less.

(b) If the round is even, each contestant shall receive ten (10) points.

(c) Fraction of points shall not be given.

(d) Points for each round shall be awarded immediately after the end of the period of unarmed combat in the round.

(2) After the end of the bout or exhibition, the announcer shall pick up the scores of the judges from the commission's representative.

(3) The majority opinion shall be conclusive and, if there is no majority, the decision shall be a draw.

(4)(a) Once the commission's representative has checked the scores, he or she shall inform the announcer of the decision.

(b) The announcer shall then inform the audience of the decision.

(5) Unjudged exhibitions shall be permitted with the prior approval of the commission.

(6) A bout of mixed martial arts shall end in:

(a) Submission by:

1. Physical tap out; or
2. Verbal tap out;
- (b) Technical knockout by the referee or physician stopping the bout;
- (c) Decision via the scorecards, including:
 1. Unanimous decision;
 2. Split decision;
 3. Majority decision; or
 4. Draw, including:
 - a. Unanimous draw;
 - b. Majority draw; or
 - c. Split draw;
 - (d) Technical decision;
 - (e) Technical draw;
 - (f) Disqualification;
 - (g) Forfeit; or
 - (h) No contest.

Section 11. Fouls.

- (1) The following acts shall constitute fouls in mixed martial arts:
 - (a) Butting with the head;
 - (b) Eye gouging;
 - (c) Biting;
 - (d) Hair pulling;
 - (e) Fishhooking;
 - (f) Groin attacks;
 - (g) Putting a finger into any orifice or into any cut or laceration on an opponent;
 - (h) Small joint manipulation;
 - (i) Striking to the spine or the back of the head;
 - (j) Striking downward using the point of the elbow;
 - (k) Throat strikes including grabbing the trachea;
 - (l) Clawing, pinching, or twisting the flesh;
 - (m) Grabbing the clavicle;
 - (n) Kicking the head of a grounded opponent;
 - (o) Kneeing the head of a grounded opponent;
 - (p) Stomping the head of a grounded opponent;
 - (q) Kicking to the kidney with the heel;
 - (r) Spiking an opponent to the canvas on his or her head or neck;
 - (s) Throwing an opponent out of the fenced area;
 - (t) Holding the shorts of an opponent;
 - (u) Spitting at an opponent;
 - (v) Engaging in unsportsmanlike conduct;
 - (w) Holding the fence;
 - (x) Using abusive language in the fenced area;
 - (y) Attacking an opponent on or during the break;
 - (z) Attacking an opponent who is under the care of the referee;
 - (aa) Attacking an opponent after the bell has sounded the end of the period of unarmed combat;
 - (bb) Intentionally disregarding the instructions of the referee;
 - (cc) Timidity, such as intentionally or consistently dropping the mouthpiece or faking an injury;
 - (dd) Interference by a contestant's corner staff; and
 - (ee) The throwing by a contestant's corner staff of objects into the cage during competition.

(2) If a contestant fouls his or her opponent during a bout or exhibition of mixed martial arts, the referee may penalize the contestant by deducting points from his or her score, regardless of whether or not the foul was intentional. The referee shall determine the number of points to be deducted in each instance and shall base his or her determination on the severity of the foul and its effect upon the opponent.

(3) If the referee determines that it is necessary to deduct a point or points because of a foul, he or she shall warn the offender of the penalty to be assessed.

(4) The referee shall, as soon as is practical after the foul, notify the judges and both contestants of the number of points, if any, to be deducted from the score of the offender.

(5) Any point or points to be deducted for any foul shall be deducted in the round in which the foul occurred and shall not be deducted from the score of any subsequent round.

(6)(a) If a bout or exhibition of mixed martial arts is stopped because of an accidental foul, the referee shall determine if the contestant who has been fouled is able to continue.

(b) If the contestant's chance of winning has not been seriously jeopardized as a result of the foul, and if the foul does not involve a concussive impact to the head of the contestant who has been fouled, the referee may order the bout or exhibition continued after a recuperative interval of not more than five (5) minutes.

(c) Immediately after separating the contestants, the referee shall inform the commission's representative of his or her determination that the foul was or was not accidental.

(7) If the referee determines that a bout or exhibition of mixed martial arts shall not continue because of an injury suffered as the result of an accidental foul, the bout or exhibition shall be declared a no bout if the foul occurs during:

(a) The first two (2) rounds of a bout or exhibition that is scheduled for three (3) rounds or less; or

(b) The first three (3) rounds of a bout or exhibition that is scheduled for more than three (3) rounds.

(8) If an accidental foul renders a contestant unable to continue the bout or exhibition, the outcome shall be determined by scoring the completed rounds, including the round in which the foul occurs, if the foul occurs after:

(a) The completed second round of a bout or exhibition that is scheduled for three (3) rounds or less; or

(b) The completed third round of a bout or exhibition that is scheduled for more than three (3) rounds.

(9) If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the bout or exhibition stopped because of the injury, the outcome shall be determined by scoring the completed rounds and the round during which the referee stops the bout or exhibition.

(10) A contestant committing an intentional foul may be issued a violation by an inspector.

Section 12. Prohibitions. The following shall be prohibited:

- (1) Battle royal type events; and
- (2) Use of excessive grease or other substance that may handicap an opponent.

Section 13. Non-Contestant Participants.

(1) A promoter shall provide a minimum of two (2) security guards on the premises for each show.

(2) Judges, physicians, referees, and timekeepers shall be selected, licensed, and assigned to each show by the commission. The following shall be required:

- (a) Three (3) judges;
- (b) One (1) timekeeper;
- (c) One (1) physician, unless more than eighteen (18) bouts are scheduled, in which case a minimum of two (2) physicians shall be required; and
- (d) One (1) referee, unless more than eighteen (18) bouts are scheduled, in which case a minimum of two (2) referees shall be required.

Section 14. Judges.

(1) A judge shall arrive at least one (1) hour prior to the start of a show.

(2) At the beginning of a bout, the judges shall locate themselves on opposite sides of the ring and shall carefully observe the performance of the contestants.

(3) At the conclusion of the bout, the judges shall render their decision based on the requirements of Section 10 of this administrative regulation.

(4) Upon request of the referee, the judges shall assist in determining whether or not:

- (a) A foul has been committed;
- (b) Each contestant is competing in earnest; and
- (c) There is collusion affecting the result of the bout.

Section 15. Timekeeper.

(1) The timekeeper shall be seated outside the ring near the bell and shall take the cue to commence or take time out from the

referee.

(2) The timekeeper shall be equipped with a whistle and a stop watch. Prior to the first bout, the inspector shall ensure that the whistle and stopwatch function properly.

(3) Ten (10) seconds before the start of each round, the timekeeper shall give notice by sounding the whistle.

(4) The timekeeper shall indicate the starting and ending of each round by sounding a horn or striking the bell with a metal hammer.

(5) If a bout terminates before the scheduled limit, the timekeeper shall inform the announcer of the exact duration of the bout.

(6) Ten (10) seconds prior to the end of each round, the timekeeper shall give warning by striking a gavel three (3) times.

Section 16. Physicians and Healthcare Requirements.

(1) There shall be at least one (1) physician licensed by the commission at ringside at all times during a bout. A bout shall not begin or continue if a physician is not at ringside.

(2) The physician shall have general supervision over the physical condition of each contestant at all times while on the premises of a show or exhibition.

(3) The physician's pre-bout duties: ~~[shall be established in this subsection.]~~

(a) A physician shall make a thorough physical examination of each contestant within eight (8) hours prior to a bout.

1. The physician's examination shall include a review of the Pre-Fight Medical Questionnaire of each contestant.

2. The physician shall deliver to the inspector the form Pre-Fight Examination, which is incorporated by reference in 201 KAR 27:011, Section 23(1)(c), that documents the results of the examination prior to the contestant entering the ring.

(b) The physician shall ensure that all equipment required by subsection (5) of this section is present before the start of the first bout or exhibition.

(c) The physician shall prohibit a contestant from competing if the physician believes the contestant is physically unfit for competition or impaired by alcohol or a controlled substance.

(4) The physician's duties during the bout or exhibition: ~~[shall be as established in this subsection.]~~

(a) The physician shall remain at ringside during the progress of any bout or exhibition unless attending to a person.

(b) The physician shall observe the physical condition of each contestant during a bout or match.

(c) The physician shall administer medical aid if needed or requested.

(d) The physician shall order the referee to pause or end a bout or exhibition if necessary to prevent serious physical injury to a contestant.

(5) The physician shall have at ringside medical supplies necessary to provide medical assistance for the type of injuries reasonably anticipated to occur in a mixed martial arts show. The physician shall not permit a referee to begin a bout if the medical supplies are not present. At a minimum, these medical supplies shall include:

(a) A clean stretcher and blanket, placed under or adjacent to the ring throughout each bout;

(b) Spine board;

(c) Cervical collar;

(d) Oxygen apparatus or equipment; and

(e) First aid kit.

(6) The promoter shall ensure that a certified ambulance with an emergency medical technician is on the premises of a show at all times. A show shall not begin or continue if the ambulance and emergency medical technician are not on the premises.

(7) The physician shall make a thorough physical examination of each contestant after each bout. The physician shall deliver the form Post-Fight Examination, which is incorporated by reference in 201 KAR 27:011, Section 23(1)(d) that documents the results of the examination.

Section 17. Announcers.

(1) The announcer shall have general supervision over all

announcements made to spectators.

(a) The announcer shall announce the name of contestants, their weight, decisions at the end of each match or bout, and any other matters as are necessary.

(b) A person other than the official announcer shall not make an announcement, unless deemed necessary by an inspector.

(2) If a match or bout is stopped before its scheduled termination, the announcer shall immediately confer with the referee and judges and then shall immediately announce the decision.

(3) The announcer shall not enter the ring during the actual progress of a match or bout.

Section 18. Referees.

(1) The referee shall be the chief official of the show, be present in the ring at all times, and have general supervision over each contestant, manager, and second during the entire event.

(2)(a) The referee shall have the authority to disqualify a contestant who commits a foul and award the decision to the opponent.

(b) The referee shall immediately disqualify a contestant who commits an intentional or deliberate foul that causes serious physical injury to an opponent.

(3) The referee's duties and responsibilities shall be as established in this subsection.

(a) The referee shall, before starting a bout or match, ascertain from each contestant the name of the contestant's chief second. The referee shall hold the chief second responsible for the conduct of the chief second's assistants during the progress of the bout or match.

(b) The referee shall call the contestants together in the ring immediately preceding a bout or match for final instructions. During the instructional meeting, each contestant shall be accompanied in the ring by the contestant's chief second only.

(c) The referee shall inspect the person, attire, and equipment of each contestant and make certain that no foreign substances that are prohibited by KRS Chapter 229 or 201 KAR Chapter 27 have been applied on a contestant's body or equipment or used by a contestant.

(d) The referee shall stop a bout or match at any time if the referee has reasonable grounds to believe either contestant is:

1. Unable to protect himself or herself from possible injury;

2. Not competing in earnest; or

3. Colluding with another person to affect the results of the bout.

(e) The referee may take one (1) or more points away from a contestant who commits an accidental foul, and the referee may permit a rest period not exceeding five (5) minutes for the contestant who was fouled.

(f) The referee shall not touch a contestant during the bout or match except upon failure of a contestant to obey the referee's instructions or to protect a contestant.

(g) The referee shall decide all questions arising during a bout or match that are not otherwise specifically covered by KRS Chapter 229 or 201 KAR Chapter 27.

Section 19. Trainers and Seconds.

(1) A trainer or second shall be equipped with a first aid kit and the necessary supplies for proper medical attendance upon the contestant.

(2) There shall be no more than three (3) persons total serving as a trainer or second in any bout and only two (2) shall be allowed in the ring at the same time.

(3) A trainer and a second shall leave the ring at the timekeeper's ten (10) seconds whistle before the beginning of each round and shall remove all equipment from the ring. Equipment shall not be placed on the ring floor until after the bell has sounded at the end of the round or period.

(4) A trainer and a second shall wear surgical gloves at all times while carrying out their duties.

Section 20. Medical Prohibitions.

(1) A contestant who has been repeatedly knocked out and

severely beaten shall be retired and not permitted to compete again if, after subjecting the contestant to a thorough examination by a physician licensed by the commission, the medical advisory panel determines action is necessary to protect the health and welfare of the contestant.

(2) A contestant who has suffered five (5) consecutive defeats by knockout or medical stoppage shall not be allowed to compete again until the contestant has been evaluated and subsequently cleared for further competition by the medical advisory panel.

(3) A contestant who has been knocked out shall be prohibited from all competition for a minimum of sixty (60) days.

(4) Any contestant who has suffered a technical knockout may be prohibited from competition for up to thirty (30) days if the contestant's health or safety would be jeopardized without the prohibition.

~~(5) [A contestant shall receive a mandatory seven (7) day rest period from competition after competing in an event. Day one (1) of the rest period shall commence on the first day following the bout in which the contestant competed.]~~

(6)(a) A female mixed martial artist shall submit proof she is not pregnant prior to her bout. The proof may be either:

1. An original or certified copy of the result of a medical test taken no more than one (1) week before the day of the match that shows she is not pregnant; or

2. From an over-the-counter home pregnancy test taken while on the premises of the show that tests for human chorionic gonadotropin.

(b) A female mixed martial artist shall be prohibited from competing if:

1. She is pregnant; or

2. She fails to comply with this subsection.

Section 21. Insurance.

(1) A promoter shall provide insurance for a contestant for any injuries sustained in the mixed martial arts event.

(2) The minimum amount of coverage per contestant shall be \$5,000 health and \$5,000 accidental death benefits.

(3) A certificate of insurance coverage shall be provided to the commission no less than two (2) business days before the event.

(4)(a) The deductible expense under the policy for a professional mixed martial artist shall not exceed \$1,000.

(b) The deductible expense for an amateur mixed martial artist shall not exceed \$500.

Section 22. Other Provisions.

(1) A contestant shall not compete against a member of the opposite gender.

(2) Each show shall be video recorded and retained by the promoter for at least one (1) year. Upon request of the commission, the promoter shall provide the video recording of a show to the commission.

(3) A promoter shall maintain an account with the recognized national database as identified by the commission and shall submit contestants names to that database upon approval of the show date. The promoter shall be responsible for the costs associated with the use of this service.

(4) A bout or exhibition of mixed martial arts shall be conducted pursuant to the official rules for the particular art unless the official rules conflict with KRS Chapter 229 or 201 KAR Chapter 27.

(a) If an official rule conflicts with KRS Chapter 229 or a requirement in 201 KAR Chapter 27, the statute or administrative regulation shall prevail.

(b) The sponsoring organization or promoter shall file a copy of the rules that shall apply at the show with the commission along with the thirty (30) day show notice required in Section 1 of this administrative regulation.

(5) A contestant shall report to and be under the general supervision of an inspector in attendance at the show and shall be subject to instructions given by an inspector.

(6) More than two (2) fifteen (15) minute intermissions shall not be allowed at any show.

Section 23. Prohibitions and Restrictions.

(1) The following shall be prohibited:

(a) Battle royal type events;

(b) Use of excessive grease or other substance that may handicap an opponent; and

(c) Elbow strikes to the head if the bout is an amateur bout.

(2) Knees to the head shall be permitted, but shall only be used and delivered from a standing position.

(3) A professional mixed martial arts contestant found to be competing during an amateur mixed martial arts show shall have his or her license suspended for a period of not less than one (1) year.

(4) A promoter who allows a professional to compete against an amateur shall have his or her license suspended for a period of not less than one (1) year.

(5) Smoking shall be prohibited inside the gymnasium, room, or hall in which the ring is located.

(6) Alcohol shall be prohibited inside the six (6) foot area alongside the ring.

JASON P. SMITH, Vice-Chairman

K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: December 19, 2018

FILED WITH LRC: January 15, 2019 at noon

CONTACT PERSON: Cindy Stinnett, Executive Director, 656 Chamberlin Ave., Suite B, Frankfort, Kentucky 40601; phone 502-564-0085, fax 502-696-3938, email kbwc@ky.gov.

PUBLIC PROTECTION CABINET Kentucky Boxing and Wrestling Commission (As Amended at ARRS, March 11, 2019)

201 KAR 27:020. Tickets.

RELATES TO: KRS 229.031,~~[229.041,]~~ 229.171,~~[229.180, EO 2016-270]~~

STATUTORY AUTHORITY: KRS 229.031,~~[229.041,]~~ 229.171,~~[229.180]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) ~~authorizes[vests]~~ the Kentucky Boxing and Wrestling Commission ~~to exercise[with]~~ authorizes the authority to exercise sole direction, management, control, and jurisdiction over all unarmed combat [boxing, kickboxing, mixed martial arts, and wrestling] shows ~~[, exhibitions, and licensees]~~ in the commonwealth. KRS 229.171(2) authorizes the commission to promulgate administrative regulations it considers necessary or expedient for the performance of its functions provided in KRS Chapter 229. KRS 229.031(1) requires a tax of the greater of twenty-five (25) dollars or five (5) percent ~~of[upon]~~ the gross receipts from the sale of all tickets to the show collected by a person conducting an event under the jurisdiction of the commission, and KRS 229.031(4) authorizes the commission to examine or cause to be examined ~~authority. KRS 229.041 authorizes the authority to inspect~~ a person's books and records to ensure compliance with the tax. ~~[Executive Order 2016-270, effective May 16, 2016, abolished the Kentucky Boxing and Wrestling Authority and established the Kentucky Boxing and Wrestling Commission.]~~ This administrative regulation establishes requirements and procedures governing the sale of tickets to events and shows in the commonwealth.

Section 1. General Requirements.

(1) Any person admitted to a show or exhibition shall have a ticket except:

(a) Commission staff, a commission member, or a member of the medical advisory panel on official business;

(b) The promoter of the show and the promoter's employees;

(c) An employee of the venue at which the show is being held if the employee is working the event;

(d) A ring official who is working the show;

(e) A member of the press covering the show;

(f) A contestant who is competing in the show;

(g) A second, trainer, or manager acting on behalf of a

contestant who will be competing in the show; and

(h) A police officer, firefighter, paramedic, or emergency medical technician while on duty.

(2)(a) A schedule of ticket prices shall be posted conspicuously at the front of the ticket office where the show or exhibition is taking place.

(b) A ticket shall not be sold for a price greater than that charged at the place of admission or printed on the ticket.

Section 2. Complimentary Tickets.

(1) The number of complimentary tickets shall not exceed four (4) percent of the total of paid admission tickets.

(2) The commission may approve an exception to subsection (1) of this section if the complimentary tickets will be given to or for a charitable organization, educational purpose, emergency responders, or military personnel.

Section 3. Changes to Program or Card.

(1) Any change or substitution to the card shall be posted in a conspicuous place at the ticket office when the change is made.

(2) Any change to an advertised card shall be:

(a) Posted at the ticket window and at the entrance to the facility immediately; and

(b) Announced to the spectators at least five (5) minutes before the first bout or match.

(3) The posting and the announcement of the change shall include a statement that a ticket purchaser may receive a refund of the ticket purchase price if the request is made before commencement of the first bout or match.

Section 4. Rain Check. Each purchaser of an admission ticket shall be given the[their] choice of a refund or a voucher that shall be redeemed by the promoter on presentation by the purchaser if the show does not take place.

Section 5. ~~Ticket Audit. (1) Pursuant to [KRS 229.041, the commission may request an audit of the tickets used for a show or exhibition to validate the tax paid pursuant to KRS 229.031.~~

~~(2) The promoter shall retain the following for a period of one (1) year from the date of a show or exhibition unless otherwise ordered by the commission:~~

~~(a) All unsold tickets or a certified record from a vendor that states the number of unsold tickets; and~~

~~(b) A receipt, invoice, or other evidence that demonstrates in detail the number of tickets ordered for an event and a description of the tickets.~~

~~(3) The promoter shall be responsible for the cost of a ticket audit if the commission determines that the amount of the tax paid pursuant to KRS 229.031 is underpaid by five (5) percent or more.~~

Section 6. ~~Event Report.~~

~~(1) Within fifteen (15) days[seventy-two (72) hours] of the conclusion of an unarmed combat[a boxing, kickboxing, mixed martial arts, wrestling, or elimination event] show, the promoter shall, pursuant to KRS 229.031(1), complete and submit to the commission the form Event Report.~~

~~(2) The Event Report shall be accompanied by a check or money order for the amount of the tax required by KRS 229.031(1).~~

~~(3) The Event Report shall be signed under penalty of perjury.~~

Section 6[7]. Incorporation by Reference.

(1) "Event Report", October 2016, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Boxing and Wrestling Commission office at 656 Chamberlin Avenue, Suite B, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., and is available online at <http://kbwa.ky.gov/Pages/Appsforms.aspx>.

JASON P. SMITH, Vice-Chairman

K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: December 19, 2018

FILED WITH LRC: January 15, 2019 at noon

CONTACT PERSON: Cindy Stinnett, Executive Director, 656 Chamberlin Ave., Suite B, Frankfort, Kentucky 40601; phone 502-564-0085, fax 502-696-3938; email kbwc@ky.gov.

GENERAL GOVERNMENT

Board of Licensure for Marriage and Family Therapists (As Amended at ARRS, March 11, 2019)

201 KAR 32:110. Telehealth.

RELATES TO: KRS 335.305, 335.310, 335.320, 335.325, 335.380, 335.399

STATUTORY AUTHORITY: KRS 335.320(9)[335.340], 335.380

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.320(9) requires the Board of Licensure for Marriage and Family Therapists to promulgate administrative regulations to implement the purpose and scope of KRS 335.300 to 335.399. KRS 335.380 requires the board to promulgate administrative regulations to govern telehealth services in the provision of marriage and family therapy services. This administrative regulation establishes procedures for the use of telehealth by licensees.

Section 1. Definitions.

(1) "Asynchronous" means[shall mean][means] a communication that does not occur simultaneously in real time.

(2) "Electronic communication" means[shall mean][means] the use of websites, cell phones, email, texting, online social networking, video, or other digital methods and technology used to send and receive messages or post information.

(3) "Encryption" means[shall mean][means] a mathematical process that converts text, video, or audio streams into a scrambled, unreadable format when transmitted electronically.

(4) "HIPAA" means[shall mean][means] the Health Insurance Portability and Accountability Act of 1996, Pub L. No. 104-191, 110 Stat. 1936 (1996).

(5) "HITECH" means[shall mean][means] the Health Information Technology for Economic and Clinical Health Act of 2009, 42 U.S.C. 17901-17953.

(6) "Social media" means[shall mean][means] a Web-based communication tool that enables people to interact with each other by both sharing and consuming information.

(7) "Synchronous" means[shall mean][means] a communication that occurs simultaneously in real time.

(8) "Telehealth" is defined by KRS 335.380(3).

Section 2. Licensure, Standard of Practice, and Competency.

(1) License required. Any marriage and family therapist practicing teletherapy in this state shall be licensed by the board and comply with all statutes, administrative regulations, and ethics guidelines applicable to the practice of marriage and family therapy.

(2) Standard of appropriate practice. A marriage and family therapist providing telehealth services in this state shall be held to the same standards of practice as those applicable for in-person[in-person] therapy settings.

(3)[(2)] Competency. A marriage and family therapist shall only provide telehealth services in this state in those instances in which the marriage and family therapist has successfully completed all requirements set forth in Section 3(1) of this administrative regulation[technical and clinical competency to render such services].

(4)[(3)] Continued competency. A marriage and family therapist providing telehealth services in this state shall have an ongoing obligation to assess their technical and clinical competency to render these[such] services by successfully completing all requirements set forth in Section 3(2) of this administrative regulation.

Section 3. Education and Continuing Education Requirements.

(1) Initial educational requirements[training]. Effective

January 1, 2020, a licensed marriage and family therapist providing telehealth services in this state shall have completed fifteen (15) hours of board-approved training in the practice of telehealth as provided in 201 KAR 32:060, Section 2(2), which shall include three (3) hours of ethics in the practice of telehealth. Each approved course shall be live or online. Areas to be covered in the training shall include:

- (a) Appropriateness of teletherapy;
- (b) Teletherapy theory and practice;
- (c) Modes of delivery;
- (d) Legal and ethical issues;
- (e) Handling online emergencies; and
- (f) Best practices and informed consent.

(2) Continuing education requirements. A licensed marriage and family therapist who has completed the initial training in the practice of telehealth shall complete at least two (2) credit hours of continuing education approved by the board, in accordance with 201 KAR 32:060, [board-approved continuing education] in the practice of telehealth during each subsequent licensure renewal period.

(3) Credit hours earned to comply with subsections (1) and (2) above may be applied to continuing education requirements set forth in 201 KAR 32:060.

Section 4. Verification of the Client. Prior to providing telehealth services in this state a marriage and family therapist shall require the client to produce a valid photo identification[take appropriate steps to verify the identity of the client].

Section 5. Client Assessment.

(1) Initial assessment. Prior to providing telehealth services in this state a marriage and family therapist shall conduct an initial assessment of the client to determine if telehealth is an appropriate delivery of treatment considering the professional, intellectual, or emotional needs of the client.

(2) Ongoing assessment. Throughout the duration of providing telehealth services in this state, a marriage and family therapist shall engage in a continual assessment of the appropriateness of providing these[such] services to the client.

(3) Telehealth may not be appropriate if the client:

- (a) Recurrently experiences, or is likely to experience, crises or emergencies;
- (b) Is a suicide risk, or likely to become a suicide risk;
- (c) Is violent, or likely to become violent; or
- (d) Otherwise poses a risk to themselves or to others.

Section 6. Informed Consent. (1) Generally. Prior to providing telehealth services in this state, the marriage and family therapist providing these[such] services shall obtain the informed consent of the client, which shall include:

- (a) Disclosure of specific information regarding the marriage and family therapist's:
 - 1. Training and credentials;
 - 2. License number;
 - 3. Physical location and contact information;
 - 4. Social media policy;
 - 5. Encryption policy; and
 - 6. Collection, documentation, tracking, and storage of client information;
- (b) Client confidentiality and the limits to confidentiality in electronic communication;
- (c) Information on reporting complaints to the board and other appropriate licensing bodies;
- (d) The specific services to be provided;
- (e) The risks and benefits of engaging in telehealth in the clinical setting;
- (f) The possibility of technology failure and alternate methods of service delivery;
- (g) Time zone differences, if any;
- (h) Cultural or language differences that may affect the delivery of services;
- (i) The possible denial of insurance benefits;

(j) The pertinent legal rights and limitations governing practice across state lines or international boundaries, if applicable[where appropriate]; and

(k) Whether delivery of service will be asynchronous or synchronous.

(2) Minors. If the client is a minor, prior to providing telehealth services in this state the marriage and family therapist shall, pursuant to Section 4 of this administrative regulation, verify the identity of the parent, guardian, or other person consenting to the minor's treatment and obtain from that person the informed consent required by this section.

Section 7. Emergency Procedures, Coordination of Care and Referrals. Prior to providing telehealth services in this state, the marriage and family therapist shall establish with the client:

- (1) Acceptable ways to contact the marriage and family therapist in an emergency;
- (2) Emergency procedures to include emergency services at the client's location;
- (3) Coordination of care with other professionals; and
- (4) Conditions under which telehealth services may be terminated and a referral made to in-person care.

Section 8. Compliance with Privacy Laws, Documentation, and Recordkeeping. A marriage and family therapist performing telehealth services in this state shall:

- (1) Comply with all privacy laws and regulations relating to the transmission and protection of protected health information, including HIPAA and HITECH; and
- (2) Comply with all state and federal laws and regulations relating to the practice of telehealth, [and the] documentation of services delivered, and related recordkeeping [related thereto].

SHAWN OAK, Chair

APPROVED BY AGENCY: January 17, 2019

FILED WITH LRC: February 14, 2019 at 1 p.m.

CONTACT PERSON: Bryan Morrow, Board Counsel, 656 Chamberlin Ave., Suite B, phone (502) 564-7760, fax (502) 564-3969, email bryan.morrow@ky.gov.

GENERAL GOVERNMENT CABINET Department of Agriculture Office of Consumer and Environmental Protection (As Amended at ARRS, March 11, 2019)

302 KAR 27:010. Definitions for 302 KAR Chapter 27.

RELATES TO: KRS Chapter 217B, 7 U.S.C. 136 et. seq.

STATUTORY AUTHORITY: KRS 217B.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050 requires the department to promulgate administrative regulations to implement the provisions of KRS Chapter 217B. This administrative regulation establishes the definitions that[which] apply to 302 KAR Chapter 27, which implements the provisions of KRS Chapter 217B.

Section 1. Definitions.

(1) "Accident" means an unexpected, undesirable event caused by the use or presence of a pesticide that adversely affects man or the environment.

(2) "Agricultural commodity" means any plant~~[,]~~ or part thereof, or animals or animal products, produced:

- (a) By [persons, including] farmers, ranchers, grape growers, plant propagators, Christmas tree growers, aquaculturists, orchardists, foresters, or other comparable persons; and
- (b)[,] Primarily for sale.

(3) "Agricultural fumigation":

(a) Means the application of pesticide gases or fumigants in an enclosed area used for the production, storage, or transportation of agricultural commodities or to the contents of any structure used for the production, storage, or transportation of agricultural commodities; and

~~**(b) Does not mean**– Agricultural fumigation shall not include~~ the application of pesticide gases or fumigants to a structure for the purpose of controlling structural pests.

(4) "Application" means placing of a pesticide for effect, including mixing and loading.

(5) "Bulk fertilizer" means dry or liquid fertilizer in any unpackaged quantity.

(6) "Bulk pesticide" means a pesticide that is held in a nonmobile container in an undivided quantity greater than:

(a) 300 U.S. gallons of liquid measure; or

(b) 300 U.S. pounds of net dry weight.

(7) "Calibration" means adjustment of dispersal or output of application equipment to control the rate of dispersal and droplet or particle size of a pesticide dispersed by the equipment.

(8) "Certification" or "certified" means recognition by the department that a person has demonstrated a minimum level of competence by examination and continuing education units and is authorized to use or supervise the use of pesticides in the area of **[his]** certification.

(9) **"Compatibility"** means that chemical property of a pesticide which permits use with other chemicals without undesirable results being caused by the combination. (10) **"Competent"** means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity, and the associated responsibility. (10)(11) **"Common exposure route"** means a probable manner (i.e., oral, dermal, or respiratory) by which a pesticide can/may reach or enter an organism.

(10) "Compatibility" means that chemical property of a pesticide that permits use with other chemicals without undesirable results being caused by the combination.

(11) "Competent" means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity, and the associated responsibility.

(12) "Continuing education unit" means one (1) contact instructional hour of fifty (50) minutes.

(13) "Department," unless otherwise specified, means the Kentucky Department of Agriculture.

(14) "Dicamaba" means any 3,6-Dichloro-2-methoxybenzoic acid, inclusive of any variant formulation or product name.

(15)[(44)] "Environment" means water, air, land, plants, man and other animals living therein, and the interrelationships ~~that~~which exist among them.

(16)[(45)] "Faulty, careless, or negligent manner" means any act or omission, which has or can[may] have, a deleterious effect on any person or property resulting from application or use of pesticides inconsistent with label instructions or standards established by 302 KAR Chapter 27 or KRS Chapter 217B.

(17)[(16)] "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, **7 U.S.C. 136 et seq.**

(18)[(47)] "Forest" means a concentration of trees and related vegetation in nonurban areas characterized by natural terrain and drainage patterns.

(19)[(48)] "Hazard" means a probability that a given pesticide will have an adverse effect on man or the environment in a given situation with[,] the relative likelihood of danger or ill effect being dependent on a number of interrelated factors present at any given time.

(20)[(49)] "Host" means any plant or animal on or in which another plant or animal lives for nourishment, development, or protection.

(21)[(20)] "Inactive status" means holding in reserve a license held by a person not actively engaged in pesticide sales or application.

(22)[(21)] "Nontarget organism" means a plant or animal other than the one against which the pesticide is applied.

(23)[(22)] "Practical knowledge" means the comprehension of and ability to see pertinent facts in dealing with specific problems and situations.

(24)(23) "Private applicator" means a person certified to use any pesticide for purposes of producing any agricultural commodity on property owned or rented by him or his employer.

or to the lands of a farmer-neighbor, if applied without compensation other than trading of personal services between producers of agricultural commodities.

(25)(24) "Protective equipment" means clothing or any other materials or devices that shield against unintentional exposure to pesticides.

(26)(25) "Regulated pest" means an organism for which restrictions, administrative regulations, or control procedures are in effect to protect the host, man, or the environment. (26) "Remote pesticide sales agent" means a person located outside of the Commonwealth of Kentucky who sells or distributes restricted use pesticides for delivery within the Commonwealth of Kentucky, or sells and makes recommendations for the use or application of pesticides to the final user accepting delivery within the Commonwealth of Kentucky.

~~(27) "Resident pesticide sales agent" means a person located within the Commonwealth of Kentucky who sells or distributes restricted use pesticides or sells and makes recommendations for the use or application of pesticides to the final user.~~

(27)(28) "Spot fumigation" means fumigation operations performed in special rooms, vaults, chambers, tanks, railroad boxcars, aircraft, or other enclosed areas of limited size, which are segregated so that the fumigation crews and other persons remain outside and are not exposed to toxic concentrations of the fumigants used.

(28) [(29)] "Standard" means the level of knowledge and ability **[which must be]** demonstrated as a requirement for certification.

(29)[~~(30)~~] "State" means the Commonwealth of Kentucky.

(30)[(34)] "Structural pests" means those pests that have the potential to invade structures or may cause damage to structures.

(31)~~(32)~~ "Structure" means any building, regardless of its design or type of construction, public or private, vacant or occupied.

(32)(33) "Susceptibility" means the degree to which an organism is affected by a pesticide at a particular level of exposure.

(33)(34) "Toxicity" means the property of a pesticide that causes any adverse physiological effects on a living organism. [Section 2. Effective Date. The effective date of this administrative regulation shall be July 1, 2002.]

RYAN F. QUARLES, Commissioner

APPROVED BY AGENCY: January 14, 2019

FILED WITH LRC: January 14, 2019 at 4 p.m.

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GENERAL GOVERNMENT CABINET

Department of Agriculture

Office of Consumer and Environmental Protection
(As Amended at ARRS, March 11, 2019)

302 KAR 27:020. General provisions.

RELATES TO: KRS Chapter 217B

STATUTORY AUTHORITY: KRS 217B.050, 217B.105(7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate administrative regulations to implement the provisions of KRS Chapter 217B. **KRS 217B.105 requires the department to promulgate recordkeeping administrative regulations pertaining to KRS Chapter 217B.** This administrative regulation establishes requirements for recordkeeping, the storage and handling of pesticides, trainee supervision, certification denial, suspension, modification or revocation, and registered pesticide equipment identification.

Section 1. Recordkeeping Requirements.

(1) Applicability. The provisions of this section shall not apply to doctors of veterinary medicine applying restricted use pesticides during the ordinary course of their practice.

(2) Dealers. Each ~~dealer, branch office, or pesticide sales agent~~~~[dealer or branch office]~~ that sells pesticides shall maintain the following records for each sale of Dicamba or restricted use pesticides:

- (a) Brand, amount, and type of restricted use pesticide sold;
- (b) Buyer's name and address;
- (c) Certification number of the purchaser; and
- (d) Intended use: target crop or resale.

(3) All private applicators, noncommercial applicators, pesticide operators, and pesticide applicators who apply pesticides shall maintain the following records:

- (a) Name and address of person receiving services;
- (b) Brand or product name of pesticides applied;
- (c) Date of application;
- (d) Purpose of application;
- (e) Size of area treated;
- (f) Crop, commodity, stored product, or type of area treated;
- (g) Name and certification number of applicator;
- (h) EPA registration number;
- (i) Location of application; [and]
- (j) Total amount of each pesticide applied; [-]
- (k) If application made by a trainee, the names of the trainee

and supervisor; and

- (l) Any other record as required by the label.

(4) Retention.

(a)1. All persons required to maintain records under subsection (2) of this section shall retain the records for a period of at least two (2) years from the date of sale pursuant to KRS 217B.105(7).

2. All persons required to maintain records under subsection (3) of this section shall retain the records for a period of at least three (3) years from the date of use or application.

(b) Maintenance of duplicate records shall not be required.

(c) If a use or application of a restricted use pesticide is made in the name of a person or business entity, maintenance of only one (1) set of records for each use or application shall be required by that person or business entity, even though one (1) or more persons may have used or applied a pesticide.

(5) Availability. Records required under this section shall be made available to the department upon request or for dealers and branch offices, as established~~[prescribed]~~ in KRS 217B.105(7).

Section 2. Storage and Handling of Pesticides. (1)

Applicability. This administrative regulation shall apply to all persons who~~[have occasion to]~~ store restricted use pesticides or persons who~~[have occasion to]~~ store any pesticides for the purpose of redistribution or direct resale.

(2) Standards for storage of pesticides.~~[:]~~

(a) Sites for the storage of pesticides shall be of sufficient size to store all stocks in designated areas.

(b) Storage sites shall be cool, dry, and airy or have a ventilation system installed to reduce concentrations of toxic fumes and to regulate temperatures and moisture. If a ventilation system is installed to reduce fumes, heat, or moisture, the ventilation exhaust shall not connect with offices or other areas frequented by people.

(c) Storage sites shall be adequately lighted so that labels and label information can be easily read.~~[(d) Storage sites shall comply with applicable fire codes.]~~

~~[(d)]~~~~[(e)]~~ Floor sweep compound of adsorptive clay, sand, sawdust, hydrated lime, or similar materials shall be kept on hand to absorb spills or leaks. The contaminated material shall be disposed of per label directions.

~~[(e)]~~~~[(f)]~~ Restricted use pesticides shall be located in designated and segregated areas apart from general use pesticides. These segregated areas may remain open if the entire storage area is locked while~~[when]~~ authorized personnel cannot control access to the area. Entrance to these segregated

areas shall be plainly labeled on the outside with signs containing the words "pesticide storage area" and "danger" or "poison".~~[(3) Standards for storage of bulk fertilizer or bulk pesticides. Any person who has cause to store bulk fertilizer or bulk pesticides shall meet the standards and requirements set out in 302-KAR 31:040.]~~

~~[(4) Standards for transportation of pesticides. All pesticides transported on or in vehicles owned or operated by private applicators, dealers, pesticide operators, pesticide applicators, or noncommercial applicators shall be transported consistent with 49 U.S.C. 51.]~~

Section 3. Supervisory Requirements. A trainee who applies pesticides shall have "direct on-the-job-supervision" ~~[direct on-the-job-supervision]~~ as defined by~~[in]~~ KRS 217B.040(28). ~~[(j)]~~

Section 4. Denial, Suspension, or Revocation of Pesticide Certification. The department shall review for possible denial, suspension, or revocation, the license or certification of any person if the licensee or certified person has been convicted or is subject to a final order imposing a civil or criminal penalty pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 et seq[of 1972, as amended, 7 U.S.C. 147]~~[Section 5. Registered Pesticide Equipment Identification. The equipment owner shall notify the department if equipment registered under KRS 217B.170 is permanently transferred from the original registering location or is permanently removed from active pesticide application service. The owner shall be responsible for removing the decal when the equipment is permanently removed from active pesticide application or is permanently transferred out of the state.]~~

~~Section 6. Effective Date. The effective date of this administrative regulation shall be July 1, 2002.]~~

RYAN F. QUARLES, Commissioner

APPROVED BY AGENCY: January 14, 2019

FILED WITH LRC: January 14, 2019 at 4 p.m.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 782-0284, fax (502) 564-2133, email clint.quarles@ky.gov.

DEPARTMENT OF AGRICULTURE
Office of Consumer and Environmental Protection
(As Amended at ARRS, March 11, 2019)

302 KAR 27:031. Repeal of 302 KAR 27:030.

RELATES TO: KRS Chapter 217B

STATUTORY AUTHORITY: KRS 217B.050~~[, 217B.185]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate administrative regulations to implement the provisions of KRS Chapter 217B.~~[KRS 217B.185 requires the department to establish a licensure program for pesticide sales agents.]~~ This administrative regulation repeals 302 KAR 27:030 because provisions are being consolidated into other administrative regulations~~[establishes classifications of pesticide sales agent licenses and rules for the sales of pesticides by pesticide sales agents].~~

Section 1. 302 KAR 27:030, Pesticide sales agents, is hereby repealed.

RYAN F. QUARLES, Commissioner

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FILED WITH LRC: January 14, 2019 at 4 p.m.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 782-0284, fax (502) 564-2133, email clint.quarles@ky.gov.

GENERAL GOVERNMENT CABINET
Department of Agriculture
Office of Consumer and Environmental Protection
(As Amended at ARRS, March 11, 2019)

302 KAR 27:040. Pesticide licenses for prison inmates.

RELATES TO: KRS Chapter 217B

STATUTORY AUTHORITY: KRS 217B.050, 217B.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate administrative regulations to implement the provisions of KRS Chapter 217B. This administrative regulation establishes procedures for the issuance of pesticide licenses to prison inmates.

Section 1. Prison Inmates.

(1) Except as established[provided] in subsection (2) of this section, prison inmates who have completed the requirements for licensing established[set-out] in 302 KAR 27:050 and KRS Chapter 217B and who have paid the appropriate fees, shall be issued a license that shall[which-will] be held in inactive status until the inmate is released from incarceration~~[;]~~ or until the end of the three (3) year certification period, whichever is earliest.

(2) Prison inmates who are actively engaged in the application of pesticides for a prison shall be licensed in accordance with KRS 217B.090.~~[Section 2.—Effective Date. The effective date of this administrative regulation shall be July 1, 2002.]~~

RYAN F. QUARLES, Commissioner

APPROVED BY AGENCY: January 14, 2019

FILED WITH LRC: January 14, 2019 at 4 p.m.

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GENERAL GOVERNMENT CABINET
Department of Agriculture
Office of Consumer and Environmental Protection
(As Amended at ARRS, March 11, 2019)

302 KAR 27:050. Pesticide certification and licensing.

RELATES TO: KRS Chapter 217B, 40 C.F.R. 156, 170, 171, 7 U.S.C. 136

STATUTORY AUTHORITY: KRS 217B.050, 217B.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate administrative regulations to implement the provisions of KRS Chapter 217B. KRS 217B.060 authorizes the department to establish classifications of pesticide licenses. This administrative regulation establishes a system of certification for persons required to be licensed or certified under KRS Chapter 217B.

Section 1. Applicability.

(1) A person shall not be licensed to sell or apply pesticides unless he is certified in a category consistent with the sale or application. A person shall not purchase restricted use pesticides unless [he-is] licensed or certified in a category consistent with the purchase.

(2) A pesticide operator, pesticide applicator, noncommercial applicator, or private applicator shall not apply any pesticide unless he or she is certified in a category consistent with the application, as established[provided] in this administrative regulation, with the exception of a registered trainee acting under the direct on-the-job[on-the-job] supervision of a certified person.

(3) The department may, after payment of all applicable fees, waive the certification requirement and issue a license to any person who holds a valid license in another state if the person is employed by a dealer registered in Kentucky and if [in-the-opinion-of-the-department,] the other state:
(a) Has[state's] requirements~~[are]~~ substantially similar to that

of Kentucky: and

(b)[and-the-other-state] Agrees to reciprocate with Kentucky.

Section 2. Certification. Certification under this administrative regulation shall[may] be obtained from the department as a private applicator pursuant to Section 7 of this administrative regulation.~~[;]~~ Category-specific certification shall[may] be obtained in the~~[following]~~ categories of pesticide use or application as established in subsections (1) through (12) of this section.[;]

(1) Category 1. Agricultural pest control. This category shall include:

(a) Plant and animal.

1. This category shall include persons applying or supervising the application of pesticides in production of agricultural commodities including~~[; but-not-limited-to,]~~:

a. Tobacco, peanuts, cotton, feed grains, soybeans and forage, vegetables, small fruits, and tree fruits and nuts;

b.[; and] On grasslands, noncrop agricultural lands, and greenhouses;

c.[; and] The application of pesticides on animals including~~[; but-not-limited-to,]~~ beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, and livestock; and

d.[; and] To places on or in which animals are confined.

2. Doctors of veterinary medicine engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators or engaged in large-scale application of pesticides, shall be included in this category.

(b) Agricultural fumigation. This category shall include:

1. The application of pesticide gases or fumigants in an enclosed area used for the production, storage, or transportation of agricultural commodities or to the contents of any structure used for the production, storage, or transportation of agricultural commodities; and

2. Any other application of a pesticide gas or fumigant in preparing land for production or in controlling pests in growing agricultural commodities, whether the agricultural commodities are indoors or outdoors.

(2) Category 2. Forest pest control. This category shall include persons applying or supervising the application of restricted use pesticides in forests, forest nurseries, and forest seed-producing areas.

(3) Category 4. Seed treatment. This category shall include persons applying or supervising the application of pesticides on seeds.

(4) Category 5. Aquatic pest control. This category shall include persons applying or supervising the application of any pesticide purposefully applied to standing or running water, excluding applicators engaged in public health-related activities included in 302 KAR 29:060, Section 2(2)(42).

(5) Category 6. Right-of-way pest control. This category shall include persons applying or supervising the application of pesticides in the maintenance of public roads, electric power lines, pipelines, railway rights-of-way, or other similar areas.~~[(6) Category 9.—Regulatory pest control. This category shall include state, federal, or other governmental employees who apply or supervise the application of pesticides in the control of regulated pests.]~~

[(6)][(7)] Category 10. Demonstration and research pest control. This category shall include individuals who demonstrate to the public the proper uses and techniques of applying pesticides or supervise the demonstration. Included in this group shall be persons such as extension specialists and county agents, individuals demonstrating methods used in public programs, and persons conducting field research with pesticides, and in so doing, apply or supervise the application of pesticides. This group shall include state and federal employees and other persons conducting field research on pesticides.

[(7)][(8)] Category 11. Aerial. This category shall include persons applying pesticides to lands of another using aircraft.

[(8)][(9)] Category 12. Pesticide sales agent. This category shall include any individual who sells or distributes restricted use pesticides or any individual who sells and makes recommendations for the use and application of pesticides to the final user. Category 12 certification as a pesticide sales agent under this administrative

regulation shall meet the requirements of Category 12 certification under 302 KAR Chapters 28 and 29. Persons taking orders or explaining service programs without naming or making recommendations for pesticide use shall be excluded from certification, if the person selling or distributing pesticides is licensed as a pesticide sales agent.

~~(9)[(40)]~~ Category 13. Antifouling marine paint. This category shall include persons who apply paint mixed with a pesticide to prevent the growth of pests, both plant and animal, to a product to be used in lakes, rivers, and waterways.~~[(11) Category 14. Pest control consultant. This category shall include persons, who for a fee, offer or supply technical advice, supervision, or aid, or recommend the use of specific pesticides for the purpose of controlling insect pests, plant diseases, weeds, and other pests.]~~

~~(10)[(42)]~~ Category 15. Antimicrobial pest control. This category shall include persons who apply pesticides to control bacteria, mold, or fungi to or through any medium. Water and wastewater treatment plant operators shall be included in this category. Homeowners applying pesticides to personal swimming pools and persons certified in Category 1 of this chapter shall be excluded from this category.

~~(11)[(43)]~~ Category 16. Sewer root control. This category shall include persons who apply pesticides into a sewer or sewer system to control the ingress of roots or any other blockage of the system.

~~(12)[(44)]~~ Category 17. Wood preservatives. This category shall include persons who apply pesticides to wood and wood products to protect from wood-destroying organisms. Excluded from this category shall be persons engaged in structural pest control pursuant to 302 KAR Chapter 29.

Section 3. General Requirements.

(1) To obtain certification, a person shall take and pass, with a minimum score of seventy (70) percent, a certification examination in the category or categories in which certification is requested.

~~(a)~~ Competency in the use and handling of pesticides shall be determined and based upon standards established in Sections 4 and 5 of this administrative regulation.

~~(b)~~ The examination and testing shall include the general standards applicable to all categories and the additional standards specifically identified for each category or subcategory in which a person desires to be certified.

~~(c)~~ A person shall pay an initial certification examination fee of twenty-five (25) dollars.

~~(d)1.~~ For persons testing in multiple categories, there shall be an additional examination fee of ten (10) dollars for each additional category.

~~2.~~ Examination fees shall be charged each time a person takes a certification examination and shall be charged regardless of the passing or failing of the examination.

~~(e)1.~~ Upon successfully passing an examination, a person shall have ninety (90) days from the date of testing to activate the licenses requested.

~~2.~~ After ninety (90) days have expired, a person shall have to retake and pass the examination before activation of a license may occur.

(2) If an applicant provides a copy of a valid Kentucky-certified crop advisor certification to the department, the examination for a consultant license shall be waived.

Section 4. General Standards of Competency. Testing shall be based on examples of problems and situations appropriate to the particular category or subcategory of the requested certification and may include the following areas of competency:

(1) Label and labeling comprehension, including:

(a) An understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labeling;

(b) Classification of the product, general or restricted; and

(c) Necessity for use consistent with the labeling;~~;~~

(2) Safety factors, including:

(a) Pesticide toxicity, hazard to man, and common exposure routes;

(b) Common types and causes of pesticide accidents;

(c) Precautions necessary to guard against injury to applicator

and other individuals in or near treated areas;

(d) Symptoms of pesticide poisoning;

(e) First aid and other procedures to be followed if a pesticide accident occurs;

(f) Proper identification, storage, transport, handling, mixing procedures, and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticide containers;

(g) Practical application of the Worker Protection Standards, 40 C.F.R. 156 and 170, FIFRA; and

(h) The proper selection and use of personal protective equipment for handling and application of pesticides;~~;~~

(3) The potential environmental consequences of use and misuse of pesticides as may be influenced by factors such as:

(a) Weather and other climatic conditions;

(b) Types of terrain, soil, or other substrata;

(c) Presence of fish, wildlife, and other nontarget organisms;

(d) Drainage patterns;

(e) Storage or use of pesticides and fertilizer including bulk fertilizer or pesticide; and

(f) Other nonchemical controls including~~;~~ ~~but not limited to~~ sanitation;~~;~~

(4) Pest identification, including consideration of the following factors:

(a) Common features of pest organisms and characteristics of damage necessary to facilitate pest recognition; and

(b) Pest maturation and development as it may relate to the problem of identification and control;~~;~~

(5) Pesticides, including consideration of the following factors:

(a) Types of pesticides;

(b) Types of pesticide formulations;

(c) Compatibility, synergism, persistence, and animal and plant toxicity of the formulation;

(d) Hazards and residues associated with use;

(e) Factors that~~[which]~~ influence effectiveness or lead to such problems as resistance to pesticides; and

(f) Dilution procedures;~~;~~

(6) Equipment, including consideration of the following factors:

(a) Types of pesticide application equipment and advantages and limitations of each; and

(b) Uses, maintenance, and calibration of equipment;~~;~~

(7) Application techniques, factors including:

(a) Methods used to apply various formulations of pesticides, solutions, and gases together with a knowledge of which technique or application to use in a given situation;

(b) Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse; and

(c) Prevention of drift and pesticide loss into the environment;~~;~~ and;

(8) Laws and regulations. Knowledge of pertinent aspects of the Federal Environmental Pesticides Control Act, 7 U.S.C. 136, and KRS Chapter 217B.

Section 5. Specific Standards of Competency. In addition to meeting the requirements of Sections 3 and 4 of this administrative regulation, persons requesting certification for a specific category shall demonstrate competence relating to that category as established in subsections (1) through (12) of this section.~~;~~follows:

(1) Category 1. Agricultural. This category shall be subdivided as follows:

(a) Plant and animal.

~~1.~~ Persons requesting agricultural plant and animal certification shall demonstrate practical knowledge of crops and specific pests of those crops for which they could~~[may]~~ be using pesticides.

~~2.~~ Practical knowledge shall be required concerning soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, nontarget injury, and community problems resulting from the use of pesticides in agricultural areas.

~~3.~~ The person~~[They]~~ shall demonstrate practical knowledge of

agricultural animals and their associated pests.

4. A practical knowledge shall also be required concerning specific pesticide toxicities and residue potentials because[since] host animals will frequently be used for food.

5.[Further,] The person shall know the relative hazards associated with such factors as formulation, application techniques, age of animals, stress, and extent of treatment.

(b) Agricultural fumigation. This category shall include persons requesting agricultural fumigation certification. The person[They] shall demonstrate practical knowledge of the use of pesticide gases and fumigants in the treatment of enclosed areas used for the production, storage, or transportation of agricultural commodities and the use of pesticide gases and fumigants in preparing land for the production of agricultural commodities and for the control of pests in growing agricultural commodities.

(2) Category 2. Forestry. Persons requesting forest certification shall demonstrate practical knowledge of types of forests, forest nurseries, seed production in the Commonwealth, and the pests involved therein.

(a) The person[They] shall possess practical knowledge of the cyclic occurrence of certain pests and their specific population dynamics as a basis for programming pesticide applications.

(b) A practical knowledge shall be required of the relative biotic agents and their vulnerability to the pesticides to be applied.

(c) Because forest stands can[may] be large and frequently include natural aquatic habitation and harbor wildlife, the consequences of pesticide use can[may] be difficult to assess. The applicator shall therefore, demonstrate practical knowledge of control methods that[which] will minimize the possibility of secondary problems such as unintentional effects on wildlife.

(d) Proper use of specialized equipment shall be demonstrated, especially as it might[may] relate to meteorological factors and adjacent land use.

(3) Category 4. Seed treatment. Persons requesting seed treatment certification shall demonstrate practical knowledge of the types of seeds that require chemical protection against pests and factors such as seed coloration, carriers, and surface active agents that[which] influence pesticide binding and can[may] affect germination.

(b) The person[They] shall demonstrate practical knowledge of the hazards associated with handling, sorting, mixing, misuse of treated seed such as introduction of treated seed into food and feed channels, and proper disposal of unused treated seeds.

(4) Category 5. Aquatic. Persons requesting aquatic certification shall demonstrate practical knowledge of the secondary effects that[which] can be caused by improper application rates, incorrect formulations, and faulty application of pesticides used in this category.

(a) The person[They] shall demonstrate practical knowledge of various water-use situations and potential pesticide effects on plants, fish, birds, beneficial insects, and other organisms that can[which may] be present in aquatic environments.

(b) The person shall[They shall also] demonstrate practical knowledge of the principles of limited-area application.

(5) Category 6. Right-of-way. Persons requesting right-of-way certification shall demonstrate practical knowledge of a wide variety of environments because[since] rights-of-way can traverse many different terrains, including waterways.

(a) The person[They] shall demonstrate practical knowledge of problems of run-off, drift, excessive foliage destruction, and the ability to recognize target organisms.

(b) The person[They] shall also demonstrate practical knowledge of the nature of herbicides, the need for containment of these pesticides within the right-of-way area, and the impact of their application activities upon the adjacent areas and communities. ~~(6) Category 9. Regulatory. Persons applying for certification in this category shall demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulation of pests, and the potential impact on the environment of pesticides used in suppression and eradication programs. They shall demonstrate knowledge of factors influencing introduction, spread, and population dynamics of relevant pests. Their knowledge shall extend beyond that required by their immediate~~

~~duties since their services are frequently required in other areas of the country where emergency measures are invoked to control regulated pests and where individual judgments must be made.]~~

~~(6)[(7)] Category 10. Demonstration and research. Persons demonstrating the safe and effective use of pesticides to other persons and the public shall comply with this administrative regulation/meet comprehensive standards reflecting a broad spectrum of pesticide use.~~

(a) Practical knowledge of problems, pests, and population levels occurring in each demonstration situation shall be required.

(b) The person[Further, they] shall demonstrate an understanding of pesticide-organism interactions and the importance of integrating pesticide use with other control methods.

(c) In general, persons conducting demonstration pest control work shall possess a practical knowledge of all of the standards detailed in this administrative regulation.

~~(7)[(8)] Category 11. Aerial certification. Persons applying pesticides using aircraft shall obtain aerial certification.~~

(a) Aerial applicators shall possess knowledge of aerial application equipment and calibration of that equipment, spray efficiency testing, field flight patterns, swath markings, turning procedures and subsequent considerations, awareness of obstacles and obstructions, personal safety of pilot, flagman, and ground crew, and preflight checklists of spray personnel.

(b) The person[Persons] obtaining certification in this category shall also be certified in at least one (1) other category of pesticide use as appropriate for their business.

~~(8)[(9)] Category 12. Pesticide sales agent. Persons desiring certification in this category shall demonstrate practical knowledge of pesticide labels and label comprehension including environmental hazards, rates of application, proper application techniques, storage, shipping, handling, worker protection safety issues, and the different types of pesticides.~~

~~(9)[(10)] Category 13. Antifouling marine paint. Persons desiring certification in this category shall demonstrate practical knowledge of the principles and practices of using antifouling paints, including toxicity to humans and nontarget organisms via common exposure routes; proper cleaning, disposal and containment techniques; climatic factors that can[may] influence environmental hazards; common types and features of target and nontarget aquatic or marine [aquatic/marine] organisms; proper handling, mixing, and application procedures; and the laws and regulations governing pesticides and antifouling paints. [(14)]~~

~~Category 14. Pest control consultant. Persons desiring certification in this category shall demonstrate practical knowledge of soils, plant identification, pest identification, and soil fertility and have knowledge of pesticides for the purpose of controlling insect pests, plant diseases, weeds, and other pests.]~~

~~(10)[(12)] Category 15. Antimicrobial pest control. Persons desiring certification in this category shall demonstrate practical knowledge of disinfecting, sanitation, reduction or mitigation of growth or development of microbiological organisms; protection of inanimate objects, industrial processes, systems or services, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, virus, fungi, protozoa, algae, or slime.~~

(a) Water and wastewater treatment plant operators shall be included in this category.

(b) This category shall not include homeowners maintaining personal swimming pools.

~~(11)[(13)] Category 16. Sewer root control. Persons desiring certification in this category shall demonstrate practical knowledge of the safe handling and proper application of sewer root control chemicals, including practical knowledge of root growth and biology, equipment type and calibration procedures, proper pesticide handling, mixing and application procedures, proper use and maintenance of personal protective equipment, toxicity of root control pesticides to human and nontarget organisms via common exposure routes, proper cleaning, disposal and containment techniques, effects of root control pesticides on ground water, sewage treatment plants, septic tanks, holding tanks, lift stations, and other sewage treating, conveying, or handling equipment, environmental effects, factors that can[may] lead to a hazardous~~

condition, and the laws and administrative regulations that cover pesticide use.

~~(12)~~~~(14)~~ Category 17. Wood preservative. Persons desiring certification in this category shall demonstrate practical knowledge in the use of wood preservatives, air monitoring procedures, personal protective clothing and equipment, hygiene, related health and safety measures, emergency procedures, and practices necessary to prevent environmental contamination.

Section 6. Certification Maintenance. (1) To maintain certification, each person certified under this administrative regulation, other than a private applicator, shall in any three (3) year period, attend at least twelve (12) continuing education units of training for a single category, approved by the department, in the use and application of pesticides.

(2) The training shall consist of nine (9) continuing education units of training based on Section 4 of this administrative regulation, and three (3) continuing education units of training based on Section 5 of this administrative regulation.

(3) For each additional category, in addition to the single category held by the person, an additional three (3) continuing education units based on Section 5 of this administrative regulation, shall be required.

(4) Nine (9) continuing education units of training based on Section 4 of this administrative regulation, shall be required to maintain certification regardless of how many additional categories a person holds.

(5)~~[may hold.]~~ Credit shall be given in full continuing education units only.~~[All persons holding certification in any category on the effective date of this administrative regulation shall begin a new three (3) year training period beginning January 1 after the effective date of this administrative regulation. All certifications in effect on the effective date of this administrative regulation shall be renewed with an expiration date of December 31, 2005.]~~

Section 7. Private Applicators.

(1) Standards of certification of private applicators. Compliance with the~~[following]~~ standards established in paragraphs (a) through (i) of this subsection shall qualify a person for certification as a private applicator. A private applicator may purchase, use, or apply pesticides in his or her capacity as a private applicator. As a minimum requirement for certification, a person who desires certification as a private applicator shall show that he or she possesses a practical knowledge of the pest problems and pest control practices associated with the applicable~~[his]~~ agricultural operations,~~[including but not limited to:]~~ proper storage, use, handling, and disposal of the pesticides and containers. This practical knowledge shall include the ability to:

(a) Recognize common pests to be controlled and damage caused by them;

(b) Read and understand the label and labeling information, including the common names of the pesticides, pests to be controlled, timing and methods of application, safety precautions, any preharvest and reentry restrictions, and specific disposal procedures;

(c) Apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentration of pesticide to be used under particular circumstances, taking into account such factors as area to be covered, speed at which application equipment will be driven, and the quantity dispersed in a given period of operation;

(d) Recognize local environmental situations that shall be considered during application to avoid contamination;

(e) Recognize poisoning symptoms and procedures to follow in case of a pesticide accident;

(f) Demonstrate knowledge of the standards for the supervision of noncertified persons established by 40 C.F.R. 171;

(g) Understand the practical application of the Worker Protection Standards, 40 C.F.R. 156 and 170, FIFRA;

(h) Properly select and use personal protective equipment for handling and application of pesticides; and

(i) Know and understand the standards and administrative regulations for the storage of pesticides and fertilizer, including

bulk fertilizer or pesticide.

(2) Verification of competence. Competence of private applicators shall be verified by means of a training program administered by county extension agents.

(a) Audio-visual training shall be given accompanied by study of the private applicator training pamphlet.

(b) Included in the pamphlet shall be self-quizzes with answers to be used by the applicators to assess their own progress.

(c) Following completion of training, a certification competency statement shall be signed by the instructor and forwarded to the department or its designated representative.

(d) Certification credentials shall then be transmitted to the applicator by the department or its designated representative.

(e) Training shall be based on the [Core Manual] published by the United States Environmental Protection Agency.

(f) Private applicators may request a written competency test as an alternate means of certification.

(g) Private applicators shall be required to be recertified every three (3) years.

Section 8. Credentials. If a person meets all the requirements to obtain a category-specific license under KRS Chapter 217B and this administrative regulation, the department shall issue a document signifying that he or she is licensed and certified in the category for which he or she qualifies.

(1) Inactive status.

(a) If an applicator or operator, for any reason, changes status and is no longer employed by a dealer but elects to maintain his or her license, the licensee shall~~[he may]~~ do so by advising the department of the change and the reason for the change.

(b) The department shall then issue to that person a notification that the~~[his]~~ license shall~~[will]~~ be held in inactive status.

(c) The license holder shall be required to maintain certification and pay the annual renewal fee.

(d) The licensee shall not be required to register as a dealer or be permitted to perform any type of regulated activity until the license is reactivated and properly assigned to a dealer.

(2) Employee license and certification.

(a) An employee of the Kentucky Department of Agriculture ~~[employed after the effective date of this administrative regulation]~~ shall not obtain or maintain any pesticide license or certification other than a noncommercial license or private applicator certification during the term of [his] employment with the department unless required by the department in the performance of [his] official duties.

(b) Any pesticide license other than a noncommercial license obtained by an employee~~[prior to the effective date of this administrative regulation]~~ shall be placed in inactive status for the duration of his or her employment with the department unless required by the department in the performance of [his] official duties.~~[Section 9. Effective Date. The effective date of this administrative regulation shall be July 1, 2002.]~~

RYAN F. QUARLES, Commissioner

APPROVED BY AGENCY: January 14, 2019

FILED WITH LRC: January 14, 2019 at 4 p.m.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 782-0284, fax (502) 564-2133, email clint.quarles@ky.gov.

GENERAL GOVERNMENT CABINET
Department of Agriculture
Office of Consumer and Environmental Protection
(As Amended at ARRS, March 11, 2019)

302 KAR 27:060. Fine schedule for violation of KRS 217B.120.

RELATES TO: KRS 217B.120, 40 C.F.R. 170

STATUTORY AUTHORITY: KRS 217B.050, 217B.193,

217B.990

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.193 requires the Commissioner of the Department of Agriculture to promulgate an administrative regulation establishing a schedule of civil penalties for violations established[set forth] in KRS 217B.120. This administrative regulation establishes a system of regulatory fines pursuant to the violations established[set forth] in KRS 217B.120.

Section 1. Notice of Violation and Abatement of Violation Pursuant to KRS 217B.193.

(1) The Department of Agriculture shall, in accordance with KRS 217B.193(1), cause a notice of violation to be issued to persons, license holders, or registration holders found to be in violation of KRS 217B.120, 302 KAR 31:040, or[and] 40 C.F.R. 170~~[and Section 2 of this administrative regulation in the manner required by KRS 217B.193(1)]~~.

(2) In addition to the information required to be set out in the notice of violation pursuant to KRS 217B.193, the department shall notify the person, license holder, permit holder, registration holder, or certificate holder that:

(a) Except for good cause shown, an administrative fine in the amount established[specified] in Section 2 of this administrative regulation shall be assessed if the violation is not corrected within the time specified in the notice of violation;

(b) He or she shall have thirty (30) days to request a hearing on assessment of the fine pursuant to KRS 217B.203 and 217B.990(2); and

(c) The request for hearing shall be mailed to the Kentucky Department of Agriculture, Director, Division of Pesticide Regulation, Frankfort, Kentucky 40601.

(3) The period for abatement of a violation shall commence on the day the notice of violation is issued pursuant to KRS 217B.193(1).

(4) The department may allow additional time for abatement of a violation, not to exceed the maximum time established[set forth] in KRS 217B.193, if it is determined that the violation cannot be corrected within the time period specified in the notice of violation.

(5) The [Kentucky] Enforcement Response Policy~~[as incorporated by reference]~~ shall act as the guide for implementation of enforcement actions, mitigation and penalty adjustments in all actions of this section.

Section 2. (1) Except as established in Section 3 of this administrative regulation, administrative fines for each first violation of KRS 217B.120, 302 KAR 31:040, and 40 C.F.R. 170 shall be:

- (a) \$200 for a violation of KRS 217B.120(1);
- (b) \$100 for a violation of KRS 217B.120(2);
- (c) \$200 for a violation of KRS 217B.120(3);
- (d) \$100 for a violation of KRS 217B.120(4);
- (e) \$100 for a violation of KRS 217B.120(5);
- (f) \$100 for a violation of KRS 217B.120(6);
- (g) \$100 for a violation of KRS 217B.120(7);
- (h) \$200 for a violation of KRS 217B.120(8);
- (i) \$100 for a violation of KRS 217B.120(9);
- (j) \$100[Fifty (50) dollars]~~[\$50]~~ for a violation of KRS 217B.120(10);
- (k) \$200 for a violation of KRS 217B.120(11);
- (l) \$100 for a violation of KRS 217B.120(12);
- (m) \$200 for a violation of KRS 217B.120(13);
- (n) \$200 for a violation of KRS 217B.120(14);
- (o) \$200 for a violation of KRS 217B.120(15);
- (p) \$100 for a violation of KRS 217B.120(16);
- (q) \$200 for a violation of KRS 217B.120(17);
- (r) \$100 for a violation of KRS 217B.120(18);
- (s) \$200 for a violation of KRS 217B.120(19);
- (t) \$200 for a violation of KRS 217B.120(20);
- (u) \$200 for a violation of KRS 217B.120(21);
- (v) \$200 for a violation of KRS 217B.120(22);
- (w) \$200 for a violation of 302 KAR 31:040; and
- (x) \$200 for a violation of 40 C.F.R. 170.

(2) For each application violation, which is the same as the initial violation as established in subsection (1) of this section, the fine shall be \$1,000~~[a second violation, which is the same as the first violation in subsection (1) of this section and occurring within sixty (60) days of assessment of the first violation, the fine shall be doubled]~~.

~~(3) For a third violation, which is the same as the first violation in subsection (1) of this section and occurring within ninety (90) days of assessment of the first violation, the fine shall be tripled.~~

~~(4) A fourth violation, which is the same as the first violation in subsection (1) of this section and occurring within 120 days of assessment of the first violation, may result in the suspension or revocation of a license, permit, registration or certification pursuant to KRS 217B.120.]~~

~~(3)[(5)]~~ Penalties shall not be assessed or enhanced pursuant to this section if the licensee or certificate holder abates the violation within the period set by the department pursuant to KRS 217B.193.

~~(4)[(6)]~~ Nothing in this section shall prohibit the department from suspending or revoking a license, permit, registration, or certification at any time pursuant to KRS 217B.120.

Section 3. ~~[Notwithstanding Section 2,]~~ A violation of KRS 217B.120(2) for each application of products containing Dicamba shall result in a fine of \$100~~[have the following administrative fines:]~~:

(1) For the first violation, the fine shall be fifty (50) dollars per acre based on the acres where the application was made, with a maximum administrative fine of \$1,000[\$5,000 dollars].~~[(2) For the second violation, the fine shall be sixty (60) dollars per acre based on the acres where the application was made, with a maximum administrative fine of 10,000 dollars.~~

(3) For the third or subsequent violation, the fine shall be seventy (70) dollars per acre based on the acres where the application was made, with a maximum administrative fine of 15,000 dollars.]

Section 4[3]. Failure to pay any fine, within thirty (30) days of the end of the time period established[prescribed] in Section 1 of this administrative regulation, shall result in a suspension or revocation of a license, permit, registration, or certification pursuant to KRS 217B.120.

Section 5[4]. (1) Each office or branch office shall be treated as a separate entity for the purposes of enforcing the fine and penalty-enhancing provisions established[contained] in Section 2 of this administrative regulation.

(2) The fines or penalties shall not be enhanced unless the subsequent violations in Section 2 of this administrative regulation are committed in the same branch or office in which the first violation occurred.~~[Section 5. Effective Date. The effective date of this administrative regulation shall be July 1, 2002.]~~

Section 6. Incorporation by Reference.

(1) ~~[The]~~ [Kentucky] Enforcement Response Policy", ~~[(April 1999, Revised)]~~ October 20, 2000~~[,]~~ is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Division of Pesticide Regulation, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

RYAN F. QUARLES, Commissioner

APPROVED BY AGENCY: January 14, 2019

FILED WITH LRC: January 14, 2019 at 4 p.m.

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GENERAL GOVERNMENT CABINET
Department of Agriculture
Office of Consumer and Environmental Protection
(As Amended at ARRS, March 11, 2019)

302 KAR 28:010. Definitions for 302 KAR Chapter 28.

RELATES TO: KRS Chapter 217B, 7 U.S.C. 136 et seq.

STATUTORY AUTHORITY: KRS 217B.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate administrative regulations to implement the provisions of KRS Chapter 217B. This administrative regulation establishes definitions that[which] apply to 302 KAR Chapter 28, which implements the provisions of KRS Chapter 217B.

Section 1. Definitions.

(1) "Accident" means an unexpected, undesirable event caused by the use or presence of a pesticide that adversely affects man or the environment.

(2) "Agricultural commodity" means any plant~~[,]~~ or part thereof, or animal[animals] or animal products~~, produced;~~

(a) By[persons, including] farmers, ranchers, grape growers, plant propagators, Christmas tree growers, aquaculturists, orchardists, foresters, or other comparable persons; and
(b)[,] Primarily for sale.

(3) "Application" means placing of a pesticide for effect, including mixing and loading.

(4) "Bulk fertilizer" means dry or liquid fertilizer in any unpackaged quantity.

(5) "Bulk pesticide" means a pesticide that is held in a nonmobile container in an undivided quantity greater than:

- (a) 300 U.S. gallons of liquid measure; or
- (b) 300 U.S. pounds of net dry weight.

(6) "Calibration" means adjustment of dispersal or output of application to control the rate of dispersal and droplet or particle size of a pesticide dispersed by the equipment.

(7) "Certification" or "certified" means recognition by the department that a person has demonstrated a minimum level of competence by examination and continuing education units and is authorized to use or supervise the use of pesticides in the area of [his] certification.

(8) "Common exposure route" means a probable manner[,] oral, dermal, or respiratory) by which a pesticide can[may] reach or enter an organism.

(9)[(8)] "Compatibility" means that chemical property of a pesticide which permits use with other chemicals without undesirable results being caused by the combination.

(10)[(9)] "Competent" means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and the associated responsibility.[(10) "Common exposure route" means a probable manner, oral, dermal, or respiratory by which a pesticide may reach or enter an organism.]

(11) "Continuing education unit" means one (1) contact instructional hour of fifty (50) minutes.

(12) "Department", unless otherwise specified, means the Kentucky Department of Agriculture.

(13) "Environment" means water, air, land, plants, man and other animals living therein, and the interrelationships that[which] exist among them.

(14) "Faulty, careless, or negligent manner" means any act or omission, which has or can[may] have, a deleterious effect on any person or property resulting from application or use of pesticides inconsistent with label instructions or standards established by 302 KAR Chapter 28 or KRS Chapter 217B.

(15) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 et seq.

(16) "Forest" means a concentration of trees and related vegetation in nonurban areas characterized by natural terrain and drainage patterns.

(17) "Hazard" means a probability that a given pesticide will have an adverse effect on man or the environment in a given situation

with[,] the relative likelihood of danger or ill effect being dependent on a number of interrelated factors present at any given time.

(18) "Host" means any plant or animal on or in which another plant or animal lives for nourishment, development, or protection.

(19) "Inactive status" means holding in reserve a license held by a person not actively engaged in pesticide sales or application.

(20) "Interior plantscapes" means ornamentals in the interior of a building.

(21) "Nontarget organism" means a plant or animal other than the one against which the pesticide is applied.

(22) "Ornamental" means trees, shrubs, and other plantings, except agricultural commodities, in and around habitations generally, but not necessarily located in urban and suburban areas, including residences, parks, streets, retail outlets, industrial, and institutional buildings.

(23) "Practical knowledge" means the comprehension of and ability to see pertinent facts in dealing with specific problems and situations.

(24) "Protective equipment" means clothing or any other materials or devices that shield against unintentional exposure to pesticides.

(25) "Regulated pest" means an organism for which restrictions, administrative regulations, or control procedures are in effect to protect the host, man, or the environment.~~[(26) "Remote pesticide sales agent" means a person located outside of the Commonwealth of Kentucky who sells or distributes restricted use pesticides for delivery within the Commonwealth of Kentucky, or sells and makes recommendations for the use or application of pesticides to the final user accepting delivery within the Commonwealth of Kentucky.]~~

~~(27) "Resident pesticide sales agent" means a person located within the Commonwealth of Kentucky who sells or distributes restricted use pesticides or sells and makes recommendations for the use or application of pesticides to the final user.]~~

~~(26)[(28)] "Sports turf":~~

(a) Means any land area covered with turf on which sports activities occur; and

(b) Does not mean[, but does not include] Golf courses.

(27)[(29)] "Standard" means the level of knowledge and ability [which must be] demonstrated as a requirement for certification.

(28)[(30)] "State" means the Commonwealth of Kentucky.

(29)[(31)] "Structure" means any building, regardless of its design or type of construction, public or private, vacant or occupied.

(30)[(32)] "Susceptibility" means the degree to which an organism is affected by a pesticide at a particular level of exposure.

(31)[(33)] "Toxicity" means the property of a pesticide that causes any adverse physiological effects on a living organism.[Section 2—Effective Date. The effective date of this administrative regulation shall be July 1, 2002.]

RYAN F. QUARLES, Commissioner

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GENERAL GOVERNMENT CABINET
Department of Agriculture
Office of Consumer and Environmental Protection
(As Amended at ARRS, March 11, 2019)

302 KAR 28:020. General provisions.

RELATES TO: KRS Chapter 217B, 7 U.S.C. 136 et seq.

STATUTORY AUTHORITY: KRS 217B.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate administrative regulations to implement the provisions of KRS Chapter 217B. This administrative regulation establishes requirements for recordkeeping, the storage and handling of pesticides, trainee supervision, and certification denial, suspension, modification, or revocation.

Section 1. Pesticide Sales Agents.~~[There shall be two (2) classifications of pesticide sales agent licenses: resident pesticide sales agent and remote pesticide sales agent.]~~

(1) A person~~[located within the Commonwealth of Kentucky]~~ who sells or distributes restricted use pesticides or sells and makes recommendations for the use or application of pesticides to the final user ~~within the Commonwealth of Kentucky~~ shall be licensed as a ~~[resident] pesticide sales agent. [(2) A person located outside the Commonwealth of Kentucky who sells or distributes restricted use pesticides for delivery within the Commonwealth of Kentucky or sells and makes recommendations for the use or application of pesticides to the final user accepting delivery within the Commonwealth of Kentucky shall be licensed as a remote pesticide sales agent.~~

(3) A person located outside the Commonwealth of Kentucky and employed by a dealer registered in Kentucky may be licensed as a resident pesticide sales agent.]

~~[(4)]~~ A ~~[resident pesticide sales agent license or remote] pesticide sales agent license~~ shall not be issued unless the applicant holds a valid Category 12 certification as ~~established~~**[provided]** in 302 KAR 28:050.

~~[(5)]~~ An employee or agent of a manufacturer who sells pesticides solely to a dealer for redistribution or resale shall be exempt from licensure under this ~~administrative~~ regulation.

Section 2. Recordkeeping Requirements.

(1) Pesticide sales agents.~~[A remote pesticide sales agent shall provide his license number to the purchaser at the commencement of the transaction and upon delivery of the pesticides, and shall have and maintain a system to ensure restricted use pesticides are delivered only to properly certified individuals.] A [resident pesticide sales agent or remote] pesticide sales agent who is not employed by a dealer shall maintain the following records with respect to each sale of restricted use pesticides, with copies submitted monthly to the Department of Agriculture, Division of Pesticide Regulation, Frankfort, Kentucky 40601.:~~

- (a) Brand, amount, and type of restricted use pesticide sold;
- (b) Buyer's name and address;
- (c) Certification number of the purchaser; and
- (d) Intended use: target pest or resale.

(2) Dealers. Each dealer or branch office, in the location where the pesticides are sold, shall maintain the following records with respect to each sale of restricted use pesticides:

- (a) Brand, amount, and type of restricted use pesticide sold;
- (b) Buyer's name and address;
- (c) Certification number of the purchaser; and
- (d) Intended use: target pest or resale.

(3) Noncommercial applicators, pesticide operators, and pesticide applicators. Unless regulated by KRS 217B.300 or 217B.320, all noncommercial applicators, pesticide operators, and pesticide applicators who apply pesticides shall maintain the following records:

- (a) Name and address of person receiving services;
- (b) Brand or product name of pesticide applied;
- (c) Date of application;
- (d) Purpose of application;
- (e) Size of area treated;
- (f) Crop, commodity, stored product, or type of area treated;
- (g) Name and certification number of applicator;
- (h) EPA registration number;
- (i) Location of application; ~~[and]~~
- (j) Total amount of each pesticide applied.;
- (k) If application made by a trainee, the names of the trainee and supervisor; and

(l) Any other record as required by the label.

(4) Retention.

(a) All persons required to maintain records under subsections (1) and (2) of this section shall retain the records for a period of **at least** two (2) years from the date of sale.

(b) All persons required to maintain records under subsection (3) of this section shall retain the records for a period of **at least** three (3) years from the date of use or application.

(c) Maintenance of duplicate records shall not be required.

(d) If a use or application of a restricted use pesticide is made in

the name of a person or business entity, then maintenance of only one (1) set of records for each job or use shall be required by that person or business entity, even though one (1) or more persons may have used or applied pesticides.

(5) Availability. Records required under this section shall be made available to the department upon request or for dealers and branch offices, as ~~established~~**[prescribed]** in KRS 217B.105(7).

Section 3. Storage and Handling of Pesticides.

(1) Applicability. This administrative regulation shall apply to all persons who have occasion to store restricted use pesticides or persons who have occasion to store any pesticides for the purpose of redistribution or direct resale.

(2) Standards for storage of pesticides.:

(a) Sites for the storage of pesticides shall be of sufficient size to store all stocks in designated areas.:

(b) Storage sites shall be cool, dry, and airy or have a ventilation system installed to reduce concentrations of toxic fumes and to regulate temperatures and moisture. If a ventilation system is installed to reduce fumes, heat, or moisture, the ventilation exhaust shall not connect with offices or other areas frequented by people.:

(c) Storage sites shall be adequately lighted so that labels and label information can be easily read.:(d) ~~Storage sites shall comply with applicable fire codes.]~~

~~[(e)]~~ Floor sweep compound of ~~adsorptive~~**[adsorptic]** clay, sand, sawdust, hydrated lime, or similar materials shall be kept on hand to absorb spills or leaks. The contaminated material shall be disposed of per label directions.

~~[(f)]~~ Restricted use pesticides shall be located in designated and segregated areas apart from general use pesticides. These segregated areas may remain open if the entire storage area is locked ~~while~~**[when]** authorized personnel cannot control access to the area. Entrance to these segregated areas shall be plainly labeled on the outside with signs containing the words "pesticide storage area" and "danger" or "poison".~~[(3) Standards for storage of bulk fertilizer or bulk pesticides. Any person who has cause to store bulk fertilizer or bulk pesticides shall meet the standards and requirements set out in 302 KAR 31:040.~~

~~[(4) Standards for transportation of pesticides. All pesticides transported on or in vehicles owned or operated by dealers, pesticide operators, pesticide applicators, or noncommercial applicators shall be transported consistent with 49 U.S.C. 51.]~~

Section 4. Supervisory Requirements. A trainee who applies pesticides shall have direct ~~on-the-job~~**[on-the-job]** supervision as defined ~~by~~**[in]** KRS 217B.040(28).

Section 5. Denial, Suspension, or Revocation of Pesticide Certification. The department shall review for possible denial, suspension, or revocation, the license or certification of any person if the licensee or certified person has been convicted or is subject to a final order imposing a civil or criminal penalty pursuant to Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act, **7 U.S.C. 136 et seq[of 1972, as amended, 7 U.S.C. 14]**.~~[Section 6. Registered Pesticide Equipment Identification. The equipment owner shall notify the department if equipment registered under KRS 217B.170 is permanently transferred from the original registering location or is permanently removed from active pesticide application service. The owner shall be responsible for removing the decal when the equipment is permanently removed from active pesticide application or is permanently transferred out of the state.~~

Section 7. Effective Date. The effective date of this administrative regulation shall be July 1, 2002.]

RYAN F. QUARLES, Commissioner

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GENERAL GOVERNMENT CABINET
Department of Agriculture
Office of Consumer and Environmental Protection
(As Amended at ARRS, March 11, 2019)

302 KAR 28:030. Ornamental and interior plantscape posting.

RELATES TO: KRS Chapter 217B
STATUTORY AUTHORITY: KRS 217B.050
NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate administrative regulations to implement the provisions of KRS Chapter 217B. This administrative regulation establishes ornamental and interior plantscape posting requirements.

Section 1. Applicability. Any operator or applicator who applies pesticides to ornamentals or interior plantscapes shall:

(1) Immediately following application of pesticides to ornamentals or interior plantscapes, place a marker at a prominent location in the ornamentals or interior plantscapes. The sign shall read "PESTICIDES HAVE BEEN APPLIED - PLEASE STAY OUT OF TREATED AREA" in letters easily readable and not less than three-eighths (3/8) inches in height. The marker may also display a symbol depicting the required message and the name, logo, and service mark of the applicator. Posting requirements shall not apply if plants that are in interior plantscapes are taken off-site for pesticide application and not returned until the plants have adequately dried.~~;~~^[f]

(2) Provide prior notification to the customer or adjoining residents in writing, in person, or by telephone if requested, of the date and approximate time of the application. If an operator is not able to provide prior notification to a customer or adjoining residence due to the absence or inaccessibility of the individual, the applicator shall leave a written notice at the residence.~~;~~^[f]

(3) Provide the customer with^[the following information].

(a) The brand name, or common name, of the pesticide applied;

(b) The pesticide type;

(c) The fertilize rate and analysis;

(d) The reason for use;

(e) ¹The concentration of end use product applied to the ornamental or interior plantscape;

² The rate of application^[f] and

³ The total gallons of end use product applied;

(f) Any precautionary or hazard information appearing on the label as applicable to the end use concentration;

(g) The name and license or certificate number of the individual actually making the application; and

(h) Customer name, address, and date of application.~~[Section 2. Effective Date. The effective date of this administrative regulation shall be July 1, 2002.]~~

RYAN F. QUARLES, Commissioner
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GENERAL GOVERNMENT CABINET
Department of Agriculture
Office of Consumer and Environmental Protection
(As Amended at ARRS, March 11, 2019)

302 KAR 28:040. Pesticide licenses for prison inmates.

RELATES TO: KRS Chapter 217B
STATUTORY AUTHORITY: KRS 217B.050, 217B.060
NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate

administrative regulations to implement the provisions of KRS Chapter 217B. This administrative regulation establishes procedures for the issuance of pesticide licenses to prison inmates.

Section 1. Prison Inmates.

(1) Except as ~~established~~^[provided] in subsection (2) of this section, prison inmates who have completed the requirements for licensing~~[as]~~ ~~established~~^[set-out] in 302 KAR 28:050 and KRS Chapter 217B^[,] and who have paid the appropriate fees, shall be issued a license, which ~~shall~~^[will] be held in inactive status until the inmate is released from incarceration, ~~or until the end of the three (3) year certification period, whichever is earliest.~~

(2) Prison inmates who are actively engaged in the application of pesticides for a prison shall be licensed in accordance with KRS 217B.090.~~[Section 2. Effective Date. The effective date of this administrative regulation shall be July 1, 2002.]~~

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GENERAL GOVERNMENT CABINET
Department of Agriculture
Office of Consumer and Environmental Protection
(As Amended at ARRS, March 11, 2019)

302 KAR 28:050. Pesticide certification and licensing.

RELATES TO: KRS Chapter 217B, 40 C.F.R. 156, 170, 7 U.S.C. 136 ~~et seq.~~

STATUTORY AUTHORITY: KRS 217B.050, 217B.060
NECESSITY, FUNCTION AND CONFORMITY: KRS 217B.050 requires the Department of Agriculture to promulgate administrative regulations to implement the provisions of KRS Chapter 217B. KRS 217B.060 authorizes the department to establish classifications of pesticide licenses. This administrative regulation establishes a system of certification for persons required to be licensed or certified under KRS Chapter 217B.

Section 1. Applicability.

(1) A person shall not be licensed to sell or apply pesticides unless^[they are]~~he is~~ certified in a category consistent with the sale or application. A person shall not purchase restricted use pesticides unless he ~~or she~~ is licensed or certified in a category consistent with the purchase.

(2) A pesticide operator, pesticide applicator, noncommercial applicator, or private applicator shall not apply any pesticide unless he ~~or she~~ is certified in a category consistent with the application, as ~~established~~^[provided] in this administrative regulation, with the exception of a registered trainee acting under the direct ~~on-the-job~~^[on-the-job] supervision of a certified person.

(3) The department may, after payment of all applicable fees, waive the certification requirement and issue a license to any person who holds a valid license in another state if the person is employed by a dealer registered in Kentucky and if ~~in the opinion of the department,~~ the other ~~state:~~^{(a) Has}^[state's] requirements^[are] substantially similar to that of Kentucky; and

^{(b) [the other state]} Agrees to reciprocate with Kentucky.

Section 2. Certification.

(1) Certification ~~shall~~^[may] be obtained from the department as a pesticide operator, noncommercial applicator, pesticide applicator, or pesticide sales agent pursuant to Section 3 of this administrative regulation, in the^[following] categories of pesticide use or application ~~as established in subsections (2) through (6) of this section.~~^[f]

(2) Category 3. Ornamental and lawn care.

(a) This category shall include persons applying pesticides or fertilizer to control insects, weeds, and diseases in residential and commercial lawns, and maintenance of ornamental trees, shrubs and flowers, including the control of pests that do not normally invade structures, such as bagworms, grubs, and moles.

(b) Certification in this category shall not qualify an applicator to make applications to sports turf or golf courses.

(3) Category 12. Pesticide sales agent. This category shall include any individual who sells or distributes restricted use pesticides or any individual who sells and makes recommendations for the use and application of pesticides to the final user.

(a) Category 12 certification as a pesticide sales agent under this administrative regulation shall meet the requirements of Category 12 certification under 302 KAR Chapters 27 and 29.

(b) ~~A person~~**[Persons]** taking orders or explaining service programs without naming or making recommendations for pesticide use shall be excluded from certification, if the person selling or distributing pesticides is licensed as a pesticide sales agent.

(4) Category 18. Golf course. This category shall include persons who apply pesticides or fertilizer to land on which turf and ornamental care is done for the purpose of preparing the land for use in the game of golf.

(5) Category 19. Interior Plantscapes. This category shall include persons using pesticides to control insects, weeds, and diseases in or on interior plantscapes, regardless of who owns the plants.

(6) Category 20. Sports turf.

(a) This category shall include persons applying pesticides to control insects, weeds, and diseases to or on turf on which sports activities occur.

(b) Certification in this category shall not qualify an applicator to make applications to golf courses.

Section 3. General Requirements. To obtain certification, a person shall take and pass, with a minimum score of seventy (70) percent, a certification examination in the category or categories in which certification is requested.

(1) Competency in the use and handling of pesticides shall be determined and based upon standards established in Sections 4 and 5 of this administrative regulation.

(2) The examination and testing shall include the general standards applicable to all categories and the additional standards specifically identified for each category or subcategory in which a person desires to be certified.

(3) A person shall pay an initial certification examination fee of twenty-five (25) dollars.

(4) ~~For a person~~**[For persons]** testing in multiple categories, there shall be an additional examination fee of ten (10) dollars for each additional category.

(5) Examination fees shall be charged each time a person takes a certification examination and shall be charged regardless of the passing or failing of the examination.

(6)(a) Upon successfully passing an exam, a person will have ninety (90) days from the date of testing to activate the licenses and certification requested.

(b) After ninety (90) days have expired, a person shall have to retake and pass the examination before activation of a license and certification **[may occur]**.

Section 4. General Standards of Competency. Testing shall be based on examples of problems and situations appropriate to the particular category or subcategory of the requested certification and may include the following areas of competency:

(1) Label and labeling comprehension, **including:**

(a) An understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labeling;

(b) Classification of the product, general or restricted; and

(c) Necessity for use consistent with the labeling;**[f.]**

(2) Safety factors, including:

(a) Pesticide toxicity, hazard to man, and common exposure routes;

(b) Common types and causes of pesticide accidents;

(c) Precautions necessary to guard against injury to applicator and other individuals in or near treated areas;

(d) Symptoms of pesticide poisoning;

(e) First aid and other procedures to be followed if a pesticide accident occurs;

(f) Proper identification, storage, transport, handling, mixing procedures, and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticide containers;

(g) Practical application of the Worker Protection Standards, 40 C.F.R. 156 and 170, FIFRA; and

(h) The proper selection and use of personal protective equipment for handling and application of pesticides;**[f.]**

(3) The potential environmental consequences of use and misuse of pesticides as **can[may]** be influenced by factors such as:

(a) Weather and other climatic conditions;

(b) Types of terrain, soil, or other substrata;

(c) Presence of fish, wildlife, and other nontarget organisms;

(d) Drainage patterns;

(e) Storage or use of pesticides and fertilizer including bulk fertilizer or pesticide; and

(f) Other nonchemical controls, including ~~but not limited to,~~ sanitation;**[f.]**

(4) Pest identification, including consideration of **[the following factors]:**

(a) Common features of pest organisms and characteristics of damage necessary to facilitate pest recognition; and

(b) Pest maturation and development as it may relate to the problem of identification and control;**[f.]**

(5) Pesticides, including consideration of **[the following factors]:**

(a) Types of pesticides;

(b) Types of pesticide formulations;

(c) Compatibility, synergism, persistence, and animal and plant toxicity of the formulation;

(d) Hazards and residues associated with use;

(e) Factors **that[which]** influence effectiveness or lead to **[such]** problems **such** as resistance to pesticides; and

(f) Dilution procedures;**[f.]**

(6) Equipment, including consideration of **[the following factors]:**

(a) Types of pesticide application equipment and advantages and limitations of each; and

(b) Uses, maintenance, and calibration of equipment;**[f.]**

(7) Application techniques; factors including:

(a) Methods used to apply various formulations of pesticides, solutions, and gases together with a knowledge of which technique or application to use in a given situation;

(b) Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse; and

(c) Prevention of drift and pesticide loss into the environment;**and[f.]**

(8) Laws and administrative regulations. Knowledge of pertinent aspects of the Federal Environmental Pesticides Control Act, 7 U.S.C. 136, and KRS Chapter 217B.

Section 5. Specific Standards of Competency.

(1) In addition to meeting the requirements of Sections 3 and 4 of this administrative regulation, persons requesting certification for a specific category shall demonstrate competence relating to that category as **established in subsections (2) through (6) of this section;[follows:]**

(2) Category 3. Ornamentals and lawn care. Persons requesting ornamental and lawn care certification shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamental trees, shrubs, plantings, and lawns, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift, and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this category shall demonstrate practical knowledge of application methods **that shall[which will]** minimize or prevent

hazards to humans, pets, and other domestic animals.

(3) Category 12. Pesticide sales agent. Persons requesting certification in this category shall demonstrate practical knowledge of the different types of pesticides, pesticide labels and label comprehension including environmental hazards, rates of application, proper application techniques, storage, shipping, handling, and worker protection safety issues.

(4) Category 18. Golf courses. Persons requesting certification in this category shall demonstrate practical knowledge of the safe handling and proper application of pesticides and fertilizers; practical knowledge of fungi, weeds, insect infestation, disease control, and fertility; proper use and maintenance of personal protective equipment; toxicity of pesticides to human and nontarget organisms; proper cleaning, disposal and containment techniques; effects of control pesticides on ground water; conveying or handling equipment; environmental effects; factors that can[may] lead to hazardous conditions; and the laws and administrative regulations that cover pesticide use.

(5) Category 19. Interior landscapes. Persons requesting certification in this category shall demonstrate practical knowledge of the safe handling and proper application of pesticides; practical knowledge of fungi, weeds, insect infestation, and disease control; proper use and maintenance of personal protective equipment; toxicity of pesticides to human and nontarget organisms; proper cleaning and disposal techniques; effects of pesticides on conveying and handling equipment; environmental effects; factors that may lead to hazardous conditions; and the laws and administrative regulations that cover pesticide use.

(6) Category 20. Sports turf. Persons requesting certification in this category shall demonstrate practical knowledge of the safe handling and proper application of pesticides; practical knowledge of fungi, weeds, insect infestation, and disease control; proper use and maintenance of personal protective equipment; toxicity of pesticides to human and nontarget organisms; proper cleaning and disposal techniques; effects of pesticides on conveying or handling equipment; environmental effects; factors that may lead to hazardous conditions; and the laws and administrative regulations that cover pesticide use.

Section 6. Certification Maintenance. To maintain certification, each person certified under this administrative regulation shall in any three (3) year period, attend at least twelve (12) continuing education units of training for a single category approved by the department in the use and application of pesticides.

(1) The training shall consist of nine (9) continuing education units of training based on Section 4 of this administrative regulation, and three (3) continuing education units of training based on Section 5 of this administrative regulation.

(2) For each additional category in addition to the single category held by the person, an additional three (3) continuing education units based on Section 5 of this administrative regulation, shall be required.

(3) Nine (9) continuing education units of training based on Section 4 of this administrative regulation, shall be required to maintain certification regardless of how many additional categories a person may hold.

(4) Credit shall be given in full continuing education units only.

(5) All persons holding certification in any category on the effective date of this administrative regulation shall begin a new three (3) year training period beginning January 1 after the effective date of this administrative regulation. ~~[All certifications in effect on the effective date of this administrative regulation shall be renewed with an expiration date of December 31, 2005.]~~

Section 7. Credentials. If a person meets all the requirements to obtain a category-specific license under KRS Chapter 217B and this administrative regulation, the department shall issue a document signifying that he or she is licensed and certified in the category for which he qualifies.

(1) Inactive status. If an applicator or operator, for any reason, changes status and is no longer employed by a dealer but elects to maintain licensure, he or she shall[his license, he may] do so by advising the department of the change and the reason for the

change.

(a) The department shall then issue to that person a notification that his or her license shall[will] be held in inactive status.

(b) The license holder shall be required to maintain certification and pay the annual renewal fee.

(c) The licensee shall not be required to register as a dealer or be permitted to perform any type of regulated activity until the license is reactivated and properly assigned to a dealer.

(2) Employee license and certification. An employee of the Kentucky Department of Agriculture ~~employed after the effective date of this administrative regulation]~~ shall not obtain or maintain any pesticide license or certification other than a noncommercial license or private applicator certification during the term of his or her employment with the department unless required by the department in the performance of ~~[his]~~ official duties. Any pesticide license other than a noncommercial license obtained by an employee ~~[prior to the effective date of this administrative regulation]~~ shall be placed in inactive status for the duration of ~~[his]~~ employment with the department unless required by the department in the performance of his official duties. ~~[Section 8. Effective Date. The effective date of this administrative regulation shall be July 1, 2002]~~

RYAN F. QUARLES, Commissioner

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GENERAL GOVERNMENT CABINET
Department of Agriculture
Office of Consumer and Environmental Protection
(As Amended at ARRS, March 11, 2019)

302 KAR 28:060. Fine schedule for violation of KRS 217B.120.

RELATES TO: KRS 217B.120, 40 C.F.R. 170

STATUTORY AUTHORITY: KRS 217B.050, 217B.193, 217B.585, 217B.990

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.193 requires the Commissioner of the Department of Agriculture to promulgate an administrative regulation establishing a schedule of civil penalties for violations established[set forth] in KRS 217B.120. This administrative regulation establishes a system of regulatory fines pursuant to the violations established[set forth] in KRS 217B.120.

Section 1. Notice of Violation and Abatement of Violation Pursuant to KRS 217B.193. (1) The Department of Agriculture shall, in accordance with KRS 217B.193(1), cause a notice of violation to be issued to persons, license holders, or registration holders found to be in violation of KRS 217B.120, 302 KAR 31:040, or[and] 40 C.F.R. 170[and Section 2 of this administrative regulation in the manner required by KRS 217B.193(1)].

(2) In addition to the information required to be set out in the notice of violation pursuant to KRS 217B.193, the department shall notify the person, license holder, permit holder, registration holder, or certificate holder that:

(a) Except for good cause shown, an administrative fine in the amount established[specified] in Section 2 of this administrative regulation shall be assessed if the violation is not corrected within the time specified in the notice of violation;

(b) He or she has thirty (30) days to request a hearing on assessment of the fine pursuant to KRS 217B.203 and 217B.990(2); and

(c) The request for hearing shall be mailed to the Kentucky Department of Agriculture, Director, Division of Pesticide Regulation, Frankfort, Kentucky 40601.

(3) The period for abatement of a violation shall commence on the day the notice of violation is issued pursuant to KRS 217B.193(1).

(4) The department may allow additional time for abatement of a violation, not to exceed the maximum time ~~established~~**[set forth]** in KRS 217B.193, if it is determined that the violation cannot be corrected within the time period specified as provided in the notice of violation.

(5) The ~~[Kentucky]~~ Enforcement Response Policy as incorporated by reference ~~in 302 KAR 27:060~~ shall act as the guide for implementation of enforcement actions, mitigation, and penalty adjustments in all actions of this section.

Section 2. (1) Administrative fines for each ~~application~~**[first]** violation of KRS 217B.120, 302 KAR 31:040, and 40 C.F.R. 170 shall be:

- (a) \$200 for a violation of KRS 217B.120(1);
- (b) \$100 for a violation of KRS 217B.120(2);
- (c) \$200 for a violation of KRS 217B.120(3);
- (d) \$100 for a violation of KRS 217B.120(4);
- (e) \$100 for a violation of KRS 217B.120(5);
- (f) \$100 for a violation of KRS 217B.120(6);
- (g) \$100 for a violation of KRS 217B.120(7);
- (h) \$200 for a violation of KRS 217B.120(8);
- (i) \$100 for a violation of KRS 217B.120(9);
- (j) ~~\$100[Fifty (\$0) dollars]~~**[\$50]** for a violation of KRS 217B.120(10);
- (k) \$200 for a violation of KRS 217B.120(11);
- (l) \$100 for a violation of KRS 217B.120(12);
- (m) \$200 for a violation of KRS 217B.120(13);
- (n) \$200 for a violation of KRS 217B.120(14);
- (o) \$200 for a violation of KRS 217B.120(15);
- (p) \$100 for a violation of KRS 217B.120(16);
- (q) \$200 for a violation of KRS 217B.120(17);
- (r) \$100 for a violation of KRS 217B.120(18);
- (s) \$200 for a violation of KRS 217B.120(19);
- (t) \$200 for a violation of KRS 217B.120(20);
- (u) \$200 for a violation of KRS 217B.120(21);
- (v) \$200 for a violation of KRS 217B.120(22);
- (w) \$200 for a violation of 302 KAR 31:040; and
- (x) \$200 for a violation of 40 C.F.R. 170.

~~[(2) For a second violation, which is the same as the first violation in subsection (1) of this section and occurring within sixty (60) days of assessment of the first violation, the fine shall be doubled.~~

~~[(3) For a third violation, which is the same as the first violation in subsection (1) of this section and occurring within ninety (90) days of assessment of the first violation, the fine shall be tripled.~~

~~[(4) A fourth violation, which is the same as the first violation in subsection (1) of this section and occurring within 120 days of assessment of the first violation, may result in the suspension or revocation, of a license, permit, registration, or certification pursuant to KRS 217B.120.]~~

~~[(2)]~~**[(5)]** Penalties shall not be assessed or enhanced pursuant to this section if the licensee or certificate holder abates the violation within the period set by the department pursuant to KRS 217B.193.

~~[(3)]~~**[(6)]** Nothing in this section shall prohibit the commissioner from suspending or revoking a license, permit, registration, or certification at any time pursuant to KRS 217B.120.

Section 3. Failure to pay any fine within thirty (30) days of the end of the time period prescribed in Section 1 of this administrative regulation, shall result in a suspension or revocation of a license, permit, registration, or certification pursuant to KRS 217B.120.

Section 4. Each office or branch office shall be treated as a separate entity for the purposes of enforcing the fine and penalty-enhancing provisions contained in Section 2 of this administrative regulation. The fines or penalties shall not be enhanced unless the subsequent violations in Section 2 of this administrative regulation are committed in the same branch or office in which the first violation occurred. ~~[Section 5.]~~**[Effective Date. The effective date of**

this administrative regulation shall be July 1, 2002.

Section 6. ~~[Incorporation by Reference.~~

~~(1) The "Kentucky Enforcement Response Policy" (April 1999, Revised October 20, 2000) is incorporated by reference.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Division of Pesticide Regulation, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

RYAN F. QUARLES, Commissioner

APPROVED BY AGENCY: January 14, 2019

FILED WITH LRC: January 14, 2019 at 4 p.m.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 782-0284, fax (502) 564-2133, email clint.quarles@ky.gov.

**DEPARTMENT OF AGRICULTURE
Office of Agricultural Marketing
(As Amended at ARRS, March 11, 2019)**

302 KAR 50:090. Enforcement, corrective action plans and mandatory reporting to state and federal agencies; [i] department to retain growing site information for at least three (3) years.

RELATES TO: KRS 260.850-260.869

STATUTORY AUTHORITY: KRS 260.862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.862(1)(a) authorizes the department to promulgate administrative regulations for any industrial hemp research pilot program in the Commonwealth of Kentucky. KRS 260.862(1)(c) authorizes the department to license persons who wish to participate in an industrial hemp research pilot program by cultivating, handling, processing, or marketing industrial hemp. This administrative regulation defines certain departmental enforcement duties with respect to individuals who are found to have violated the statutes and administrative regulations governing that person's participation in the department's hemp program.

Section 1. Definitions.

- (1) "Department" or "KDA" is defined by KRS 260.850(3).
- (2) "GPS" means Global Positioning System.
- (3) "Hemp" or "industrial hemp" is defined by KRS 260.850(5).
- (4) "Location ID" means the unique identifier established by the applicant for each unique set of GPS coordinates where hemp will be grown, handled, stored, or processed, which can include a field name or building name.
- (5) "Person" means an individual or business entity.
- (6) "Program" means the department's Industrial Hemp Program.

Section 2. Department to Collect and Retain Information About Growing Locations. The department shall collect ~~[i]~~ and retain ~~[i]~~ for a period of at least three (3) calendar years, Location ID information for every site or location where the department has approved hemp to be grown.

Section 3. Ineligibility of Persons Found to Have Negligently Violated ~~Requirements Three (3) or More~~**[Rules Three]** Times in a Five (5) Year Period. A person who is found by the department to have negligently violated any statute or administrative regulation governing that person's participation in the hemp program three (3) ~~or more~~ times in a five (5) year period shall be ineligible to hold a license for a period of five (5) years beginning on the date of the third violation.

Section 4. Corrective Action Plans for Negligent Violations.

- (1) In addition to being subject to the license suspension, license revocation, and monetary civil penalty procedures

~~established[set forth]~~ in 302 KAR 50:020 and 302 50:030, a person who is found by the department to have negligently violated any statute or administrative regulation governing that person's participation in the hemp program shall be subject to a corrective action plan at the discretion of the department.

(2) The department may impose a corrective action plan for a negligent violation of any statute or administrative regulation governing a person's participation in the hemp program, including without limitation:

(a) Failing to disclose~~[,]~~ or provide required information about, a site where hemp is being grown, processed, or stored;

(b) Failing to obtain a necessary license from the department or a necessary authorization from a state or federal agency; and

(c) Producing hemp or other cannabis with a delta-9 THC concentration of more than zero and three-tenths (0.3)[0.3] percent on a dry weight basis.

(3) Corrective action plans issued by the department shall include, at a minimum~~[, the following information]~~:

(a) A reasonable date by which the person shall correct the[his or her] violation; and

(b) A requirement for periodic reports from the person to the department about the person's compliance with the corrective action plan, statutes, and administrative regulations for a period of at least three (3) years from the date of the corrective action plan.

Section 5. Mandatory Reports to State and Federal Law Enforcement Agencies for Violations with a Culpable Mental State Greater than Negligence.

(1) In addition to being subject to the license suspension, license revocation, and monetary civil penalty procedures ~~established[set forth]~~ in 302 KAR 50:020 and 302 KAR 50:030, a person who is found by the department to have violated any statute or administrative regulation governing that person's participation in the hemp program with a culpable mental state greater than negligence shall be subject to the reporting requirements ~~established[set forth]~~ in this section.

(2) The department shall immediately report a person who is found by the department to have violated any statute or administrative regulation governing that person's participation in the hemp program with a culpable mental state greater than negligence to the following law enforcement agencies:

(a) The Attorney General of the United States;

(b) The commissioner of the Kentucky State Police; and

(c) The commander of the Kentucky State Police's Cannabis Suppression Branch.

Section 6. Department to Submit Growing Locations and Grower Licensee Information to United States Secretary of Agriculture.

(1) Not more than thirty (30) days after receiving and compiling the following information, the department shall provide~~[it]~~ to the United States Secretary of Agriculture or the secretary's designee:

(a) The licensed grower's name;

(b) The licensed grower's telephone number, email address, residential address, mailing address, or another form of contact information;

(c) The Location ID for each field, facility, or other place where hemp is licensed to be grown; and

(d) An indication whether or not the person's license is currently in good standing.

(2) The department shall provide real-time updates to the information that the department previously submitted pursuant to Section (1) of this administrative regulation.

RYAN F. QUARLES, Commissioner

APPROVED BY AGENCY: December 13, 2018

FILED WITH LRC: December 13, 2018 at 1 p.m.

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.

DEPARTMENT OF AGRICULTURE
Office of Consumer and Environmental Protection
(As Amended at ARRS, March 11, 2019)

302 KAR 85:010. Requirements to establish fee schedules for calibrations, adjustments, weights and measures.

RELATES TO: KRS 363.590, 363.610

STATUTORY AUTHORITY: KRS 363.590(1), 363.610~~[, 2006 Ky. Acts ch. 252, Part 1, A.22(4)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 363.590(1) requires the director of the division of weights and measures to ~~promulgate[issue]~~ administrative regulations for the enforcement of KRS 363.510 ~~through[te]~~ 363.850. KRS 363.610 authorizes the director to inspect and test, to ascertain accuracy~~[if they are correct]~~, all weights and measures kept, offered, or exposed for sale. ~~KRS 246.057[XXX]~~, 2006 Ky. Acts ch. 252, Part 1, A.22(4)] authorizes the department to promulgate administrative regulations establishing license fees, testing fees, and any other fees necessary to operate and maintain a metrology lab. This administrative regulation requires the department to inspect all weighing and measuring devices for accuracy and allows establishment of a fee system for the calibration and adjustments to these weighing and measuring devices.

Section 1. Application. The department shall inspect and calibrate all weighing and measuring devices in accordance with KRS 363.610.

(1) Each weighing and measuring device inspected shall be charged the following calibration fees:

(a)

		MASS (lbs.)		(weights)		
0-5	5.01-10	10.01-49	50-250	251-500	501-1000	1001-5000
\$5	\$7.50	\$15	\$20	\$35	\$50	\$100

(b)

		VOLUME (gal)		(gas cans & provers)	
5	25	50	100	500	1000
\$20	\$35	\$50 [\$70]	\$70 [\$50]	\$250	\$400

(2) Each weighing and measuring device that is out of tolerance and requires adjustment shall be charged the following fee for adjustment:

		MASS (lbs.)		(weights)		
0-5	5.01-10	10.01-49	50-250	251-500	501-1000	1001-5000
\$2.50	\$2.50	\$5	\$5	\$10	\$20	\$50

(a)

		VOLUME (gal)		(gas cans & provers)	
5	25	50	100	500	1000
\$5.00	\$5	\$10	\$25	\$50	\$100

(b) Three (3) Metric Equivalents shall be charged on the schedule established in subsections (1) and (2) of this section[1 and 2].

RYAN F. QUARLES, Commissioner

APPROVED BY AGENCY: December 11, 2018

FILED WITH LRC: January 7, 2019 at 11 a.m.

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JUSTICE AND PUBLIC SAFETY CABINET
(As Amended at ARRS, March 11, 2019)

500 KAR 2:020. Filing and processing SLEO commissions.

RELATES TO: KRS 15.334, 15.383, 61.300, 61.900-61.930, 61.990, 61.991, 62.010, 62.990

STATUTORY AUTHORITY: KRS. 61.904

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.902 authorizes the Secretary of the Justice and Public Safety Cabinet to commission special law enforcement officers. KRS 61.904 requires[authorizes] the Secretary [of the Justice and Public Safety Cabinet] to promulgate administrative regulations that are reasonable and necessary to carry out the provisions of KRS 61.900 to 61.930. This administrative regulation establishes the criteria and procedures required for filing and processing applications for commissions to be a special law enforcement officer.

Section 1. Definitions. (1) "Cabinet" is defined by KRS 61.900(3)[means the Justice and Public Safety Cabinet].

(2) "Kentucky Law Enforcement Council" or "KLEC" means the administrative body established in KRS 15.315.

(3) "Secretary" is defined by KRS 61.900(5).

(4) "SLEO Act" means the Special Law Enforcement Officer Act found in KRS 61.900 to 61.930.

(5)[(3)] "SLEO program administrator" means the person designated or appointed by the Secretary of the Justice and Public Safety Cabinet to administer the Special Law Enforcement Officer Program whose address is: SLEO Program Administrator, Kentucky Law Enforcement Council, 521 Lancaster Avenue, Suite 401, Richmond, KY 40475[Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601].

Section 2. Qualifications to Apply for Commission as a Special Law Enforcement Officer. To qualify for a commission as a special law enforcement officer pursuant to KRS 61.900 to 61.930, an individual shall comply with the conditions and requirements established[set forth] in KRS 61.906.

Section 3. Application for Commission as a Special Law Enforcement Officer. (1) An applicant shall meet all of the requirements of the SLEO Act before a commission is granted.

(2) An applicant shall provide to the governmental unit two (2) complete signed and notarized SLEO Application Forms (SLEO-1).

(3) The governmental unit shall submit both application forms to the Justice and Public Safety Cabinet SLEO program administrator.

(4) The application forms shall contain the following information:

(a) The name, address, telephone number, and detailed personal description of and information about the applicant; and

(b) All arrests and convictions, including traffic offenses committed within the past ten (10) years, violations, misdemeanors, or felonies as requested on the application and any other information necessary to conduct a criminal history check.

(5) Any false, misleading, or withholding of information requested on the application or by the cabinet investigator may be grounds for rejection without further consideration.

Section 4. Additional Requirements. (1) In addition to the application form, an applicant shall provide to the governmental unit who shall submit to the SLEO program administrator the following with his or her application:

(a) A copy of the applicant's high school diploma or GED;

(b) A certified copy of the applicant's birth certificate;

(c) Two (2) recent photographs of the individual (full face) measuring not larger than three (3) inches by five (5) inches and taken within the last thirty (30) days of the date the application is submitted;

(d) If the applicant is a veteran, a copy of his or her military release (Form DD-214);

(e) An Authority to Release Information Form, SLEO-2, which

allows the release of all necessary information to the SLEO program administrator. It shall be signed by the applicant and witnessed by a second person;

(f) A Letter of Intent Form, SLEO-3, completed by the governmental unit giving the name of the applicant, the specific public property to be protected, and the signature of the authorizing official of the requesting governmental unit;

(g) Proof that the applicant has successfully completed first aid and cardiopulmonary resuscitation (CPR) training provided according to the American Heart Association or the American Red Cross requirements[a recognized course] and is certified in first aid and CPR. [- This requirement may be waived if the agency hiring the applicant has full-time EMT's on staff]; and

(h) The application fee required by KRS 61.908.

(2) If not on file from a previous application, an applicant shall be fingerprinted at the AFIS Section, Kentucky State Police, 1250 Louisville Road, Frankfort, Kentucky 40601 or at a local law enforcement office.

(3) The applicant shall arrange for and be interviewed by the SLEO program administrator before a commission is granted.

(4) All SLEO applicants shall sign and the governmental unit shall submit to the cabinet the SLEO Acknowledgment [Acknowledgement-Notice] Form, SLEO-4, which indicates that he:

(a) Has received, read, and understands:

1. Provisions of the SLEO Act, KRS 61.900-61.930;

2. Administrative regulations in 500 KAR Chapter 2;

3. Penalties imposed for violating the SLEO Act and its administrative regulations; and

4. KRS 61.300, 61.990, 61.991, 62.010, and 62.990;

(b) Acknowledges that his authority is limited and restricted under the SLEO Act; and

(c) Understands and acknowledges that his commission as a SLEO does not give him the right or authority to carry a concealed weapon off the premises of the public property, unless he holds a license to carry a concealed deadly weapon issued pursuant to KRS 237.110 or meets the requirements or 18 U.S.C. Section 926B or Section 926C.

Section 5. Fees. (1) All fees required by KRS 61.908 shall be paid in advance and are nonrefundable.

(2) Fees shall be paid in the form of a check or money order payable to the Kentucky State Treasurer.

Section 6. Approval of Application. (1) If the applications and all required documents are in order, and if the criminal history information record review and background investigation are favorably completed, the governmental unit for whom the SLEO applicant will be employed shall notify the Department of Criminal Justice Training concerning any training the applicant needs in order to satisfy the requirements of KRS 61.906(2)(f).

(2) In notifying the Department of Criminal Justice Training, the governmental unit shall describe the training needed by the applicant. The Department of Criminal Justice Training shall schedule and conduct the training and collect the related fees as prescribed in KRS 61.908(3), (4), and (5). An applicant who has successfully completed the training previously shall not be required to repeat the course.

(3) The Department of Criminal Justice Training shall notify the governmental unit of the results of the training upon completion.

Section 7. Receipt of Defective or Falsified Application. (1) If the application is defective or in conflict with the SLEO Act or its administrative regulations, 502 KAR Chapter 2, the cabinet shall notify the governmental unit.

(2) An application may be corrected and resubmitted at no additional cost if it is resubmitted within sixty (60) days of the date the applicant is sent notice of the deficiencies by the SLEO program administrator.

(3) An application that has been falsified or contains material omissions or contains incomplete information may be rejected and the applicant shall be prohibited from submitting an application for

commission as a SLEO for one (1) year.

Section 8. The Grant of the Commission and the Required Oath of Office. (1) A commission for a special law enforcement officer shall be validated and granted as follows:

(a) If the applicant has successfully satisfied the requirements of the act and a commission has been recommended, a commission certificate and the recommendation shall be forwarded by the SLEO program administrator to the secretary or the secretary's designee for review.

(b) After the commission is issued by the secretary~~[,]~~ or the secretary's designee, a copy of the commission shall be placed in the officer's file maintained by the cabinet.

(2) The governmental unit shall be notified that the commission has been granted.

(a) One (1) of the original applications and two (2) County Clerk Oath verification forms (SLEO-6) shall be forwarded by the cabinet to the governmental unit whose property is to be protected.

(b) The governmental unit shall arrange for the appointed applicant to take the oath of office.

(3) The appointed applicant shall take:

(a) One (1) of the applications and the two (2) County Clerk Oath verification forms to the county clerk in the county where the applicant is to serve; and

(b) The constitutional oath of office within thirty (30) days after notice of appointment.

(4) The county clerk shall then:

(a) Complete and sign the clerk's attestation on both SLEO-6s;

(b) Retain the application and one (1) of the County Clerk Oath verification forms, for filing purposes in the county clerk's office; and

(c) Give the second County Clerk Oath verification form, signed by the clerk, to the applicant.

(5) The applicant shall return the second County Clerk Oath verification form, signed by the Clerk, to the governmental unit. The governmental unit shall return it to the cabinet SLEO program administrator within thirty (30) days to indicate that the oath was administered and that the application and oath verification form are filed with the county clerk.

(6) Upon receipt of the oath verification, the commission certificate shall be forwarded by the cabinet to the governmental unit whose property is to be protected.

(7) If the second County Clerk Oath verification form, signed by the clerk, is not returned within thirty (30) days, the commission shall be null and void and the applicant shall be required to repeat the application process.

(8) The applicant shall not exercise the authority of a SLEO until the governmental unit has received the commission certificate from the cabinet.

(9) The commission certificate shall be kept by the governmental unit so long as the officer is employed or until his or her authority is terminated by action of the government unit ~~or~~ the [cabinet] secretary or the [cabinet] secretary's designee.

(10) The SLEO Commissions shall be issued for a period of two (2) years if the officer continues to meet all statutory and regulatory criteria.

(11) After the governmental unit has received the SLEO commission certificate, the governmental unit shall issue an identification card which is to be carried by the SLEO officer whenever he or she is acting under the authority of KRS 61.900-61.930.

(12) The identification card shall be:

(a) Presented as requested by any duly sworn peace officer or cabinet official;

(b) Subject to control by the cabinet; and

(c) Comply with ~~the provisions of~~ Section 11 ~~(4)(5)~~ of this administrative regulation.

(13) If for any reason a SLEO officer is terminated or otherwise relieved of his duties as a SLEO officer by the governmental unit or the cabinet, he or she shall immediately return this identification card to the officer's governmental unit.

(14) The SLEO commission certificate shall be held by the governmental units and shall:

(a) Be available for inspection by the SLEO[cabinet] program administrator or his designee;

(b) Remain the property of the cabinet; and

(c) Be returned upon the officer's authority being withdrawn for any reason.

Section 9. Special Provisions. (1) Training pursuant to KRS 61.906(2)(f)2. A SLEO applicant may request approval from the Kentucky Law Enforcement Council for eighty (80) or more hours of training, if that training is not currently approved, by providing documentation verifying successful completion of the training and detailed information concerning the contents of the training to the SLEO program administrator. The training approval request shall be provided to the KLEC to review the request and make a decision. ~~[Special Local Peace Officers meeting the requirements of KRS 61.906(2)(f)3 may apply for commission as a SLEO in the following manner:~~

~~(a) An official for the governmental unit shall sign and submit a new set of applications with the filing fee on behalf of the applicant; and~~

~~(b) The applicant shall undergo a current background investigation.]~~

(2) Training waiver. A SLEO applicant may apply for a training waiver by providing sufficient proof of past police experience, ~~for~~ military records, or examination records~~[,]~~ that substantiates that the applicant meets the waiver requirements set forth in KRS 61.906(2)(f)2.

(3) Firearms and First Aid Proficiency. A SLEO applicant shall:

(a) Be certified in first aid and cardiopulmonary resuscitation (CPR) through training provided according to the American Heart Association or the American Red Cross requirements; and

(b)1. Meet the marksmanship qualification requirements for a retired peace officer as specified in KRS 237.140; or

2. Fire twenty (20) rounds at an adult size silhouette target at a range of twenty-one (21) feet, with a handgun, and shall hit the target not less than eleven (11) times. The range test shall be conducted and certified by a firearms instructor trainer or certified firearms instructor trained pursuant to KRS 237.122 or by other firearms instructor program provided by the Department of Criminal Justice Training.

Section 10. Renewals. (1) A letter of intent from the governmental unit stating its request to renew a commission and two (2) complete signed and notarized SLEO Renewal Application Forms (SLEO-5) for each individual involved shall be filed with the cabinet program administrator at least sixty (60) days before the expiration date of the existing commission.

(2) The applicant for renewal shall undergo a background investigation to bring his records up-to-date.

Section 11. Governmental Units Employing SLEO Officers - Records, Reports, and Responsibility.

(1) All governmental units employing SLEO officers shall:

(a) Keep their files current as to the expiration date on each officer's commission;

(b) Keep the individual officer's commission certificates on file, to be returned to the cabinet upon termination of the officer and his authority;

(c) Provide proof to the SLEO program coordinator at the time of request for renewal that its SLEOs:

1. Are currently certified in First Aid and CPR ~~[unless this requirement is waived pursuant to Section 4(1)(g) of this administrative regulation]; and~~

2. Have met the same marksmanship qualification required of certified peace officers in KRS 15.383; and

(d) Mail or email to the SLEO program administrator by June 30 of each year:

1. A current list of all active SLEO personnel; and

2. The number of arrests made or citations issued by the agency the previous calendar year.

(2) The unit shall post a copy of the SLEO administrative

regulations, 500 KAR Chapter 2, and a copy of KRS 61.900-61.930, 61.990, and 61.991 of the SLEO Act in a conspicuous location in any office or building that is designated security headquarters for persons operating as SLEO officers.

(3) Complaints or unusual incidents involving SLEO officers shall be handled by the governmental unit whose public property is being protected by the SLEO officer involved except:

(a) The governmental unit shall notify the cabinet SLEO program administrator by:

1. Direct verbal communication within twenty-four (24) hours of any reported incident involving the misconduct or unlawful act by any of its SLEO officers; and

2. A follow-up written report to be filed with the SLEO program administrator, within thirty (30) days of the original oral report, stating/setting forth the details of the incident and listing any action taken by governmental unit; and

(b) If formal charges are pending, the unit or agency shall advise the SLEO program administrator as to the specific charge, trial date, and the final disposition of the charge.

(4) The unit shall issue each SLEO officer an identification card upon the individual's appointment. The identification card shall be:

(a) Encased in plastic;

(b) Billfold size (approximately two and one-fourth (2 1/4) inches by three and one-half (3 1/2) inches); and

(c) Composed as follows:

1. One (1) side containing the following language: "The holder of this card has been commissioned as a Special Law Enforcement Officer (SLEO), pursuant to KRS 61.902. As a SLEO, the holder of this card is deemed to be a peace officer within the meaning of KRS 527.020 and may exercise the powers of a peace officer in accordance with KRS 61.900 to 61.930"; and

2. The other side containing a full-faced photograph of the officer with his or her:

a. Name;

b. Identification or notation that the officer has been commissioned a "Special Law Enforcement Officer";

c. Governmental unit employing the officer;

d. Badge number, if any; and

e. Signature of the officer's chief, supervisor, or employer.

(5) The governmental unit shall obtain and destroy the identification card from any officer whose employment is terminated.

Section 12. Violations. (1) All governmental units utilizing SLEO's shall be subject to inspection and investigation by the cabinet as circumstances may warrant for possible violations.

(2) Violations may result in prosecution and recommendation to the secretary of the cabinet or the secretary's designee that the commission be revoked.

Section 13. Revocation or Suspension of SLEO Commissions.

(1) A SLEO may have his or her commission suspended or revoked in accordance with KRS 61.910.

(2) The program administrator shall notify the secretary or the secretary's designee of any violations of KRS 61.910, who shall send written notice of the alleged violation to the:

(a) SLEO; and

(b) Governmental unit employing the SLEO.

(3) The notice of alleged violation shall be sent to the SLEO and employing governmental unit by certified mail, return receipt requested.

(4) The SLEO may request an administrative hearing before the secretary or the secretary's designee before suspension or revocation is imposed. The request for hearing shall be in writing and shall be received by the SLEO program administrator/Secretary or the secretary's designee within thirty (30) days of receipt by the SLEO of the notice of intent to seek suspension or revocation.

(5) The secretary or the secretary's designee shall suspend or revoke the commission of a SLEO who fails to request an administrative hearing within the thirty (30) day time period.

(6) All administrative hearings shall be conducted in accordance with KRS Chapter 13B.

(7) The cabinet may temporarily suspend the commission of a SLEO prior to holding a hearing pursuant to KRS Chapter 13B if the cabinet believes that the safety of the public requires that action. If a commission is temporarily suspended prior to holding a hearing pursuant to KRS Chapter 13B, the cabinet shall hold a Chapter 13B hearing not later than thirty (30) days from the date of the temporary suspension unless the SLEO requests an extension for a time certain. If the SLEO requests an extension for a time certain, then the commission shall remain suspended until the conclusion of the hearing.

(8) If a SLEO commission is suspended or revoked:

(a) The SLEO program administrator shall notify the governmental unit involved to return the commission of the SLEO officer;

(b) The governmental unit responsible for the SLEO officer shall forward a letter to the officer stating that:

1. His or her commission has been revoked or suspended; and

2. He or she shall immediately return the SLEO identification card to the governmental unit;

(c) Upon receipt of the card, the governmental unit shall destroy it; and

(d) The SLEO program administrator shall notify the county clerk in the officer's county of jurisdiction.

Section 14. Procedures for Investigating Complaints or Unusual Incidents Involving SLEO Officers.

(1) Complaints or unusual incidents involving SLEO officers shall be handled by the governmental units whose public property is being protected by the SLEO officer involved. The governmental unit shall notify the cabinet of all incidents involving their SLEO personnel as required by Section 11(3) of this administrative regulation.

(2) The SLEO/cabinet program administrator or other assigned officers may investigate any and all complaints or unusual incidents involving SLEO officers, if there is reason to believe the provisions of KRS 61.900-61.930, 61.990, 61.991, or 500 KAR Chapter 2, or other applicable laws or administrative regulations have been violated and an investigation is necessary.

(3) Any investigation conducted by the cabinet shall become part of the official record of the SLEO officer involved.

Section 15. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Special Law Enforcement Officer (SLEO)[SLEO] Application [Candidate Information] Form", SLEO-1, 3/2019[July 1, 2010];

(b) "Authority to Release Information Form", SLEO-2, 3/2019[April 13, 2009];

(c) "Letter of Intent Form", SLEO-3, 3/2019[June 3, 2009];

(d) "SLEO Acknowledgment[Acknowledgement – Notice] Form", SLEO-4, 3/2019[August 10, 2009];

(e) "Special Law Enforcement Officer (SLEO)[SLEO] Renewal Application Form", SLEO-5, 3/2019[July 1, 2010]; and

(f) "County Clerk Oath[Form]", SLEO-6, 3/2019[July 1, 2010].

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JOHN C. TILLEY, Secretary
APPROVED BY AGENCY: October 24, 2018
FILED WITH LRC: October 24, 2018 at 1 p.m.
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JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice
(As Amended at ARRS, March 11, 2019)

505 KAR 1:080. Kentucky Educational Collaborative for State Agency Children.

RELATES TO: KRS 158.135, 158.137, 605.110

STATUTORY AUTHORITY: KRS 158.135, 605.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 605.110(3) requires that children maintained in a facility or program operated or contracted by the Department of Juvenile Justice or the Cabinet for Health and Family Services shall, so far as possible, receive a common school education. KRS 605.110(3)(d) requires the department to promulgate administrative regulations governing the education of state agency children. This administrative regulation establishes requirements governing the Kentucky Educational Collaborative for State Agency Children.

Section 1. Definitions.

(1) "Average daily membership" means the average number of state agency children on the KECSAC designated child count days.

(2) "Department" means the Department of Juvenile Justice.

(3) "Educational administrative staff" means a principal, assistant principal, supervisor, coordinator, director, pupil personnel worker, or guidance counselor employed or contracted by the Kentucky Educational Collaborative for State Agency Children to provide education services.

(4) "Extended school calendar" means 230 school days, of which at least 210 shall be instructional days and the remainder shall be determined by the local school district, as required in KRS 158.070. It is recommended that three (3) of the noninstructional days be used for professional development designed for state agency children teachers.

(5) "Individual education program" or "IEP" means the written statement that meets the requirements of 707 KAR 1:320~~[the instructional program required]~~ for state agency children identified as a child with an educational disability as~~having educational disabilities as~~ governed by 707 KAR 1:002~~[707 KAR 1:210]~~.

(6) "Individual plan of instruction" or "IPI" means the instructional plan required for state agency children not identified as having educational disabilities established in 707 KAR 1:002.

(7) "Individual treatment plan" or "ITP" means a social and behavioral intervention plan, including the plan for educational instruction, that is developed for each state agency child being served by a Program~~[treatment institution or facility]~~.

(8) "KDE" means the Kentucky Department of Education.

(9) "KECSAC" means Kentucky Educational Collaborative for State Agency Children.

(10) "Local school district" means the school district where a state agency child is provided educational services.

(11) "On-site state agency school program" means a school program operated on the campus of a residential facility or day treatment program.

(12) ~~"Private child care agency" means a private, not state operated, program which provides care or treatment for children on a per child contractual or financed basis.~~

~~(13) "Program" means a state operated or contracted institution or facility, including day treatment facility, that is responsible for safety, security, and meeting the educational needs of a state agency child.~~

~~(13)(14) (14) "Program director" means the administrator at a Program~~[state operated or contracted institution or day treatment facility or administrator of a private child care agency] that is responsible for the safety and security of youth and staff and the operation of the Program~~[treatment facility]~~.

~~(14)(15) (14) "Rated capacity" means the capacity of the program as determined by the Cabinet for Health and Family Services or the Department of Juvenile Justice in the Justice and Public Safety Cabinet~~[Cabinets for Families and Children or Health Services or the Justice Cabinet].

~~(15)(16) (15) "School" means the site where the educational program for state agency children is provided.~~

~~(16)(17) (16) "School administrator" means the lead teacher, principal, or lead educator designated by the local district or by KECSAC to be responsible for the operation of the daily education program, and may be the program director of a facility, if the program director has appropriate educational certification.~~

~~(17)(18) (17) "State agencies" means the Department of Juvenile Justice (DJJ), the Justice and Public Safety Cabinet, and the Cabinet for Health and Family Services (CHFS)~~[Families and Children (CFC), and the Cabinet for Health Services].

~~(18)(19) (18) "State agency children" or "SAC" is defined by~~[in] KRS 158.135(1)(a).

~~(19)(20) (19) "State agency children's fund" means appropriations to support KRS 158.135 previously known as out-of-district funds.~~

~~(20)(21) (20) "Teacher preparation" means those courses provided by a public or private college or university~~ that~~[which]~~ lead to teacher certification.

~~(21)(22) (21) "Therapeutic foster care state agency child" means a youth in therapeutic foster care as defined by KRS 158.135(1)(c).~~

~~(22)(23) (22) "Treatment" means the total array of services utilized to produce a positive change in a child served by a~~ Program~~[the treatment facility]~~.

Section 2. Governance.

(1) An interagency advisory group for KECSAC, composed of representatives of the state agencies, KDE, the State Agency Children School Administrators' Association and a superintendent from a school district that provides education to SAC, shall provide recommendations for policy and procedure development. The interagency advisory group shall meet, at a minimum, biannually.

(2) Contracting procedures.

(a) The department shall contract with a university training resource center for the establishment of KECSAC. KECSAC shall be responsible for the oversight or administration of state and federal education funding and the provision of educational services to state agency children. KECSAC shall be financed by the state agency children's fund. KECSAC shall have knowledge and experience in the following:

1. Appropriate statutes and administrative regulations related to Kentucky's system of schools;

2. State and federal statutes pertaining to youth with educational disabilities, e.g. Individuals with Disabilities Education Act, 20 U.S.C. ~~[Section]~~[U.S.C.] 1400 through 1450, as amended~~[to 1491e]~~, and Section 504 of the Rehabilitation Act, 29 U.S.C. 794;

3. Kentucky Unified Juvenile Code, enacted as KRS Chapters 600 through 645, and the operation of agency programs for juvenile offenders, status offenders and dependent children; and

4. Research regarding the education of at-risk, incarcerated and difficult to motivate youth.

(b) KECSAC shall plan programs and state agency children's fund budgets cooperatively with the state agencies, KDE and local school districts providing programs to state agency children. Local school districts shall be notified of projected funding levels by KECSAC by December 1, for the following school year.

(c) The KECSAC annual applications to the department shall constitute the biennial plan. The applications shall contain educational goals and objectives for the biennium for which funding is requested. The goals and objectives shall be consistent with appropriate statutes and administrative regulations related to the system of common schools and the mandates of the Individuals with Disabilities Education Act. The educational goals and objectives shall be compatible with and complementary to the treatment goals for state agency children. The application shall also include strategies for enhancing teacher preparation and professional development for teachers in local districts serving SAC.

(d) KECSAC, with the cooperation of the state agencies and KDE, shall develop written procedures for the operation of the state-wide education system for state agency children.

(3) Staffing.

(a) Teachers and other educational staff shall be employed or contracted by a local school district.

1. If the local school district is not~~[able or]~~ willing to participate in providing~~[provide]~~ the educational personnel for the state agency children in a Program~~[children's treatment facility]~~ for the extended school calendar of this administrative regulation, KECSAC shall:

a. Be notified in writing by that local school district of the school district's intent not to provide an extended school calendar at least two (2) years prior to the date that the school district plans to stop providing~~[no later than January 1 prior to the start of the next school year of the school district's intent not to provide]~~ an extended school calendar; and

b.(i) Contract with another school district for educational staff; or

(ii) Contract or employ teachers or educational administrative staff.

2. When filling a teacher or an educational administrative staff vacancy in a state-operated or contracted facility, the local school district or KECSAC shall provide the state agency program director an opportunity to interview prospective new teachers or educational administrative staff for the on-site state agency school program. The state agency program director shall provide the local school district with interview results regarding the applicant's suitability for teaching in the on-site state agency school program.

(b) Educational administrative staff and teachers employed or contracted by KECSAC to provide educational services for the extended school calendar shall meet Kentucky education certification requirements and shall be evaluated. KECSAC shall evaluate all KECSAC staff employed by the contracted university.

(c) Educational staff employed by a school district shall be evaluated in accordance with local school district policy.

(d) Each on-site state agency school program shall designate a school administrator.

(e) Education staff employed or contracted by KECSAC to provide educational services for the extended school calendar shall be compensated at rates at least commensurate with public school employees with comparable qualifications, experience and assignments in the school district where the Program~~[treatment facility]~~ is located.

(f) On-site state agency school programs shall have sufficient teachers as specified in 707 KAR 1:350~~[available]~~ with appropriate certification to serve youth identified with educational disabilities in accordance with 707 KAR 1:002 and 707 KAR 1:320~~[as specified in 707 KAR 1:230]~~.

(g) Other specific services identified in an IEP by the admission and release committee as needed for a youth with educational disabilities may be accessed by KECSAC contracting for appropriate extended school calendar services. KECSAC shall comply with the administrative regulations relating to youth with disabilities as provided in 707 KAR Chapter 1. The extended school calendar may be modified if the SAC in therapeutic foster care are included in the school district's extended school program as approved by KECSAC.

(4) Policy application. Interagency agreements, including program goals and objectives, shall be developed between each local school district and treatment provider regarding their mutual responsibility for education and care of state agency children. This agreement shall be reviewed annually. If a conflict arises between the local agencies regarding the development or fulfillment of the interagency agreement by either party, it shall be resolved by KECSAC.

(5) Student eligibility. If a specific activity (e.g., football or debate) is not provided to youth in a state or private contracted agency program, the youth shall not lose eligibility to participate based on the requirements in 702 KAR 7:065~~[7:070]~~. Eligibility shall be figured on a month-to-month basis (e.g., nine (9) months in a state agency facility without a formal football program shall leave nine (9) months of eligibility in a local school district). The eligibility period shall not exceed one (1) additional year. Other eligibility criteria shall be met by the youth.

Section 3. Finance.

(1) The amount of funds generated by state agency children under the Support Education Excellence in Kentucky (SEEK) Program as specified in KRS 157.360 for the guaranteed SEEK base and adjustments shall be sent to the school district providing education for state agency children to be used pursuant to Memoranda of Agreement (MOA) negotiated with KECSAC.

(2) Distribution of state agency children's funds shall be as follows:

(a) State agency children's funds shall be used to fund the Memorandum of Agreement with KECSAC.

(b) State agency children's funds may be used for educational services which benefit state agency programs in a collective manner.

(c) State agency children's funds may be used as matching funds if the match shall increase the amount of funds available to educate state agency children.

(d) After the items in paragraphs (a), (b), and (c) of this subsection have been funded, the remainder of the state agency children's fund appropriation shall be divided by the total number of state agency children to be educated. The resulting per pupil amount shall be allocated for each state agency child.

(3) KECSAC shall be considered the same as a school district for the generation, application, distribution and accountability of state and federal funds, other than SEEK, available to educate on-site state agency school children.

(4) An annual memorandum of agreement shall be negotiated between KECSAC and each school district providing education to state agency children. The MOA shall be signed and returned to KECSAC within ninety (90) days of issuance. KECSAC may decrease funding by quarterly increments for noncompliance with the submission deadline. Attachments shall include the state approved budget format. All funds expended for SAC shall be included in the annual school audit. An itemized budget shall be part of the MOA. State agency children's fund distribution shall be based upon SAC average daily membership (ADM) or rated capacity.

(a) Noncompliance with the MOA provisions may result in decreasing SACF allocation as determined by KECSAC. The withholding of funds shall be temporary provided that the school district becomes compliant by the end of the fiscal year.

(b) For a new or expanded program, the state agency children's fund shall be allocated based on the rated or licensed capacity if opened during the first three (3) quarters of the fiscal year. A program opened or expanded during the last quarter of the fiscal year shall receive funding based on the rated or licensed capacity for the initial fifteen (15) months of operation. A new or expanded program may be funded at a lower per-pupil amount based on availability of state agency children's funds.

(5)(a) Each biennium, KECSAC, in consultation with the state agencies and KDE, shall submit a biennial budget plan benchmarked to the projected SEEK increase and projected set-aside to reimburse district's for excess cost.

(b) The state agency children's fund, as specified in KRS 158.135, shall be cost reimbursed to school districts biannually from KDE upon approval by KECSAC and the appropriate state agency.

(c) KECSAC shall develop a procedure by October 1, 1999, for school district's reimbursement of expenses exceeding twenty (20) percent of total amount received from state and federal sources to serve a state agency child.

(6) As part of the MOA with each local school district, KECSAC shall ensure the development of a plan for professional development of certified staff. A teacher or administrator new to a SAC on-site program shall attend Professional Development for New Educators. It is recommended that a SAC school program commit three (3) days of the extended school calendar for teacher participation in the KECSAC approved professional development events designed for SAC teachers. These three (3) days shall be in addition to the Professional Development for New Educators. The school district shall maintain an annual record of professional development for all school district employees in SAC on-site programs.

(7) A school district shall ensure that the SAC access all eligible

federal and state funding (such as KETS Funding and Title I).

(8) An on-site SAC program shall have access to textbooks, instructional materials, technology, and equipment comparable to that available in the local school district.

(9) KECSAC shall obtain information from the Kentucky Department of Education and the Workforce Development Cabinet regarding all discretionary and entitlement state, federal and miscellaneous funding opportunities available to local school districts and file applications or reports necessary to procure and use funds for the education of state agency children.

(10) If a state agency plans to open or contract for a new program or to expand an existing SAC program during a biennium, the state agency shall notify KDE and KECSAC by April 1 of the first year of the biennium regarding the projected number of youth to be educated in the new or expanded program.

(11) If youth age sixteen (16) through twenty (20) years enter with or receive a GED while attending a state agency program, that youth shall continue in the state agency program for further academic and vocational training and continue to generate SEEK funds. State agency children funds may be used to:

(a) Support a GED preparation program; or

(b) Educate GED and high school graduates.

(12) The state agencies, the Kentucky Department of Education, the Cabinet for Workforce Development and other appropriate agencies shall develop and review annually an interagency agreement defining services and financial responsibilities of each state and local agency providing educational services for state agency children. The agreement shall include procedures for resolving interagency disputes.

(13) If a dispute arises between KECSAC and a local school district that cannot be resolved by the parties, the dispute shall be submitted, for resolution, to the interagency advisory group by written request of either party. The request shall identify in detail the issue in dispute. The interagency advisory group shall schedule a meeting with the parties, during which each party shall explain its position. The interagency advisory group shall render a written report and recommendation to the commissioner of the department responsible for the program in dispute within fifteen (15) days of the meeting. The commissioner shall render a written decision resolving the dispute within fifteen (15) days of receiving the recommendation from the interagency advisory group.

Section 4. Operations.

(1) School options for state agency children with an IEP shall be planned, if not restricted by treatment needs, using the least restrictive environment based on specific child needs. Additional days beyond the school year shall take place either at the local public school or on the state agency program site. If the state agency child is not restricted to the treatment site for security purposes, the continuum from least restrictive to most restrictive alternatives shall be as follows:

(a) A program for state agency children may send all of its children to be educated in the local public school where children in the local public school district are assigned or where their IEP indicates placement.

(b) A program for state agency children may send some of its children to be educated in the local public school as in paragraph (a) of this subsection and have on-site state agency school option for other children.

(c) A program for state agency children may have an on-site state agency school for all children due to reasons necessary for the conditions of placement in the state agency program.

(2) Assessments.

(a) The local school district shall complete an informal academic assessment of the educational needs of all SAC, and vocational needs of SAC aged fourteen (14) and up or in eighth grade and above, within the first thirty (30) days after admission to on-site programs. Educational goals and objectives shall be consistent with goals specified in each youth's individual treatment plan.

(b) If the youth is suspected to have an educational disability as governed by 707 KAR 1:002[1:480 and] 707 KAR 1:300, and 707 KAR 1:320[1:490], assessments shall be administered, following required due process procedures.

(3) In a school district providing educational services, local school district staff shall coordinate the completion of the required individual education program pursuant to 707 KAR 1:002[1:480] and 707 KAR 1:320[1:490].

(4) Instructional services.

(a) The teacher pupil ratio for on-site state agency school programs serving state agency children shall average, based on annual average daily attendance, no more than ten (10) students to one (1) teacher without a classroom aide and fifteen (15) students to one (1) teacher with a classroom aide. A classroom that exclusively serves students with the educational disabilities shall comply with teacher pupil ratios as specified in 707 KAR 1:350[230], Section 2[5].

(b) By the 30th school day after admission to a school program, an individual plan of instruction shall be developed by the school district for state agency children not identified with a disability. The individual plan of instruction shall be developed in coordination with the ITP. If a youth is determined to have an educational disability, the IEP requirements as governed by 707 KAR Chapter 1 shall suffice. The IPI shall be in a standardized format, as determined by the KECSAC Interagency Advisory Group.

(c) An educational passport shall be prepared as required by KRS 158.137 and 605.110(3)(e).

(d) A state agency child reading at two (2) or more years below the appropriate grade level, as measured by an educational assessment tool, shall be provided developmental reading, listening and writing instruction.

(5) Accountability.

(a) The assessments and portfolios of state agency children shall be governed by 703 KAR 5:070.

(b) An accountability system shall be designed by KECSAC for state agency children school programs. The memorandum of agreement which shall include quality of educational services shall be monitored, at a minimum, in conjunction with KDE's IDEA monitoring cycle. Noncompliance with the MOA may result in reduction, elimination, or recoupment of the district's reimbursement from the state agency children's fund as determined by KECSAC.

(c) If required by the state agency, the SAC school programs shall be in compliance with accreditation standards of the respective professional accrediting association of that state agency.

(6) Transition.

(a) KECSAC shall ensure that transition procedures for SAC moving from the state agency education program to the next instructional or vocational setting are being implemented. Educational staff at an on-site program shall participate in the transition process.

(b) The transition planning to a postschool setting shall comply with the transition plan and service requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 through 1450, as amended[enacted as 20 U.S.C. 1400 to 1494e], and 707 KAR Chapter 1[1:220] for students with educational disabilities.

(c) KECSAC shall design and implement a system of educational data collection and information dissemination in order to improve the quality of educational delivery for SAC.

(d) The last school or school district a state agency youth attends prior to placement in a state agency program shall be responsible for forwarding the educational records to the state agency program within five (5) school days of receipt of the request.

(e) The school administrator shall ensure that the educational records of state agency children are forwarded to the receiving school within five (5) school days following the release of the youth from the Program[treatment facility].

STACY R. WOODRUM, Deputy Commissioner

For RAYMOND F. DEBOLT, Commissioner

APPROVED BY AGENCY: January 10, 2019

FILED WITH LRC: January 11, 2019 at 11 a.m.

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LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(As Amended at ARRS, March 11, 2019)

803 KAR 2:320, Toxic and hazardous substances.

RELATES TO: KRS 338.015, 338.031, 29 C.F.R. 1910.134, 1910.141, 1910.1000-1910.1450

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, **29 C.F.R. 1910.1000 - 1910.1450, E.O. 2018-586**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations necessary to accomplish the purposes of KRS Chapter 338. Executive Order 2018-586 transfers the authority to adopt, amend, or repeal regulations from the Occupational Safety and Health Standards Board to the Secretary of the Kentucky Labor Cabinet. 29 C.F.R. 1910.1000 to 1910.1450 establish federal requirements relating to toxic and hazardous substances. This administrative regulation establishes the toxic and hazardous substances standards to be enforced by the Department of Workplace Standards in the area of general industry.

Section 1. Definitions. (1) "Absolute filter" means a filter capable of retaining 99.97 percent of a mono disperse aerosol of three-tenths (0.3) mu particles.

(2) "Area director" means Director, Division of Occupational Safety and Health Compliance, Kentucky Labor Cabinet.

(3) "Authorized employee" means an employee whose duties require the employee to be in the regulated area and who has been specifically assigned to that area by the employer.

(4) "Clean change room" means a room where employees put on clean clothing or protective equipment in an environment free of 4,4'-Methylene bis (2-chloroaniline).

(5) "Closed system" means an operation involving 4, 4'-Methylene bis (2-chloroaniline) if containment prevents the release of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(6) "Decontamination" means the inactivation of 4,4'-Methylene bis (2-chloroaniline) or its safe disposal.

(7) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by the director or the Secretary of Health, Education, and Welfare to act for the director.

(8) "Disposal" means the safe removal of 4,4'-Methylene bis (2-chloroaniline) from the work environment.

(9) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of 4,4'-Methylene bis (2-chloroaniline) that may result in exposure to or contact with 4,4'-Methylene bis (2-chloroaniline).

(10) "Employee" is defined by KRS 338.015(2).

(11) "Employer" is defined by KRS 338.015(1).

(12) "External environment" means any environment external to regulated and nonregulated areas.

(13) "Isolated system" means a fully enclosed structure, other than the vessel of containment, of 4,4'-Methylene bis (2-chloroaniline), which is impervious to the passage of entry of 4,4'-Methylene bis (2-chloroaniline), and which would prevent the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, or the external environment, if leakage or spillage from the vessel of containment occurs.

(14) "Laboratory type hood" means a device:

(a) Enclosed on three (3) sides with the top and bottom designed and maintained to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; and

(b) Designed, constructed, and maintained so that an operation involving 4,4'-Methylene bis (2-chloroaniline) within the hood does not require the insertion of any portion of an employee's body other

than hands and arms.

~~(15) "[National consensus standard" is defined by KRS 338.015(9).~~

~~(16) "~~Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

~~(16) [(17) "~~Open-vessel system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

~~(17) [(18) "~~Protective clothing" means clothing designed to protect an employee against contact with or exposure to 4,4'-Methylene bis (2-chloroaniline).

~~(18) [(19) "~~Regulated area" means an area where entry and exit is restricted and controlled.

~~(19) [(20) "~~Standard" means "occupational safety and health standards" as defined by KRS 338.015(3).

Section 2. 4,4'-Methylene bis (2-Chloroaniline). (1) Scope and application.

(a) This section shall apply to any area in which 4,4'-Methylene bis (2-chloroaniline), Chemical Abstracts Service Registry Number 101144, is manufactured, processed, repackaged, released, handled, or stored. This section shall not apply to trans-shipment in sealed containers, except for the labeling requirements under subsection (4)(b), (c), and (d) of this section.

(b) This section shall not apply to solid or liquid mixtures containing less than one and zero-tenths (1.0) percent by weight of 4,4'-Methylene bis (2-chloroaniline).

(2) Requirements for areas containing 4,4'-Methylene bis (2-chloroaniline). A regulated area shall be established by an employer where 4,4'-Methylene bis (2-chloroaniline) is manufactured, processed, used, repackaged, released, handled, and stored. Those areas shall be controlled in accordance with the requirements for the following category or categories describing the operations involved:

(a) Isolated systems. Employees working with 4,4'-Methylene bis (2-chloroaniline) within an isolated system such as a ~~[]~~glove box~~[]~~ shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(b) Closed system operation. Within regulated areas if 4,4'-Methylene bis (2-chloroaniline) is stored in a sealed container, or contained in a closed system including piping systems, with any sample ports or openings closed while 4,4'-Methylene bis (2-chloroaniline) is contained within:

1. Access shall be restricted to authorized employees only; and
 2. Employees shall be required to wash hands, forearms, face, and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(c) Open vessel system operations. Open vessel system operations shall be prohibited.

(d) Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system. In operations involving a ~~[]~~laboratory type hood~~[]~~, or in locations where 4,4'-Methylene bis (2-chloroaniline) is contained in an otherwise~~[]~~closed system~~[]~~, but is transferred, charged, or discharged into other normally closed containers, the provisions of this paragraph shall apply.

1. Access shall be restricted to authorized employees only.

2. Each operation shall be provided with continuous local exhaust ventilation so that air movement shall always be from ordinary work areas to the operation.

a. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

b. Clean make-up air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

3. Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers, and gloves prior to entering

the regulated area.

4. Employees engaged in 4,4'-Methylene bis (2-chloroaniline) handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with 29 C.F.R. 1910.134. A respirator affording a higher level of protection may be substituted.

5. Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section.

6. Employees shall be required to wash hands, forearms, face, and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities.

7. Employees shall be required to shower after the last exit of the day.

8. Drinking fountains shall be prohibited in the regulated area.

(e) Maintenance and decontamination activities. In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with 4,4'-Methylene bis (2-chloroaniline) could result, each authorized employee entering that area shall be:

1. Provided with and required to wear clean, impervious garments, including gloves, boots, and continuous-air supplied hood in accordance with 29 C.F.R. 1910.134;

2. Decontaminated before removing the protective garments and hood; and

3. Required to shower upon removing the protective garments and hood.

(f) Laboratory activities. The requirements of this paragraph shall apply to research and quality control activities involving the use of 4,4'-Methylene bis (2-chloroaniline).

1. Mechanical pipetting aids shall be used for all pipetting procedures.

2. Experiments, procedures, and equipment that could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

3. Surfaces on which 4,4'-Methylene bis (2-chloroaniline) is handled shall be protected from contamination.

4.a. Contaminated wastes and animal carcasses shall be collected in impervious containers that are closed and decontaminated prior to removal from the work area.

b. The wastes and carcasses shall be incinerated so that no carcinogenic products are released.

5. All other forms of 4,4'-Methylene bis (2-chloroaniline) shall be inactivated prior to disposal.

6. Employees engaged in animal support activities shall be:

a. Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices;

b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b), (c), and (d) of this section;

c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities; and

d. Required to shower after the last exit of the day.

7. Employees, except for those engaged in animal support activities, each day shall be:

a. Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;

b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be

identified as required under subsection (4)(b), (c), and (d) of this section; and

c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities.

8. Air pressure in laboratory areas and animal rooms where 4,4'-Methylene bis (2-chloroaniline) is handled and bioassay studies are performed shall be negative in relation to the pressure in the surrounding area. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

9. There shall not be a connection between regulated areas and any other areas through the ventilation system.

10. A current inventory of 4,4'-Methylene bis (2-chloroaniline) shall be maintained.

11. Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification of maintenance operations, by personnel fully qualified to certify correct containment and operation.

(g) Premixed solutions. If 4,4'-Methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area shall not be required, except:

1. Only authorized employees shall be permitted to handle the materials;

2. Each day employees shall be provided with and required to wear a clean change of protective clothing (smocks, coveralls, or long-sleeved shirts and pants), gloves, and other protective garments and equipment necessary to prevent contact with the solution in the process used;

3. Employees shall be required to remove and leave protective clothing and equipment if leaving the work area at the end of the work day or if solution is spilled on the clothing or equipment. Used clothing and equipment shall be placed in impervious containers for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section;

4. Employees shall be required to wash hands and face after removing protective clothing and equipment and before engaging in other activities;

5. Employees assigned to work covered by this paragraph shall be deemed to be working in regulated areas for the purposes of subsection (4)(a), (b), and (c) of this section; and

6. Work areas where solution may be spilled shall be:

a. Covered daily or after any spill with a clean covering; and

b. Cleaned thoroughly daily and after any spill.

(3) General regulated area requirements.

(a) Employee identification.

1. A daily roster of employees entering regulated areas shall be established and maintained.

2. The rosters or a summary of the rosters shall be retained for a period of twenty (20) years.

3. The rosters or summaries shall be provided upon request to authorized representatives of the assistant secretary and the director.

4. If the employer ceases business without a successor, rosters shall be forwarded by registered mail to the director.

(b) Emergencies. In an emergency, immediate measures, including the requirements of this paragraph, shall be implemented.

1. The potentially affected area shall be evacuated as soon as the emergency is determined.

2. Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

3.a. Special medical surveillance by a physician shall be instituted within twenty-four (24) hours for employees present in the potentially affected area at the time of the emergency.

b. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with subsection (5)(b) of this section.

4. If an employee has a known contact with 4,4'-Methylene bis (2-chloroaniline), the employee shall be required to shower as

soon as possible, unless contraindicated by physical injuries.

5. An incident report on the emergency shall be reported as provided in subsection (5)(b) of this section.

(c) Hygiene facilities and practices.

1. Storage or consumption of food, storage or use of containers of beverages, storage or consumption of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of those products, shall be prohibited in regulated areas.

2. If employees are required by this section to wash, washing facilities shall be provided in accordance with 29 C.F.R. 1910.141.

3. If employees are required by this section to shower, facilities shall be provided in accordance with 29 C.F.R. 1910.141(d)(3).

4. If employees wear protective clothing and equipment, clean change rooms shall be provided, in accordance with 29 C.F.R. 1910.141(e), for the number of employees required to change clothes.

5. If toilets are located in regulated areas, the toilets shall be in a separate room.

(d) Contamination control.

1. Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas.

a. Local exhaust ventilation may be used to satisfy this requirement.

b. Clean make-up air in equal volume shall replace air removed.

2. Any equipment, material, or other item taken or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

3. Decontamination procedures shall be established and implemented to remove 4,4'-Methylene bis (2-chloroaniline) from the surface of materials, equipment, and the decontamination facility.

4. Dry sweeping and dry mopping shall be prohibited.

(4) Signs, information, and training.

(a) Signs.

1. Entrance to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT
Authorized Personnel Only

2. Entrances to regulated areas containing operations established in subsection (2)(e) of this section shall be posted with signs bearing the legend:

Cancer-Suspect Agent Exposed
In this Area
Impervious Suit Including Gloves,
Boots, and Air-Supplied Hood
Required At All Times
Authorized Personnel Only

3. Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that shall be followed in entering and leaving a regulated area.

(b) Container labeling. Containers shall be labeled in accordance with the requirements of 29 C.F.R. 1910.1200.

(c) Lettering.

1. Lettering on signs and instructions required by paragraph (a) of this subsection shall be a minimum letter height of two (2) inches.

2. Labels on containers required by paragraph (b) of this subsection shall:

a. Not be less than one-half (1/2) the size of the largest lettering on the package, up to a maximum required size of one (1) inch in height; and

b. Not use less than eight (8) point type.

(d) Prohibited statements. A statement shall not appear on or near any required sign, label, or instruction that contradicts or detracts from the effect of any required warning, information, or instruction.

(e) Training and indoctrination.

1. Each employee, prior to being authorized to enter a

regulated area, shall receive a training and indoctrination program including:

a. The nature of the carcinogenic hazards of 4,4'-Methylene bis (2-chloroaniline), including local and systemic toxicity;

b. The specific nature of the operation involving 4,4'-Methylene bis (2-chloroaniline) that could result in exposure;

c. The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

d. The purpose for and application of decontamination practices and procedures;

e. The purpose for and significance of emergency practices and procedures;

f. The employee's specific role in emergency procedures;

g. Specific information to aid the employee in recognition and evaluation of conditions and situations that may result in the release of 4,4'-Methylene bis (2-chloroaniline); and

h. The purpose for and application of specific first-aid procedures and practices.

2. Each employee shall receive a review of this section at the employee's first training and indoctrination program and annually thereafter.

3. Specific emergency procedures shall be prescribed and posted, and employees shall be familiarized with their terms and rehearsed in their application.

4. All materials relating to the program shall be provided if requested by authorized representatives of the assistant secretary and the director.

(5) Reports.

(a) Operations. Not later than March 1 of each year, the information required by this paragraph shall be reported in writing by the employer to the nearest Area Director. Any change in the reported information shall be reported in writing within fifteen (15) calendar days of the change. The report shall contain the following information:

1. A brief description and in-plant location of the areas regulated and the address of each regulated area;

2. The names and other identifying information as to the presence of 4,4'-Methylene bis (2-chloroaniline) in each regulated area;

3. The number of employees in each regulated area, during normal operations including maintenance activities; and

4. The manner in which 4,4'-Methylene bis (2-chloroaniline) is present in each regulated area, such as whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(b) Incidents. Incidents that result in the release of 4,4'-Methylene bis (2-chloroaniline) into any area where employees may be exposed shall be reported in accordance with this paragraph.

1. A report of the incident and the facts obtainable at that time, including a report on any medical treatment of affected employees, shall be made within twenty-four (24) hours to the nearest Area Director.

2. A written report shall be filed with the nearest Area Director within fifteen (15) calendar days of the initial report and shall include:

a. A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

b. A description of the area involved, and the extent of known and possible employee and area contamination;

c. A report of any medical treatment of affected employees and any medical surveillance program implemented; and

d. An analysis of the steps to be taken, with specific completion dates, to avoid further similar release.

(6) Medical surveillance. At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.

(a) Examinations.

1. Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic

and environmental factors.

2. Authorized employees shall be provided with periodic physical examinations at least annually, following the preassignment examination.

3. In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, current treatment with steroids of cytotoxic agents, pregnancy, and cigarette smoking.

(b) Records.

1. Employers of employees examined pursuant to this subsection shall maintain complete and accurate records of all medical examinations. Records shall be maintained for the duration of the employee's employment. If the employee's employment is terminated, including by retirement or death, or if the employer ceases business without a successor; records, or notarized true copies thereof, shall be forwarded by registered mail to the director.

2. Records required by this paragraph shall be provided if requested by authorized representatives of the assistant secretary or the director. If requested by an employee or former employee, the records shall be provided to a physician designated by the employee or to a new employer.

3. Any physician who conducts a medical examination required by this subsection shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

Section 3. Laboratory Activities. The requirements of this section shall apply to research and quality control activities involving the use of chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016. (1) Mechanical pipetting aids shall be used for all pipetting procedures.

(2) Experiments, procedures, and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(3) Surfaces on which chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 are handled shall be protected from contamination.

(4) Contaminated wastes and animal carcasses shall be collected in impervious containers that are closed and decontaminated prior to removal from the work area. The wastes and carcasses shall be incinerated so that carcinogenic products shall not be released.

(5) All other forms of chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 shall be inactivated prior to disposal.

(6) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposal absolute filters.

(7) Employees engaged in animal support activities shall be:

(a) Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls, or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices;

(b)1. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal; and

2. The contents of the impervious containers shall be identified as required under Section 2(4)(b), (c), and (d) of this administrative regulation;

(c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to point of exit, and before engaging in other activities; and

(d) Required to shower after the last exit of the day.

(8) Employees, except for those engaged only in animal support activities, each day shall be:

(a) Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;

(b)1. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal; and

2. The contents of the impervious containers shall be identified

as required under Section 2(4)(b), (c), and (d) of this administrative regulation; and

(c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to point of exit, and before engaging in other activities.

(9) Air pressure in laboratory areas, and animal rooms where chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 are handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

(10) There shall not be a connection between regulated areas and any other areas through the ventilation system.

(11) A current inventory of chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 shall be maintained.

(12) Ventilated apparatus such as laboratory-type hoods shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

Section 4. Access to Exposure or Medical Records. (1) The language relating to the access to exposure or medical records in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1020(e)(1)(i).

(2) If an employee or designated representative requests access to an exposure or medical record, the employer shall assure that access is provided in a reasonable time, place, and manner, but not longer than fifteen (15) days after the request for access is made unless sufficient reason is given why that time is unreasonable or impractical.

(3) The language relating to the access to exposure or medical records in subsection (4) of this section shall apply in lieu of 29 C.F.R. 1910.1020(e)(1)(iii).

(4) If an employee or designated representative requests a copy of a record, the employer shall, except as specified in 29 C.F.R. 1910.1020(e)(1)(v) of this section, within the period of time previously specified assure that either:

(a) A copy of the record is provided without cost to the employee or representative;

(b) The necessary mechanical copying facilities (e.g., photocopying) are made available without cost to the employee or representative for copying the record; or

(c) The record is loaned to the employee or representative for a reasonable time to enable a copy to be made.

Section 5. (1) The language relating to gloves in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1030(d)(3)(ix).

(2) Gloves shall be worn if it can be reasonably anticipated that the employees may have hand contact with blood, other potentially infectious materials, mucous membranes, and nonintact skin if performing vascular access procedures or if handling or touching contaminated items or surfaces.

Section 6. Except as modified by Sections 1 through 5 of this administrative regulation, general industry shall comply with the following federal requirements published by the Office of the Federal Register, National Archives and Records Services, General Services Administration:

(1) 29 C.F.R. 1910.1000 - 1910.1450, revised July 1, 2018; and

(2) The revisions to 29 C.F.R. 1910.1024 as published in the August 9, 2018 Federal Register, Volume 83, Number 154, [2018; and

(2) The revisions to 29 C.F.R. 1910 Subpart Z as published in the January 9, 2017 Federal Register, Volume 82, Number 5.]

DAVID A. DICKERSON, Acting Secretary

APPROVED BY AGENCY: January 14, 2019

FILED WITH LRC: January 14, 2019 at noon

CONTACT PERSON: Brian Black, OSH Standards Specialist, Department of Workplace Standards, 657 Chamberlin Avenue, Frankfort, Kentucky 40601, phone (502) 564-3320, fax (502) 564-4769, email Brian.Black@ky.gov.

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(As Amended at ARRS, March 11, 2019)

803 KAR 2:505. Cranes and derricks in construction.

RELATES TO: KRS 338.015, 29 C.F.R. Part 1926.1400-1926.1441

STATUTORY AUTHORITY: KRS 338.051(3), 338.061, **E.O. 2018 - 586**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health rules and administrative regulations and standards. Executive Order 2018-586 transfers the authority to adopt, amend, or repeal administrative regulations from the Occupational Safety and Health Standards Board to the Secretary of the Kentucky Labor Cabinet. This administrative regulation establishes the standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction.

Section 1. Definitions.

- (1) "C.F.R." means Code of Federal Regulations.
- (2) "Employee" is defined by KRS 338.015(2).
- (3) "Employer" is defined by KRS 338.015(1).
- (4) "Established federal standard" is defined by KRS 338.015(10).
- (5) ~~"National consensus standard" is defined by KRS 338.015(9).~~
- (6) "Secretary of Labor" means Secretary, Labor Cabinet, or Commissioner, Department of Workplace Standards, Labor Cabinet.
- (6)(7) "Standard" means "occupational safety and health standard" as defined by KRS 338.015(3). ~~(8) "U.S. Department of Labor" means U.S. Department of Labor or Kentucky Labor Cabinet.~~ U.S.-127 South, Frankfort, Kentucky 40601.]

Section 2. Except as established by the definitions in Section 1 and the requirements in Section 3 of this administrative regulation, the construction industry shall comply with the following established federal standards published by the Office of the Federal Register, National Archives and Records Services, General Services Administration:

- (1) 29 C.F.R. 1926.1400-1926.1441, effective July 1, 2018 [2017]; and
- (2) The amendments to 29 C.F.R. 1926.1427 published in the November 9, 2018 Federal Register, Volume 83, Number 218. [2017 Federal Register, Volume 82, Number 216.]

Section 3. (1) 29 C.F.R. 1926.1423(e)(1)(iii) shall be replaced with: "On horizontal lattice booms where the fall distance is ten (10) feet or more."

(2) 29 C.F.R. 1926.1423(f) shall be replaced with: "For assembly – disassembly work, the employer must provide and ensure the use of fall protection equipment for employees who are on a walking – working surface with an unprotected side or edge more than ten (10) feet above a lower level, except when the employee is at or near draw-works (when the equipment is running), in the cab, or on the deck."

(3) 29 C.F.R. 1926.1423(h)(2) shall be replaced with: "For erecting, climbing, and dismantling work, the employer must provide and ensure the use of fall protection equipment for employees who are on a walking – working surface with an unprotected side or edge more than ten (10) feet above a lower level."

DAVID A. DICKERSON, Acting Secretary

APPROVED BY AGENCY: January 14, 2019

FILED WITH LRC: January 14, 2019 at noon

CONTACT PERSON: Brian Black, OSH Standards Specialist, Kentucky Department of Workplace Standards, 657 Chamberlin Avenue, Frankfort, Kentucky 40601, phone (502) 564-3320, fax

(502) 564-4769, email Brian.Black@ky.gov.

LABOR CABINET
Department of Workers' Claims
(As Amended at ARRS, March 11, 2019)

803 KAR 025:290 Continuation of Medical Benefits.

RELATES TO: KRS 342.0011(13), 342.020.

STATUTORY AUTHORITY: KRS 342.020, 342.260, 342.265, 342.270, 342.275.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260(1) requires the commissioner to promulgate administrative regulations necessary to carry on the work of the department and the work of administrative law judges so long as those administrative regulations are consistent with KRS Chapter 342 or KRS Chapter 13A. KRS 342.020(1) provides an employer shall pay for the cure and relief from the effects of an injury or occupational disease as required at the time of injury and thereafter for the length of time set forth in KRS 342.020. KRS 342.020(3) sets forth the length of time for which the employer is responsible for payment and provides an employee shall receive a continuation of the benefits provided in KRS 342.020 beyond the stated length of time if certain criteria are met. KRS 342.020(3) further provides the department shall, 754 weeks from the date of injury or last exposure, notify the employee of the right to file an application for continuation of the benefits provided in KRS 342.020. This administrative regulation applies to the benefits provided in KRS 342.020 and for which the employer's responsibility for payment is limited to 780 weeks. This administrative regulation establishes the process by which the department will notify the employee of the right to file an application to continue the benefits provided by KRS 342.020, the method by which the employee is to make application, and the process by which an administrative law judge will determine and order a continuation of benefits for an additional time beyond the original period.

Section 1. Definitions.

- (1) "Benefit Review Conference" means a benefit review conference as described in 803 KAR 25:010, Section 13.
- (2) "Commissioner" means the commissioner charged in KRS 342.228 to administer the department and whose duties are stated in KRS 342.230.
- (3) "Department" means the governmental entity whose responsibilities are provided in KRS 342.228.
- (4) "Notice" means a communication from the commissioner or his designee advising a claimant of the right to file an application to extend the employer's liability for payment of benefits beyond the 780-week limitation provided in KRS 342.020(3).
- (5) "Notice of Filing of Application" means a document that alerts the parties to a claim that an application to extend the employer's obligation for payment of benefits beyond the 780-week period has been filed, assigns the matter to an administrative law judge, and provides a Litigation Management System access number to those parties.
- (6) "Week" means seven (7) consecutive days; the day of injury or date of last exposure shall not be included when computing the 780-week period for which the employer has the obligation to pay the benefits specified in KRS 342.020.

Section 2. Notice; Duty to Inform the Department of Workers' Claims of Change of Address.

(1) 754 weeks from the date of injury or last exposure, the commissioner shall advise the claimant in writing of the right to file an application for the continuation of medical benefits. Notice shall be mailed by first class mail to the claimant's last known address as reflected in the department's Litigation Management System. Notice shall also be sent electronically to the last email address provided by the claimant to the department. The day of injury or date of last exposure shall not be included when computing the 754-week period; when the last day of the 754-week period falls on a Saturday, Sunday, or state holiday, the notice shall be generated the next day which is not a Saturday, Sunday, or state holiday.

(2) Subsequent to the entry of an award or approval of a settlement agreement in which medical benefits are either awarded or not waived, the claimant shall notify the department in writing in a format prescribed by the commissioner of any change in physical mailing address and email address within thirty (30) days of such change of address.

(3) Subsequent to the entry of an award or approval of a settlement agreement in which medical benefits are either awarded or not waived, the employer and medical payment obligor shall notify the department in writing in a format prescribed by the commissioner of any change in the claimant's physical mailing address or email address of which it, or its agents, become aware. The[Such] notice shall be given within thirty (30) days of the date the employer, medical payment obligor or any agent thereof becomes aware of a change in the claimant's address.

Section 3. Procedure for Filing and Resolution of Applications for Continuation of Medical Benefits.

(1) The claimant shall file an application for continuation of medical benefits on the form prescribed by the commissioner no sooner than seventy-five (75) days prior to the last day of the 780-week period from the date of injury or last exposure and no later than the last day of the 780-week period from the date of injury or last exposure.

(2) (a) With the application for continuation of medical benefits the claimant shall file a medical report on the form prescribed by the commissioner. The medical report shall include:

1. A description of the injury or occupational disease for which medical benefits were awarded or approved and for which an application for continuation of medical benefits is being filed;

2. A medical opinion that asserts continued medical treatment is reasonably necessary, related to the work injury or occupational disease, and explains the basis for that opinion; and

3. A general description of the medical treatment that may reasonably be expected.

(b) With the application for continuation of medical benefits and the medical report the claimant shall file a newly executed Form 106.

(3) A medical provider shall be entitled to charge a fee not to exceed \$100 for preparing the report described in subsection (2). The fee shall be paid by the claimant.

(4) Filing an application for continuation of medical benefits shall stay termination of the employer's obligation to pay the benefits pursuant to KRS 342.020(3)(a) pending resolution of the application.

(5) Following the filing of an application for continuation of medical benefits, the commissioner shall issue a Notice of Filing of Application that shall:

(a) Be mailed to the claimant and employer, and, when applicable, one (1) of the following payment obligors: the employer's insurance carrier, self-insured group, uninsured employers fund, guaranty fund, or other payment obligor;

(b) Provide the parties a Litigation Management System access code; and

(c) Assign the matter to an administrative law judge.

(6)(a) Within sixty (60) days of the date of the Notice of Filing Application, the defendant shall file a Notice of denial or acceptance of the application.

(b) If the defendant accepts the application for continuation of medical benefits, the administrative law judge shall issue an order granting the extension of medical benefits beyond 780 weeks from the date of injury or last exposure. Acceptance of the application for continuation of medical benefits shall not be deemed an admission of compensability as to any specific medical treatment beyond 780 weeks from the date of injury or last exposure. The defendant retains the right to file a motion to reopen pursuant to 803 KAR 25:010, Section 6(5), and 803 KAR 25:012, Section 1(6) in order to assert a medical dispute to challenge compensability of specific medical treatment;

(c) If the defendant denies the application for continuation of medical benefits, it may file a medical report with the denial. The medical report shall include the following:

1. A description of the injury that is the basis of the claim; and

2. A medical opinion asserting continued medical treatment is not reasonably necessary, not related to the work injury or

occupational disease, and explaining the basis for that opinion.

(d) At the conclusion of the sixty (60) day period provided in paragraph (a) of this subsection in which the defendant is to file its denial or acceptance of the application, the claimant shall have fifteen (15) days in which to file additional medical evidence in rebuttal to the evidence filed by the defendant; and

(e) If the defendant fails to timely file its denial of the application, the administrative law judge shall issue an order granting the extension of medical benefits beyond 780 weeks from the date of injury or last exposure.

(7) (a) If the defendant files a denial of the application, the administrative law judge shall schedule a telephonic Benefit Review Conference to be held within twenty (20) days of the conclusion of the claimant's rebuttal period provided in subsection (6)(d) of this section.

(b) The telephonic Benefit Review Conference shall be an informal proceeding.

(c) A transcript of the telephonic Benefit Review Conference shall not be made.

(d) All parties and representatives participating in the telephonic Benefit Review Conference shall have authority to immediately resolve disputed issues and enter into a binding settlement agreement with respect to the application.

(e) If at the conclusion of the Benefit Review Conference the parties have not reached an agreement on all issues, the administrative law judge shall:

1. Prepare a final Benefit Review Conference memorandum and order, which identifies all contested issues; and

2. Schedule a formal hearing unless the formal hearing is waived by the parties.

(8) The claimant shall have the burden of proof to demonstrate continued medical treatment is reasonably necessary and related to the work injury or occupational disease.

(9) Within sixty (60) days following conclusion of the formal hearing or order waiving the formal hearing, the administrative law judge shall issue an award, order or decision, which shall include a statement of findings of fact and conclusions of law.

(10) An order granting a continuation of benefits beyond 780 weeks shall not include an award of any specific medical treatment identified in the medical report submitted in support of the application.

(11) If applicable, a party shall file a petition for reconsideration within fourteen (14) days of the filing of the decision, order or award of the administrative law judge in accordance with the procedures set out in 803 KAR 25:010, Section 20.

(12) Pursuant to KRS 342.285(1), the decision of the administrative law judge shall be subject to review by the Workers' Compensation Board in accordance with the procedures set out in 803 KAR 25:010, Section 22.

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

(a) "Application for Continuation of Medical Benefits, Form CMB-APP-1", 8/18;

(b) "Medical Report in Support of Continuation of Medical Benefits, Form CMB-APP-2", 8/18;

(c) "Change of Address, Form CMB-ADD-3", 8/18.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Workers' Claims, 657 Chamberlin Avenue, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

This is to certify that the commissioner has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 342.260.

ROBERT L. SWISHER, Commissioner

APPROVED BY AGENCY: November 28, 2018

FILED WITH LRC: November 28, 2018 at 3 p.m.

CONTACT PERSON: B. Dale Hamblin, Jr., Assistant General Counsel, Workers' Claims Legal Division, Prevention Park, 657 Chamberlin Avenue, Frankfort, Kentucky 40601, phone (502) 782-4404, fax (502) 564-0681, email dale.hamblin@ky.gov.

PUBLIC PROTECTION CABINET
Kentucky Department of Financial Institutions
(As Amended at ARRS, March 11, 2019)

808 KAR 1:060. Automated teller machines.

RELATES TO: KRS 286.3-180, 286.5-061, 286.6-055

STATUTORY AUTHORITY: KRS 286.1-020(1), 286.5-702, 286.6-070

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.1-020(1) authorizes the commissioner to promulgate administrative regulations necessary to implement KRS Chapter 286. This administrative regulation provides for the use of an automated teller machine by a financial institution and specifies that an automated teller machine is not a branch or service facility of the financial institution.

Section 1. Definitions.

(1) "Financial institution" means a state [-]chartered bank, savings and loan association, or credit union.

Section 2. A financial institution may receive and act upon a communication from a customer transmitted through an automated teller machine. The communication may:

- (1) Request the withdrawal of funds either from the customer's deposit account or from a previously authorized line of credit;
- (2) Instruct the institution to receive funds or to transfer funds for the customer's benefit;
- (3) Make a balance inquiry;
- (4) Instruct the financial institution to receive cash or a check; or
- (5) Request the financial institution to dispense cash to the customer at the location of the automated teller machine.

Section 3. A transaction initiated by an automated teller machine shall be subject to verification by the financial institution.

Section 4. ~~The commissioner may require information from a financial institution concerning the operation of an automated teller machine or other information that the commissioner believes to be in the public interest.~~

~~Section 5.] A financial transaction effected by use of an automated teller machine shall be deemed to be transacted at the institution and not at the automated teller machine. The automated teller machine shall not be considered to be a branch, [or] branch office, or service facility.~~

CHARLES A. VICE, Commissioner

K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: December 14, 2018

FILED WITH LRC: December 14, 2018 at noon

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PUBLIC PROTECTION CABINET
Kentucky Department of Financial Institution
(As Amended at ARRS, March 11, 2019)

808 KAR 1:140. Fees[Bank annual assessment fee].

RELATES TO: KRS 286.3-010, 286.3-020, 286.3-050, 286.3-095, 286.3-135, 286.3-140, 286.3-145, 286.3-146, 286.3-170, 286.3-172, 286.3-174, 286.3-180, 286.3-185, 286.3-450, 286.3-480, 286.3-530, 286.3-820, **286.3-905**, 286.3-920, 286.6-100, **286.8-046**, **286.8-090**, **286.9-110**

STATUTORY AUTHORITY: KRS 286.1-020(1), 286.3-145, 286.3-146, 286.3-480(1)(b), 286.6-100(1)(d)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.1-020(1) authorizes the commissioner to promulgate administrative regulations to interpret and carry out the provisions and intent of KRS Chapter 286. KRS 286.3-145 and 286.3-146 authorize the commissioner to prescribe filing fees for trust companies that want to establish or acquire and maintain a trust office or trust representative

office. KRS 286.3-480 requires the commissioner to establish fees for certain investigations, applications, examination of assets, and extraordinary services performed for any financial institution. ~~[This administrative regulation establishes the fees for such services.]~~ KRS 286.3-480(1)(b) ~~requires[provides that]~~ each state bank ~~to[shall]~~ pay an annual assessment based on the assets of the bank or branch. ~~[This administrative regulation establishes the schedule of fees for a state bank.]~~ KRS 286.6-100(1)(d) ~~requires[establishes that]~~ each credit union subject to supervision and examination by the commissioner ~~to[shall]~~ pay an annual fee to the commissioner based on the assets of the credit union and any fees for extraordinary services performed by the department for a particular credit union. This administrative regulation establishes examination fees, assessment fee schedules, and fees for related services for banks, credit unions, check casher licensees, and mortgage loan companies and brokers[the fees for such services].

Section 1. Definitions.

(1) "Applicant" means a person or institution submitting a written application, plan, or notice pursuant to KRS Chapter 286.3.

(2) "Extraordinary services performed" means:

(a) Review of a request for approval of a change of control made pursuant to KRS 286.3-095(1), unless the request was made concurrently with an application made pursuant to KRS 286.3-905; or

(b) A special examination.

(3) "Institution" means an institution that is subject to examination pursuant to KRS 286.3-450 or KRS 286.3-530.

(4) "Special examination" means:

(a) An abbreviated on-site review conducted to determine an institution's progress in achieving compliance with laws, administrative regulations, or a formal or informal enforcement action to address unsafe and unsound banking practices;

(b) An off-site review of progress reports submitted by an institution to the commissioner in conjunction with a formal or informal enforcement action; or

(c) A second examination conducted within the twenty-four (24) month timeframe set forth in KRS 286.3-450(1) that results from an institution failing to comply with laws or administrative regulations relating to banks or trust companies or from an institution engaging in unsafe and unsound banking practices.

Section 2. Hourly Examination Fees. (1) The hourly fee for each examiner conducting an examination or investigation of a state chartered bank or trust company[department licensee or chartered institution] shall be fifty-five (55) dollars.

(2) The hourly fee for each examiner conducting an examination or investigation of all other department licensees shall be forty-two (42) dollars.

(3) In addition to the hourly fee, reasonable costs may be charged if the examination or investigation involves travel expenses or other incidental out-of-pocket costs[and, in some instances, may also include additional reasonable costs incurred].

Section 3. Determination of Bank Assets Subject to Assessment.

(1) Each[A] state chartered bank shall pay an annual assessment fee to the department[according to the schedule established in Section 2 of this administrative regulation] based on its assets as reported on[the office as of] the 31st day of December of the previous calendar year.

(2) The assets subject to the annual assessment shall not include assets held by the bank or branch in a fiduciary capacity.

(3) The annual assessment shall be paid by April 1, unless the department and bank agree in writing to a later date due to extraordinary circumstances.

Section 4[2]. Bank Assessment Fee Schedule.

BANK ASSESSMENT FEE SCHEDULE

If the amount of total assets is:		Assessment shall be:		
Over	But Not Over	This Amount	Plus	Of Excess Over
\$0	\$2 Million	\$0	\$0.001	\$0

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\$2 Million	\$25 Million	\$2,000	\$0.00012	\$2 Million
\$25 Million	\$50 Million	\$4,760	\$0.000055	\$25 Million
\$50 Million	\$75 Million	\$6,135	\$0.000045	\$50 Million
\$75 Million	\$100 Million	\$7,260	\$0.00004	\$75 Million
\$100 Million	\$125 Million	\$8,260	\$0.000035	\$100 Million
\$125 Million	\$150 Million	\$9,135	\$0.00003	\$125 Million
\$150 Million	\$175 Million	\$9,885	\$0.000025	\$150 Million
\$175 Million	\$200 Million	\$10,510	\$0.00002	\$175 Million
\$200 Million	\$500 Million	\$11,010	\$0.000019	\$200 Million
\$500 Million	\$1,000 Million	\$16,710	\$0.0000185	\$500 Million
\$1,000 Million		\$25,960	\$0.000018	\$1,000 Million

Section 5. Bank-related Services. An applicant or institution shall pay the department a fee for the services identified in the following table:

Service	Fee
Review of application submitted pursuant to KRS 286.3-020	\$5,000, plus the hourly fee established in Section 2(1) of this administrative regulation for each examiner that conducts an investigation of the applicant.
Review of application submitted pursuant to KRS 286.3-135	\$5,000, plus the hourly fee established in Section 2(1) of this administrative regulation for each examiner that conducts an investigation of the applicant.
Review of plan submitted pursuant to KRS 286.3-172	\$5,000, plus the hourly fee established in Section 2(1) of this administrative regulation for each examiner that conducts an investigation of the applicant.
Review of amendments submitted pursuant to KRS 286.3-050(4) if at least one (1) amendment is being made pursuant to KRS 286.3-140(1)	\$1,000
Review of amendments submitted pursuant to KRS 286.3-050(4) if none of the amendments are being made pursuant to KRS 286.3-140(1)	\$250
Review of application required pursuant to KRS 286.3-180 unless the application is being made concurrently with an application required pursuant to KRS 286.3-920(2)	\$500
Review of application required pursuant to KRS 286.3-820	\$500
Review of application required pursuant to KRS 286.3-920(2) or 286.3-920(3) unless the application is being made concurrently with an application required pursuant to KRS 286.3-905	\$2,500
Review of notice required pursuant to KRS 286.3-145(4)	\$500
Review of notice required pursuant to KRS 286.3-145(5) or 286.3-146(4)	\$1,000
Review of application required pursuant to KRS 286.3-185	\$500
Examination conducted pursuant to KRS 286.3-480(1)(c)	The hourly fee established in Section 2(1) of this administrative regulation for each examiner that conducts the examination.
Extraordinary services performed	The hourly fee established in Section 2(1) of this administrative regulation for

	each examiner that conducts the review or special examination.
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Section 6. Payment Terms.

(1) Except for hourly fees, a fee shall be paid by the applicant at the time a written application, plan, or notice is made.

(2) An hourly fee shall be paid within thirty (30) days of the date a fee invoice is transmitted to the applicant or institution.

(3) Except for clerical errors, a fee paid pursuant to this administrative regulation shall be nonrefundable.

Section 7. Credit Unions. (1) Each state-chartered credit union shall pay an annual assessment fee to the department, based on the assets reported on December 31 of the previous calendar year.

(2) The annual assessment fee shall be paid by April 1.

(3) The annual assessment fee schedule shall be as follows:

If the amount of total assets is:		Assessment shall be:		
Over	But Not Over	This Amount	Plus	Of Excess Over
\$0	\$2 Million	\$1,032.50	\$0.00045	\$1 Million
\$2 Million	\$5 Million	\$1,482.50	\$0.0003	\$2 Million
\$5 Million	\$20 Million	\$2,382.50	\$0.00015	\$5 Million
\$20 Million	\$50 Million	\$4,632.50	\$0.00013	\$20 Million
\$50 Million	\$100 Million	\$8,532.50	\$0.0001	\$50 Million
\$100 Million		\$11,532.50	\$0.00005	\$100 Million

Section 8. (1) A check casher licensee shall pay the examination fee established in Section 2 of this administrative regulation within thirty (30) days of the date of billing. The date of billing shall be the date the bill was deposited in the mailroom at the department for delivery through the United States Mail.

(2) If the fee is not paid within the thirty (30) day time period, the office shall send the licensee a notice of failure to pay the examination fee and demand for immediate payment.

(3) If the licensee does not pay the examination fee within thirty (30) days from the date of receipt of the notice of failure to pay the examination fee and demand for immediate payment, the licensee shall be:

- (a) Subject to the penalties established in KRS 286.9-110; and
- (b) Remain liable for the payment of all owed examination fees.

Section 9. (1) A mortgage loan company or mortgage loan broker shall pay the fee established in Section ~~2(1)~~ of this administrative regulation within thirty (30) days of the date of the fee bill sent following the examination or investigation.

(2) If the fee is not paid within the thirty (30) day time period, the department shall send the mortgage loan company or mortgage loan broker a notice of failure to pay the fee and a demand for immediate payment.

(3) If the mortgage loan company or mortgage loan broker does not pay the fee within thirty (30) days from the date of demand for immediate payment, the mortgage loan company or mortgage loan broker and its control persons shall:

- (a) Be subject to the penalties established in KRS 286.8-090 and 286.8-046;
- (b) Remain liable for the payment of all owed fees; and
- (c) Be subject to administrative action by the department and on its behalf.

CHARLES A. VICE, Commissioner

K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: December 14, 2018

FILED WITH LRC: December 14, 2018 at noon

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PUBLIC PROTECTION CABINET
Kentucky Department of Financial Institutions
(As Amended at ARRS, March 11, 2019)

808 KAR 1:170. Licensing and registration.

RELATES TO: KRS Chapter 286.4, 286.8-010, 286.8-020, 286.8-030(1), 286.8-032, 286.8-034, 286.8-036, 286.8-060, 286.8-070, 286.8-080, 286.8-090(1), 286.8-255, 286.8-260, 286.8-290, 286.9-010, 286.9-020, 286.9-030, 286.9-040, 286.9-050, 286.9-060, 286.9-071, 286.9-073, 286.9-080[f.]

STATUTORY AUTHORITY: KRS 286.4-420, 286.4-430, 286.4-440, 286.4-450(1)(b), 286.4-480[286.4480], 286.4-610(1), 286.8-032, 286.8-034, 286.8-100, 286.8-140(1), (4)[286.8140(4)], 286.8-255, 286.8-285, 286.9-050, 286.9-060, 286.9-070, 286.9-090(1)[f.]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.4-610(1) authorizes the commissioner to promulgate administrative regulations for the proper conduct of the consumer loan businesses licensed under KRS Chapter 286.4. KRS 286.4-430(1) authorizes the commissioner to prescribe the form of the application for a license under KRS Chapter 286.4. ~~[This administrative regulation establishes the procedures and forms for submitting an application for licensure as a consumer loan company.]~~ KRS 286.8-140(1) authorizes the commissioner to promulgate administrative regulations necessary to accomplish the basic purposes of KRS Chapter 286.8. ~~[This administrative regulation establishes procedures for licensure, registration, and electronic submission of filings and fees with the nationwide mortgage licensing system operated by the State Regulatory Registry, LLC.]~~ KRS 286.9-090(1) authorizes the commissioner to adopt reasonable administrative regulations for the enforcement of KRS Chapter 286.9. KRS 286.9-050 and 286.9-060 authorize the commissioner to prescribe the form of and the filing procedures for an application for a license under KRS Chapter 286.9 and the information and documents that must be submitted to the commissioner with an application for a license. This administrative regulation establishes licensing and registration requirements for consumer loan companies and procedures for using the nationwide mortgage licensing system ~~[the required forms, information, documents, and filing procedures for licensees and applicants proceeding pursuant to these statutes].~~

Section 1. Definitions.

(1) "Audited financial statement" means/shall mean a financial statement prepared by a certified public accountant in accordance with generally accepted accounting principles. A financial statement shall include a balance sheet, income statement, statement of cash flows, and all relevant notes.

(2) "Surety bond" means/shall mean a bond furnished by a surety company authorized to conduct business in Kentucky.

Section 2. Licensure as a Consumer Loan Company. A person applying for licensure as a consumer loan company shall complete and submit:

(1) Form CL-1, Application for a Kentucky Consumer Loan License with all required attachments;

(2) A Form CL-4, State License Confirmation Form completed by each state or jurisdiction in which the person is licensed or registered if the person applying for licensure as a consumer loan company is licensed or registered in any other state or jurisdiction to operate a business making loans of \$15,000 or less at the time of application;

(3) The non-refundable application investigation fee established in KRS 286.4-440(1); and

(4) The annual license fee established in KRS 286.4-440(1).

Section 3. Licensure as a Limited Check Cashier.

(1) Initial Application. A person applying for an initial limited check cashier license shall complete and submit:

(a) Form LCC-1, Application for Limited Check Cashier License with all required attachments;

(b) The nonrefundable investigation fee established in KRS

286.9-060(1);

(c) Form COMB-1, State License Confirmation Form for Check Cashier License or Limited Check Cashier License, incorporated by reference in 808 KAR 9:050, if the applicant has a license, registration, or claim of exemption related to the financial services industry in any other state;

(d) An audited financial statement dated as of the previous year end. If the applicant is a start-up company, an initial statement of condition and a pro-forma income statement shall be submitted instead of the income statement and statement of cash flows;

(e) Evidence that the applicant has complied or will comply with all workers' compensation and unemployment compensation laws of Kentucky; and

(f) One (1) of the following, which shall be deposited with and made payable to the commissioner:

1. An irrevocable letter of credit in an amount required by KRS 286.9-040(1)(a);

2. An original corporate surety bond, submitted on Form COMB-2, Surety Bond for Check Cashier License or Limited Check Cashier License, incorporated by reference in 808 KAR 9:050, in an amount required by KRS 286.9-040(1)(b). The name of the principal insured on the bond shall match exactly the full legal name of the applicant; or

3. Form COMB-3, Escrow Agreement for Check Cashier License or Limited Check Cashier License, incorporated by reference in 808 KAR 9:050, accompanied by:

a. Evidence that the applicant has established an account in a federally insured financial institution in Kentucky and has deposited money of the United States in an amount required by KRS 286.9-040(1)(c); or

b. A savings certificate of a federally insured financial institution in Kentucky established by the applicant that is not available for withdrawal except by direct order of the commissioner in an amount required by KRS 286.9-040(1)(d).

(2) Renewal Application. A licensee applying for renewal of a check cashier license or limited check cashier license pursuant to KRS 286.9-080(1) shall complete and submit the following on or before June 20 of each year:

(a) Form COMB-4, Renewal Application for Check Cashier License or Limited Check Cashier License with all required attachments; and

(b) The nonrefundable license fee established in KRS 286.9-080(1).

(3) Reinstatement Application. A licensee applying for reinstatement of a check cashier license or limited check cashier license pursuant to KRS 286.9-080(2) shall complete and submit the following prior to August 1 of the year that the renewal application was due:

(a) Form COMB-4, Renewal Application for Check Cashier License or Limited Check Cashier License with all required attachments;

(b) The nonrefundable license fee established in KRS 286.9-080(1); and

(c) The nonrefundable late fee and reinstatement fee established in KRS 286.9-080(2).

Section 4. Licensure as a Mortgage Loan Company or Mortgage Loan Broker.

(1) Initial Application. A person applying for licensure as a mortgage loan company or mortgage loan broker shall submit:

(a) A completed NMLS Company Form as available online at <http://mortgage.nationwidelicencingsystem.org>;

(b) A completed NMLS Individual Form as available online at <http://mortgage.nationwidelicencingsystem.org> for each control person designated on the direct owners and executive officers section of the NMLS Company Form;

(c) An audited financial statement dated the previous year end to the date of submission of the NMLS Company Form. If applicant is a start-up company, an initial statement of condition and a pro-forma income statement shall be submitted instead of the income statement and statement of cash flows;

(d) An original bond, submitted on the appropriate form in an

amount not less than the amount required by KRS 286.8-060(1). The name of the principal insured on the bond shall match exactly the full legal name of applicant.

1. For a mortgage loan company, Form ML-1, Surety Bond for Mortgage Loan Company; or

2. For a mortgage loan broker, Form ML-2, Surety Bond for Mortgage Loan Broker;

(e) ~~[.]~~ A certified copy of the following:

1. If a corporation, the Corporate Charter or Articles of Incorporation and Bylaws;

2. If a limited liability company, the Articles of Organization and Operating Agreement; or

3. If a partnership of any form, the Partnership Agreement;

(f) A Certificate of Authority or a Certificate of Good Standing issued by the Kentucky Secretary of State dated not more than sixty (60) days prior to the submission of the NMLS Company Form;

(g) If applicant will be operating in Kentucky under a name other than its legal name, a file-stamped copy of the Certificate of Assumed Business Name issued by the Kentucky Secretary of State;

(h) If required to do so by KRS 286.8-032(6), documentation that a managing principal designated by applicant has successfully completed the educational training set forth in KRS 286.8-032(6);

(i) If the principal office will be located in a residence, a completed Form ML-6, Disclosure of Location at a Residence Form; and

(j) The fees set forth in KRS 286.8-034(1).

(2) Renewal Application.

(a) A person applying for renewal of a mortgage loan company or mortgage loan broker license prior to December 1 shall submit:

1. The required updates and attestation ensuring that all information in the person's record maintained by the nationwide mortgage licensing system operated by the State Regulatory Registry, LLC is correct as available online at <http://mortgage.nationwidelicensingsystem.org>; and

2. The fee set forth in KRS 286.8-034(3).

(b) A person applying for renewal of a mortgage loan company or mortgage loan broker license through reinstatement shall submit all materials required by paragraph (a) of this subsection and the reinstatement fee required by KRS 286.8-034(4).

(3) Change of Address, Name, Control, or Agent for Service.

(a) A licensee changing its address, name, or agent for service of process shall notify the commissioner:

1. At least ten (10) days prior to the change of address or name; and

2. Five (5) days prior to the change of agent for service of process.

(b) A licensee that wants to engage in a transaction resulting in a change of control shall notify the commissioner at least thirty (30) days in advance with the information necessary for the commissioner to determine whether the requirements of KRS Chapter 286.8 will be satisfied upon the change of control. The commissioner shall notify the licensee whether the request is approved or denied within thirty (30) days.

(c) A licensee changing its address, name, control, or agent for service of process shall update this information in Nationwide Mortgage Licensing System (NMLS) within the same time periods set forth in this section.

Section 5. Registration of a Mortgage Loan Company Branch.

(1) A mortgage loan company branch shall not be approved unless it is controlled, managed, and supervised by the applicant's principal office.

(2) A person applying for registration of a branch shall submit the following:

(a) A completed NMLS Branch Form as available online at <http://mortgage.nationwidelicensingsystem.org>;

(b) A copy of the lease or deed for the branch;

(c) A completed Form ML-7, Branch Authorization Form;

(d) If the branch will be located in a residence, a Form ML-6, Disclosure of Location at a Residence Form; and

(e) The fee set forth in KRS 286.8-034(1)(b).

(3) A person applying for renewal of a branch registration prior to December 1 shall submit all materials required by Section 4(2)(a) of this administrative regulation.

(4) A person applying for renewal of a branch registration through reinstatement shall submit all materials required by Section 4(2)(a) of this administrative regulation and the reinstatement fee required by KRS 286.8-034(4).

Section 6. Registration of a Mortgage Loan Originator.

(1) Initial registration. A person applying for registration as a mortgage loan originator pursuant to KRS 286.8-255(2) shall submit:

(a) A completed NMLS Individual Form as available online at <http://mortgage.nationwidelicensingsystem.org>;

(b) A request to submit a Federal Bureau of Investigation background records check and a credit report to the department;

(c) Certification that applicant has successfully completed all education and testing required by KRS 286.8-255; and

(d) The fee set forth in KRS 286.8-255(2)(b).

(2) Renewal registration.

(a) A person applying for renewal of a mortgage loan originator registration pursuant to KRS 286.8-255(4) shall submit:

1. The required updates and attestation ensuring that all information in the person's record maintained by the nationwide mortgage licensing system operated by the State Regulatory Registry, LLC is correct as available online at <http://mortgage.nationwidelicensingsystem.org>;

2. A request to submit a Federal Bureau of Investigation background records check and a credit report to the department;

3. Certification that applicant has successfully completed all education and testing required by KRS 286.8-255 and 286.8-260; and

4. The fee set forth in KRS 286.8-255(4).

(b) A person applying for renewal of a mortgage loan originator registration through reinstatement shall submit all materials required by paragraph (a) of this subsection and the reinstatement fee required by KRS 286.8-255(5).

(3) The cost of any Federal Bureau of Investigation background records check or credit report required by this section shall be borne by the applicant.

Section 7. Mortgage Loan Originator Bond Requirements. In addition to the requirements set forth in this administrative regulation, an applicant applying for registration, renewal, or renewal through reinstatement as a mortgage loan originator shall provide proof that the mortgage loan originator holds or is covered by a bond. If the mortgage loan originator is procuring his or her own bond, the bond shall be submitted on the applicable Surety Bond for Individual Mortgage Loan Originators form and in an amount determined by annual loan origination as follows:

(1) If the annual loan volume of the applicant is less than \$10,000,000, the surety bond shall be in an amount not less than \$15,000 and the applicant shall submit Form ML-3, Surety Bond for Individual Mortgage Loan Originators with an Annual Loan Origination Volume of Less than \$10,000,000; or

(2) If the annual loan volume of the applicant is \$10,000,000 or more, the surety bond shall be in an amount not less than \$20,000 and the applicant shall submit Form ML-4, Surety Bond for Individual Mortgage Loan Originators with an Annual Loan Origination Volume of \$10,000,000 or Greater.

Section 8. Factors Used to Determine Approval or Disapproval of an Application.

(1) A mortgage loan originator applicant seeking registration, renewal, or renewal through reinstatement under KRS 286.8-255 shall demonstrate the financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the applicant will operate honestly, fairly, lawfully, and efficiently within the purposes of the subtitle.

(2) Each applicant shall authorize the commissioner to obtain a credit report containing a credit score to aid in making this determination.

(3) The applicant shall have met the requirement of financial responsibility if he or she possessed a credit score of 600 or higher at the time of application. If the applicant possesses a credit score of less than 600, the commissioner may review the applicant's credit report for the following information to make this determination:

- (a) Any outstanding judgments, excluding judgments arising solely from medical expenses for the applicant or an immediate family member;
- (b) Any outstanding tax liens or other governmental liens;
- (c) Any foreclosures occurring within five (5) years of the date of application or renewal;
- (d) Any bankruptcies occurring within five (5) years of the date of application or renewal; and
- (e) Any delinquent accounts occurring within five (5) years of the date of application or renewal.

(4) The factors of character and general fitness shall be determined by the commissioner after review of all relevant information, including information shown on the applicant's credit report, the applicant's criminal history, and any administrative or civil actions taken against the applicant.

Section 9. Electronic Submission of Filings and Fees through the Nationwide Mortgage Licensing System Operated by the State Regulatory Registry, LLC.

(1) A person applying for licensure, registration, renewal, or renewal through reinstatement pursuant to Sections 4, 5, 6, and 7 of this administrative regulation shall electronically submit the following with the State Regulatory Registry, LLC, at <http://www.stateregulatoryregistry.org/NMLS>, as part of the nationwide mortgage licensing system:

- (a) All forms, updates, attestations, and requests required by Sections 4, 5, 6, and 7 of this administrative regulation, as applicable;
- (b) Fingerprints and any other information or authorizations necessary to obtain the background records checks and credit reports referenced in Section 6 of this administrative regulation; and
- (c) All fees referenced in this administrative regulation.

(2) All forms, documentation, fees, or information that are not available for electronic submission directly through the nationwide mortgage licensing system operated by the State Regulatory Registry, LLC shall be submitted directly to the department.

(3) Any fees assessed by the State Regulatory Registry, LLC, to process the electronic submissions referenced in subsection (1) of this section shall be borne by the applicant.

Section 10. Abandoned Applications. If any applicant fails to provide or respond to a request for additional information within ninety (90) days of submission to the department, the application shall be abandoned. Any applicant seeking licensing or registration after its application has been abandoned shall reapply and resubmit all required information.

Section 11. Inactive Status for Members of the Armed Forces.

(1) A member of the Armed Forces who holds a license or registration in good standing under this administrative regulation may request that the commissioner place the license or registration in inactive status during the period of time that the member is mobilized or deployed, and for a period of six (6) months following termination of the mobilization or deployment.

(2) To request inactive status for a license or registration, a person shall complete Form ML-8, Request for Inactive Status Due to Military Service and submit it along with proof of mobilization or deployment to the commissioner for approval.

(3) A person whose license or registration has been placed in inactive status shall not engage in the activity requiring the license or registration under KRS Chapter 286.8.

(4) The fee set forth in KRS 286.8-255(4) shall not accrue against any person whose license or registration is in inactive status.

(5) A person may reactivate an inactive license or registration by submitting a written request to the commissioner and attaching

proof of compliance with KRS 286.8-255(10) and 286.8-260, if applicable. Upon receipt of a written request and confirmation of compliance with KRS 286.8-255(10) and 286.8-260, the commissioner shall issue an approval for reactivation.

Section 12. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) Form CL-1, "Application for a Kentucky Consumer Loan License", updated 03/2015
- (b) Form CL-4, "State License Confirmation Form", updated 03/2015;
- (c) Form LCC-1, "Application for Limited Check Casher License", updated 04/2016
- (d) Form COMB-4, "Renewal Application for Check Casher License or Limited Check Casher License", updated 04/2014;
- (e) Form ML-1, "Surety Bond for Mortgage Loan Company", updated 03/2015;
- (f) Form ML-2, "Surety Bond for Mortgage Loan Broker", updated 03/2015;
- (g) Form ML-3, "Surety Bond for Individual Mortgage Loan Originators with an Annual Loan Origination Volume of Less than \$10,000,000", updated 03/2015;
- (h) Form ML-4, "Surety Bond for Individual Mortgage Loan Originators with an Annual Loan Origination Volume of \$10,000,000 or Greater", updated 03/2015;
- (i) Form ML-6, "Disclosure of Location at a Residence Form", updated 03/2015;
- (j) Form ML-7, "Branch Authorization Form", updated 03/2015; and
- (k) Form ML-8, "Request for Inactive Status Due to Military Service", updated 03/2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 5 p.m. This material may also be obtained from the department's Web site at <http://www.kfi.ky.gov>.

CHARLES A. VICE, Commissioner

K. GAIL RUSSELL, Acting Secretary

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**PUBLIC PROTECTION CABINET
Department of Financial Institutions
(As Amended at ARRS, March 11, 2019)**

808 KAR 3:050. Conduct of credit unions.

RELATES TO: KRS 286.6-095, 286.6-100, 286.6-225, 286.6-585, 286.6-715, 12 C.F.R. Part [U.S.C.] 704, 20 U.S.C. 1071

STATUTORY AUTHORITY: KRS 286.1-020, ~~[KRS]~~ 286.6-070, ~~[KRS]~~ 286.6-100

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.6-070 authorizes the Department of Financial Institutions to promulgate administrative regulations necessary for the proper conduct and regulation of credit unions. This administrative regulation establishes requirements to ensure the proper conduct of credit unions.

Section 1. Definition. A "corporate credit union" means a credit union that:

- (1) Is operated primarily for the purpose of serving other credit unions;
- (2) Is designated by the National Credit Union Administration as a corporate credit union; and
- (3) Limits natural person members to the minimum required by state or federal law to charter and operate the credit union.

Section 2. Refund of Interest. When an interest refund is authorized by the board of directors under KRS 286.6-225(3), it shall be recorded in the books of the credit union as a reduction of interest income from loans for that year or period.

Section 3.~~Credit Union Annual Assessment Fee. Each state-chartered credit union shall pay an annual assessment fee to the department based on the assets of the credit union. (1) Pursuant to KRS 286.6-100, the annual assessment fee shall be based on the assets reported to the department on December 31 of the previous calendar year.~~

~~(2) The annual assessment fee shall be paid by April 1.~~

~~(3) The annual assessment fee schedule shall be as follows:~~

If the total amount of assets equals:	The annual assessment fee shall be:
\$0 to \$2,000,000	\$1032.50 plus \$0.45 for each \$1,000 of assets over \$1,000,000
\$2,000,001 to \$5,000,000	\$1,482.50 plus \$0.30 for each \$1,000 of assets over \$2,000,000
\$5,000,001 to \$20,000,000	\$2382.50 plus \$0.15 for each \$1,000 of assets over \$5,000,000
\$20,000,001 to \$50,000,000	\$4,632.50 plus \$0.13 for each \$1,000 of assets over \$20,000,000
\$50,000,001 to \$100,000,000	\$8,532.50 plus \$0.10 for each \$1,000 of assets over \$50,000,000
Over \$100,000,000	\$11,532.50 plus \$0.05 for each \$1,000 of assets over \$100,000,000

Section 4.] Fidelity Bond.

(1) The minimum blanket fidelity bond required by KRS 286.6-225(2) shall be as follows:

Assets	Minimum Bond
\$0 to \$10,000	Amount equal to the credit union's assets
\$10,001 to \$1,000,000	\$10,000 for each \$100,000 or fraction thereof
\$1,000,001 to \$50,000,000	\$100,000 plus \$50,000 for each million or fraction thereof over \$1,000,000
\$50,000,001 to \$295,000,000	\$2,550,000 plus \$10,000 for each million or fraction thereof over \$50,000,000
Over \$295,000,000	\$5,000,000

(2) The board of directors of every credit union shall review their blanket fidelity bond coverage at least once each year to ascertain its adequacy.

Section 4[5]. Stocks and Bonds. A credit union may invest a maximum of five (5) percent of ~~members'~~members] shares in:

(1) Stock of a corporation rated A+ ~~by~~[in the current issue of] Standard and Poor's[Poore's Corporation Security Owners Stock Guide] at the date of acquisition of the stock; and

(2) A corporate bond rated AAA or higher ~~by~~[in the current issue of] Standard and Poor's[Poore's Corporation Bond Guide], or rated AAA ~~by~~[in the current issue of] Moody's[Bond Record] at the date of acquisition of the bond.

Section 5. State-chartered credit unions may invest their funds in any investment ~~that~~[which] is permissible for a federally chartered credit union under 12 C.F.R. Part 703.

Section 6. Risk Asset. For the purpose of establishing the regular reserve, an asset shall be a risk asset except for the following:

(1) Cash on hand;

(2) A share or deposit in a federally or state-insured bank, savings and loan association, or credit union that has a remaining maturity of five (5) years or less;

(3) An asset, including a collateralized mortgage obligation that is comprised of government guaranteed mortgage loans, that has a remaining maturity of five (5) years or less and is insured by, is fully guaranteed as to principal and interest by, or is due from the U.S. Government, its agencies, the Federal National Mortgage

Association, Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association;

(4) A loan to another credit union that has a remaining maturity of five (5) years or less;

(5) A student loan that has a remaining maturity of five (5) years or less and that is insured under the provisions of Title IV, Part B of the Higher Education Act of 1965 (20 U.S.C. 1071, et seq.) or similar state insurance programs;

(6) A loan that has a remaining maturity of five (5) years or less and that is fully insured or guaranteed by the federal or a state government or any agency of either;

(7) A share or deposit in a corporate credit union that has a remaining maturity of five (5) years or less, other than a Membership Capital Share Deposit account as defined in 12 C.F.R. Part [U.S.C.] 704;

(8) A common trust investment, including a mutual fund, which deals exclusively in investments authorized by the Federal Credit Union Act, 12 U.S.C. 1751 et seq., that are either carried at the lower cost or market, or are marked to market value monthly;

(9) A prepaid expense;

(10) Accrued interest on a non-risk investment;

(11) A loan fully secured by a pledge of shares in the lending credit union, equal to and maintained to at least the amount of the loan outstanding;

(12) A loan purchased from a liquidating credit union and guaranteed by the National Credit Union Administration;

(13) A National Credit Union Share Insurance Fund Guaranty Account established with the authorization of the National Credit Union Administration under the authority of Section 203(a)(1) of the Federal Credit Union Act;

(14) An investment in shares of the National Credit Union Administration Central Liquidity Facility;

(15) An asset included in subsections (2), (3), (4), (5), (6), and (7) of this section with a maturity greater than five (5) years, is not a risk asset if the asset is being carried on the credit union's records at the lower of cost or market, or is being marked to market value monthly;

(16) An asset included in subsections (2), (3), (4), (5), (6), and (7) of this section, with a remaining maturity of greater than five (5) years, is not a risk asset, whether or not the asset is being carried on the credit union's records at the lower of cost or market or is being marked to market value monthly, provided the asset meets the criteria established in paragraphs (a) through (c) of this subsection.

(a) The interest rate shall be reset at least annually.

(b) The interest rate of the instrument shall be less than the maximum allowable interest rate for the instrument on the date of the required reserve transfer.

(c) The interest rate of the instrument varies directly (not inversely) with the index upon which it is based and is not reset as a multiple of the change in the related index;

(17) A fixed asset that includes an office, branch office, suboffice, service center, parking lot, or real estate in which the credit union transacts or will transact business; and office furnishing, office machine, computer hardware and software, automated terminal, and heating and cooling equipment; and

(18) A deposit in the National Credit Union Share Insurance Fund representing a federally insured credit union's capitalization account balance of one (1) percent of insured shares.

Section 7. Charitable Contribution. Only the board of directors shall have the power to[only] authorize a contribution to a civic, charitable, or service organization.

Section 8. Conversion. A state-chartered credit union may convert to another charter.

(1) The board of directors shall first put the question of conversion to a vote of the members. Written notice of the proposed conversion shall be given to all members, which shall include a statement including the reasons for the proposed conversion. The notice shall be mailed to the last known address or hand delivered to the members. The notice shall state the date and place for the[this] meeting called to vote on the proposed conversion, which shall be at

least fifteen (15) days after the date of the notice.

(2) Approval of the proposed conversion shall be by a vote of the majority of the members who vote on the proposed conversion, in person or by absentee ballot if the bylaws of the credit union allow voting by absentee ballot.

(3) A statement of the results of the vote, verified by the president and secretary, shall be filed with the commissioner.

(4) The commissioner shall issue an order to the effect that, on the effective date of the conversion, the credit union is no longer incorporated under the laws of Kentucky. A copy of the order shall be forwarded to the Secretary of State.

CHARLES A. VICE, Commissioner

K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: December 14, 2018

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PUBLIC PROTECTION CABINET
Department of Financial Institutions
(As Amended at ARRS, March 11, 2019)

808 KAR 3:061. Repeal of 808 KAR 3:020; 3:060.

RELATES TO: KRS 286.6-070, 286.6-100, 286.6-405, 290.095, 290.585, 12 C.F.R. Part 749

STATUTORY AUTHORITY: KRS 286.1-020(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.1-020(1) authorizes the commissioner of the Department of Financial Institutions to repeal any administrative regulations, forms, and orders as are necessary to interpret and carry out the provisions and intent of this chapter. This administrative regulation repeals two (2) administrative regulations relating to credit unions whose necessary substantive provisions are more efficiently addressed elsewhere in the department's regulatory scheme. 808 KAR 3:020 is being repealed and its subject matter addressed by new concurrently promulgated administrative regulations in 808 KAR Chapter 2 governing record retention for all department licensees. 808 KAR 3:060 is being repealed because its subject matter is more appropriately addressed as part of 808 KAR 3:050 governing the conduct of Credit Unions.

Section 1. The following administrative regulations are hereby repealed:

(1) 808 KAR 3:020, Recordkeeping requirements~~[Records retention schedule]~~; and

(2) 808 KAR 3:060, Investment authority of state-chartered credit unions.

CHARLES A. VICE, Commissioner

K. GAIL RUSSELL, Acting Secretary

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PUBLIC PROTECTION CABINET
Kentucky Department of Financial Institutions
(As Amended at ARRS, March 11, 2019)

808 KAR 6:095.~~[Place of business; hours.]~~ Mandatory availability for repayment.

RELATES TO: KRS 286.4-460, 286.4-490

STATUTORY AUTHORITY: KRS 286.4-610

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.4-

610(1) authorizes the commissioner to promulgate administrative regulations to enforce the provisions of KRS Chapter 286.4. This administrative regulation ~~promotes/serves to promote~~ the proper conduct of business pursuant to KRS Chapter 286.4 by requiring minimum time frames during which the general public shall have~~[in relation to]~~ access to consumer loan company licensee places of~~[such]~~ business~~[by the general public]~~.

Section 1. ~~(1)~~ Every licensee shall maintain a place of business to which the general public shall have free access and where all obligations entered into shall be payable.

~~(2)~~ For the purposes of doing business with the general public, the acceptance of payments from borrowers, and to permit the ~~commissioner~~~~[executive director]~~ or any person designated by the ~~commissioner~~~~[and his representatives]~~ to examine the books, accounts, records and files of licensees and to enter complaints, each licensed office shall be open not less than four (4) consecutive hours between 8 a.m. and 6 p.m. on any four (4) days of each week, except legal holidays generally observed in the community in which the licensed office is located.

CHARLES A. VICE, Commissioner

K. GAIL RUSSELL, Acting Secretary

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PUBLIC PROTECTION CABINET
Department of Financial Institutions
(As Amended at ARRS, March 11, 2019)

808 KAR 6:121. Repeal of 808 KAR 6:015; 6:105; 6:115; and 6:120.

RELATES TO: KRS 286.4

STATUTORY AUTHORITY: KRS 286.1-020(1), 286.4-610(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.1-020(1) authorizes the commissioner of the Department of Financial Institutions to repeal any administrative regulations, forms, and orders as are necessary to interpret and carry out the provisions and intent of this chapter. KRS 286.4-610(1) authorizes the commissioner to promulgate administrative regulations for the proper conduct of consumer loan businesses licensed under KRS Chapter 286.4. This administrative regulation repeals four (4) administrative regulations whose subject matter is more efficiently addressed as part of other administrative regulations in Title 808 of the Kentucky Administrative Regulations. 808 KAR 6:015 is being repealed because licensure is better addressed in a concurrently promulgated new administrative regulation at 808 KAR 1:~~170~~~~[030]~~ governing all department licensees. 808 KAR 6:105, 6:115, and 6:120 are being repealed because recordkeeping requirements are more efficiently addressed in a concurrently promulgated new administrative regulation at 808 KAR 14:010 governing all department licensee records.

Section 1. The following administrative regulations are hereby repealed:

(1) 808 KAR 6:015, Licensure application; annual report;

(2) 808 KAR 6:105, Records required;

(3) 808 KAR 6:115, Note reduced to judgment; records; and

(4) 808 KAR 6:120, Sale of mortgaged property; records.

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PUBLIC PROTECTION CABINET
Kentucky Department of Financial Institutions
(As Amended at ARRS, March 11, 2019)

808 KAR 9:040.~~[Limitation on electronic fund transfers from] Customer account transfers[accounts].~~

RELATES TO: KRS 286.9-010, 286.9-100

STATUTORY AUTHORITY: KRS 286.9-090

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.9-090 authorizes the ~~commissioner~~[Office of Financial Institutions] to promulgate administrative regulations for the enforcement of ~~sub~~title KRS 286.9-010 to 286.9-120]. This administrative regulation establishes that licensees may only use electronic debits of customer accounts in collection efforts if there is nonpayment by the customer's bank or other financial institution of the customer's check [requirements for deferred deposit transactions].

Section 1. In connection with a deferred deposit transaction, a licensee shall deposit or present for payment a customer's actual check to the customer's bank or other financial institution unless that check is redeemed or bought back by the customer.

Section 2. ~~Upon~~[If there is] nonpayment by the customer's bank or other financial institution of the customer's ~~actual~~[physical][actual] check, a licensee may use electronic debits of customer accounts in its collection efforts.

CHARLES A. VICE, Commissioner

K. GAIL RUSSELL, Acting Secretary

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PUBLIC PROTECTION CABINET
Kentucky Department of Financial Institutions
(As Amended at ARRS, March 11, 2019)

808 KAR 12:050.~~[Regulation of charges for services rendered in] Processing and closing charges for real estate loans to consumers.~~

RELATES TO: KRS 286.8-120(1), (2), (6)

STATUTORY AUTHORITY: KRS 286.8-~~120~~[140], 286.8-140(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.8-120(1) and (2) authorize a mortgage loan company to require a borrower to pay all necessary and reasonable expenses incurred in connection with a loan and all other necessary and incidental services rendered by the mortgage loan company or others. This administrative regulation requires the disclosure of fees paid, prohibits markups on certain services~~[- allows a maximum markup on certain payment services]~~, and requires disclosure of ownership and control.

Section 1. All fees paid to or collected by a mortgage loan company or a mortgage loan broker in connection with a mortgage loan shall be disclosed as being paid to the mortgage loan company or mortgage loan broker, or lender on the closing disclosure[settlement statement] for the mortgage loan. The disclosure shall clearly and unambiguously disclose the identity of the recipient of each fee.

Section 2. (1)(a) A mortgage loan company or mortgage loan broker shall not mark up the cost of services performed or goods provided by another settlement service provider if no work, nominal work, or duplicative work is performed.

(b) Services that may not be marked up shall include:

1. Appraisal fees;

2. Surveyor fees; and

3. Credit reporting fees.

(2) The following fees may be paid by the lender:

(a) Premiums to loan companies and brokers; and

(b) Yield spread premiums to loan companies and brokers.~~[(3)(a) Fees paid for establishing a loan repayment program where payments are made more often than once per month may be marked up by a maximum of \$600 over the actual direct cost of the service.~~

~~(b) The actual direct cost shall be the exact cost charged by a third-party provider and shall not include overhead expenses or allocations of staff salaries.]~~

Section 3. (1) If a mortgage loan company, mortgage loan broker, lender, or the stockholder of any of these entities owns any portion of or controls an entity, or entities, that perform services, provide goods, or receive payment for goods or services provided in connection with a mortgage loan, each entity shall be treated as a separate entity, as if not owned or controlled, for purposes of disclosure to the borrower.

(2) The existence of any ownership or control and the extent and nature of the ownership or control shall be clearly and unambiguously disclosed to the borrower.

(3) The disclosure shall meet the requirements as set out in the federal Real Estate Settlement Procedures Act, C.F.R. Part 1024.1 through 1024.41[12 U.S.C.S. 2601 through 2617] ("RESPA"), and follow the prescribed disclosure format as set out in Appendix D of Part 1024[3500] RESPA.

CHARLES A. VICE, Commissioner

K. GAIL RUSSELL, Acting Secretary

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PUBLIC PROTECTION CABINET
Department of Financial Institutions
(As Amended at ARRS, March 11, 2019)

808 KAR 12:111. Repeal of 808 KAR 12:002; 12:021; 12:022; 12:023; 12:024;~~12:026;~~ 12:030; and 12:110.

RELATES TO: KRS 286.8

STATUTORY AUTHORITY: KRS 286.8-140(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.8-140(1) authorizes the commissioner to exercise general supervision and control over mortgage loan companies and mortgage loan brokers doing business in the Commonwealth of Kentucky by amending or rescinding rules and administrative regulations necessary and appropriate to accomplish the basic purposes of and the provisions contained within KRS 286.8. This administrative regulation repeals ~~seven (7)~~~~eight (8)~~ administrative regulations that are unnecessary or whose necessary substantive provisions are more efficiently addressed as part of other administrative regulations in Title 808 of the Kentucky Administrative Regulations. 808 KAR 12:002 is no longer necessary because all current definitions are either already in statute or more efficiently relocated to the individual administrative regulation where the term appears. Necessary substantive provisions from 808 KAR 12:021 and 808 KAR 12:024 regarding licensing, registration, and changes to licensee information are being repromulgated as part of a new comprehensive administrative regulation governing all department licensees at 808 KAR 1:170 for administrative efficiency. Necessary substantive provisions from 808 KAR 12:022 are being combined with 808 KAR 1:140, which is concurrently being amended to govern all examination and investigation fees for department licensees. Recordkeeping requirements set forth by 808 KAR 12:023 and 12:110 are being repromulgated as part of a new administrative

regulation governing recordkeeping by all department licensees at 808 KAR 14:010. 808 KAR 12:030 is being repealed because rather than having separate processes and procedure, the Department intends to use KRS 13B for all administrative hearings moving forward.

Section 1. The following administrative regulations are hereby repealed:

- (1) 808 KAR 12:002, Definitions for 808 KAR Chapter 12;
- (2) 808 KAR 12:021, Licensing and registration;
- (3) 808 KAR 12:022, Examination and investigation fees;
- (4) 808 KAR 12:023, Recordkeeping;
- (5) 808 KAR 12:024, Change of address, name, control, or agent for service of process;
- (6) ~~808 KAR 12:026, Procedures for distributing and using funds from the mortgage fraud prosecution fund;~~
- (7) 808 KAR 12:030, KRS Chapter 286.8, administrative hearing procedures; and
- (7)(8) 808 KAR 12:110, Report of condition.

CHARLES A. VICE, Commissioner

K. GAIL RUSSELL, Acting Secretary

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PUBLIC PROTECTION CABINET
Kentucky Department of Financial Institutions
(As Amended at ARRS, March 11, 2019)

808 KAR 14:010. Record retention.

RELATES TO: KRS Chapter 286, 12 C.F.R. Part 749

STATUTORY AUTHORITY: KRS 286.1-020(1), 286.3-375, 286.4-610(1), (3), 286.6-070, 286.7-530, 286.8-140(1), 286.8-160(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.3-375(4) requires the commissioner to promulgate an administrative regulation classifying all records kept by a bank and prescribing the time period for which records of each class shall be retained. KRS 286.1-020(1) and 286.6-070 authorize the commissioner to promulgate administrative regulations for the proper conduct and regulation of credit unions. KRS 286.8-160(2) authorizes the commissioner to promulgate administrative regulations establishing preservation requirements for records governed by KRS Chapter 286.8. KRS 286.4-610(1) authorizes the commissioner to promulgate administrative regulations for the proper conduct of the consumer loan businesses licensed under KRS Chapter 286.4. KRS 286.7-530 authorizes the commissioner to promulgate administrative regulations for the proper conduct of the industrial loan corporations licensed under KRS Chapter 286.7. This administrative regulation establishes recordkeeping requirements for department licensees.

Section 1. Definition. "Record" means any books of account or other books, journals, ledgers, statements, instruments, documents, files, messages, writings, or other internal ~~or other~~ data or ~~other~~ information, made or received by a financial institution in the regular course of the financial institution's business or otherwise, regardless of the mode in which it is recorded.

Section 2. Preservation Period for Records.

(1) Unless a longer period is required by federal law or federal regulation, a Kentucky Revised Statute, or an ~~or~~ state statute, ~~or~~ administrative regulation, licensees shall maintain records in accordance with the Record[Records] Retention Schedule ~~[promulgated by the Department]~~.

(2) Credit Unions' Record[Records] Retention Schedule.

(a) Unless a longer retention period is required by subsection (b) of this section or other law, credit unions shall comply with the records retention requirements~~[guidelines set forth]~~ in Appendix A to 12 C.F.R. Part 749.

(b) A credit union shall retain all records for at least twenty-four (24) months after the close of the calendar year during which the record was generated.

(c) Credit unions shall maintain a vital records preservation program in compliance with 12 C.F.R. Part 749.

Section 3. Form of Records. All records required to be retained by licensees shall be:

- (1) Current and accurate;
- (2) Retained in a format capable of being transmitted or reproduced; and
- (3) Immediately accessible and retrievable for examination upon request by the commissioner or any person designated by the commissioner for examination, investigation, or other authorized purposes.

Section 4. Loan Licensee Records.

(1) Industrial loan and consumer loan licensees shall keep and maintain the following specific accounting records:

(a) ~~[""]~~Loan register~~[""]~~ or its equivalent record, which shall be the book of original entry and permanent record, and shall properly identify each account by:

1. Number;
2. Date of loan; and
3. Amount of loan;

(b) An individual account ledger card with borrowers that[which] shall:

1. Show the name and address of the borrower, the loan number, the amount and date of the loan and of its maturity, rate of interest, terms of repayment, the nature of the security, if any, for the loan, and the dates of receipt and payment of recording fees together with the amount;
2. Provide separate columns for payments of principal;
3. Be kept in a manner that clearly shows the balance due on principal;
4. Have all payments credited promptly;
5. Have loan or payment cards for consumer loans, industrial loans, and sales finance loans maintained in separate files at all times; and
6. If an error is made on the individual account ledger or card, be appropriately corrected without erasures;

(c) An appropriate filing system, which shall contain all the current evidences of indebtedness or security that[which] have been signed by the borrower; and

(d) An individual index record that shall be maintained for every endorser, accommodation comaker, or surety, except a spouse listed on the record of the borrower.

(2) If a note has been reduced to judgment by a consumer loan company, the face of the account ledger or card shall show the:

- (a) Name of court;~~;~~
- (b) Date of judgment;~~;~~
- (c) Amount of judgment;~~;~~
- (d) Court costs;~~and;~~
- (e) Defendant against whom judgment obtained.

(3) In case of the sale of mortgaged property by a consumer loan company:

- (a) The face of the account ledger or card shall show:
 1. How possession of security was obtained, and when;~~and;~~
 2. When and how sold (public or private sale), including:
 - a. If all the security is sold; and
 - b. Proper identification of all credits from proceeds of sale;
 - (b) The files of the licensee shall include:
 1. A copy of the notice of the sale;
 2. A copy of the statement of final account, the original of which shall[must] have been sent to the borrower after the sale; and
 3. If the property is abandoned and the address of the borrower is uncertain or unknown, notice of sale and statement of final accounting~~[shall be]~~ sent to the last known address by

certified mail or registered mail, return receipt requested.

Section 5. Cessation of Business. At least ten (10) days prior to the cessation of business, a mortgage loan licensee shall submit a completed Notification of Cessation of Business, Location of Physical Records and Records of Custodian Disclosure. The information in the disclosure shall be kept current for at least as established in the Mortgage Licensee Record Retention Schedule, and Designation of Records Custodian Form].

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "The Record Retention Schedule", [dated] July 1, 2006;

(b) ~~is incorporated by reference.~~

(2) The "Notification of Cessation of Business, Location of Physical Records and Records of Custodian Disclosure", ~~and Designation of Records Custodian Form~~, dated] 08/2010; and (c) "Mortgage Licensee Record Retention Schedule", March 2019.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Financial Institutions, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CHARLES A. VICE, Commissioner

K. GAIL RUSSELL, Acting Secretary

APPROVED BY AGENCY: December 14, 2018

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PUBLIC PROTECTION CABINET
Kentucky Department of Financial Institutions
(As Amended at ARRS, March 11, 2019)

808 KAR 15:010. Exceptions to bank lending limits.

RELATES TO: KRS 286.3-280, 286.3-290, 286.3-300

STATUTORY AUTHORITY: KRS 286.1-011, 286.1-020, KRS 286.3-290(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.1-011(2) requires the Department of Financial Institutions to exercise all administrative functions of the state in relation to the regulation, supervision, chartering, and licensing of banks. KRS 286.1-020(1) authorizes the commissioner to promulgate administrative regulations as are necessary to interpret and carry out the provisions and intent of KRS Chapter 286.1. KRS 286.3-290(2) establishes exceptions to the maximum debt to banks and authorizes the commissioner to make, alter, and repeal administrative regulations respecting the total liabilities of any person which meets the requirements of KRS 286.3-290(2)(a) through 2(c). This administrative regulation establishes~~To establish~~ the status of excess funds (federal funds) transactions so as to ensure the maintenance of competitive equality between state and national banks in Kentucky, and provides~~to provide~~ for an exception to the bank lending limits for excess funds transactions and loans, or extensions of credit secured by certain types of government obligations.

Section 1. Definition. "Excess funds transaction" means a transaction between commercial banks involving the adjustment of their legal reserve positions through the short term transfer of reserve deposits.

Section 2. Excess funds transactions between state banks, and between state and national banks shall be regarded as the interbank transfer of reserve deposits.

Section 3. The lending limits and reserve requirements set

forth by KRS 286.3-280 and 286.3-300 shall not apply to:

(1) Excess fund transactions;

(2) Loans or extensions of credit secured by:

(a) Bonds, notes, certificates of indebtedness, treasury bills, and other direct obligations of the United States; or
(b) General obligations of the Commonwealth of Kentucky.

Section 4. To qualify for the exemption set forth in Section 3 ~~(2)~~ of this administrative regulation, government obligations shall have a face value at least equal to the total of the principal of the loan or extension of credit, and shall~~must~~ mature within five (5) years of the date of the loan or extension of credit.

CHARLES A. VICE, Commissioner

K. GAIL RUSSELL, Acting Secretary

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PUBLIC PROTECTION CABINET
Kentucky Department of Financial Institutions
(As Amended at ARRS, March 11, 2019)

808 KAR 15:020. Stay of notice of intention to remove from office.

RELATES TO: KRS 286.3-690(10)

STATUTORY AUTHORITY: KRS 286.1-011, 286.1-020

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.1-011(2) requires the Department of Financial Institutions to exercise all administrative functions of the state in relation to the regulation, supervision, chartering, and licensing of banks. KRS 286.1-020(1) authorizes the commissioner to promulgate administrative regulations as are necessary to interpret and carry out the provisions and intent of KRS Chapter 286.1. This administrative regulation sets forth the procedure to apply for a stay of a notice of intention to remove from office an officer or director of a bank pursuant to KRS 286.3-690(10), which affords a ten (10) day period for such application.

Section 1. To obtain a stay of a Notice of Intention to Remove from Office, issued by the Commissioner pursuant to KRS 286.3-690(8), parties shall follow the procedures set forth in Civil Rule 65 of the Kentucky Rules of Civil Procedure.

CHARLES A. VICE, Commissioner

K. GAIL RUSSELL, Acting Secretary

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PUBLIC PROTECTION CABINET
Kentucky Department of Financial Institutions
(As Amended at ARRS, March 11, 2019)

808 KAR 15:030. Bank branches, offices, and loan production offices.

RELATES TO: KRS 286.3-102, 286.3-180, 286.3-185, 286.3-820, 12 C.F.R. 208.43, 325

STATUTORY AUTHORITY: KRS 286.1-020, 286.3-180(2), 286.3-185, 286.3-820

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.3-180(2) and 286.3-185 authorize the Department of Financial Institutions to designate those banks that do not have to apply for

approval of the commissioner for permission to establish a branch or to relocate their principal office or branch. KRS 286.3-820(2) authorizes the Department of Financial Institutions to designate those banks that do not have to apply for approval of the commissioner to establish a loan production office. KRS 286.3-102 authorizes a qualified state bank to engage in any banking activity in which the bank could engage in other states if the bank meets specified conditions. Other states permit statewide branching as part of their authorized banking activities. This administrative regulation establishes ~~the~~ criteria for a bank to meet in order to be designated as not having to obtain commissioner approval to establish a branch or loan production office, or relocate a principal office or branch, and ~~also~~ clarifies what banking operations may or may not be conducted at a loan production office.

Section 1. Permitted Activities Without Commissioner Approval. ~~Any~~ bank that meets the criteria set forth in Section 2 of this administrative regulation and provides the notices required in Section 3 of this administrative regulation may do any of the following in any county of the state, whether or not already located in the county, without commissioner approval:

- (1) Establish a branch;
- (2) Establish a loan production office; or
- (3) Relocate its main office or branch office.

Section 2. Criteria to Act Without Commissioner Approval. The following criteria shall be satisfied before a bank may undertake the activities described in Section 1 of this administrative regulation without commissioner approval:

- (1) The bank shall have received its bank charter at least three (3) years prior to undertaking the activities;
- (2) The bank shall be well-capitalized:
 - (a) As defined in 12 C.F.R. Part 325 by the Federal Deposit Insurance Corporation, if the bank is a nonmember bank; or
 - (b) As defined in 12 C.F.R. 208.43(b)(1) by the Federal Reserve Board of Governors, if the bank is a member bank of the Federal Reserve System;
- (3) The bank shall have received a CAMELS composite rating of one (1) or two (2) on its most recent state or federal regulatory examination;
- (4) The bank shall have received a management rating of one (1) or two (2) on its most recent state or federal regulatory examination;
- (5) The bank shall not be a party to any formal or informal enforcement action initiated by a state or federal regulatory agency; and
- (6) The bank's activity shall not cause the bank to exceed the fixed asset limitation established in KRS 286.3-100.

Section 3. Required Notices. A bank that desires to engage in the activities described in Section 1 of this administrative regulation without commissioner approval shall submit the notices required by this section, except that the notice requirement of subsection (2) of this section shall not apply to a bank that desires to establish a loan production office.

(1) A notice shall be sent to the department within thirty (30) days after the bank's board of directors approves the activity. The notice shall provide as follows:

- (a) The address of the new location where the bank intends to establish or relocate its new branch, office, or loan production office;
- (b) The expected date the new branch, office, or loan production office shall open; and
- (c) A statement by the bank that it satisfies the criteria set forth in Section 2 of this administrative regulation signed by an authorized officer or agent of the bank.

(2) A notice shall be sent to any state bank with its main office located in the county where the new branch or office, but not a loan production office, will be located within thirty (30) days after the bank's board of directors approves[approve] the activity. The notice shall provide as follows:

- (a) The address of the new location where the bank intends to establish or relocate its new branch or office; and

(b) The expected date the new branch or office shall open.

(3) A notice shall be sent to the department within thirty (30) days after the bank has opened its branch, office, or loan production offices, at the new location advising the department of the opening.

Section 4. Effect of Subsequent Noncompliance with Criteria. If, subsequent to the establishment or relocation of an office, a branch, or a loan production office without commissioner approval, the bank no longer meets the requirements established in Section 2 of this administrative regulation, the bank shall ~~thereafter be required to~~ obtain commissioner approval prior to establishing or relocating any additional offices, branches, or loan production offices until the bank again meets the criteria. The establishment or relocation already completed by the bank shall not be rendered ineffective.

Section 5. A bank's board of directors may by resolution establish maximum dollar limits on the lending authority of officers located at a loan production office, and if the designated limits are consistent with bank wide limits on lending authority, the department will consider loans made by those officers under ~~those[such]~~ limits to be approved at the principal office for the purpose of KRS 286.3-820(1)(a). An officer at a loan production office ~~officer~~ may ~~therefore~~ accept a loan application and act upon it without further action by the principal office.

Section 6. A bank may maintain a transaction account at the principal office into which funds representing loan proceeds earmarked for loan production office loans are deposited, and an officer at a loan production office ~~officer~~ may draw instruments on that account in order to disburse loan proceeds. The department then will consider funds to have been disbursed at the principal office for purposes of KRS 286.3-820(1)(a) and (b).

Section 7. Loans originated at a loan production office may be closed at that loan production office. No loan payments, whether the loan originated at the loan production office ~~for at~~ a main or branch bank office, or another loan production office, may be received at a loan production office.

Section 8. A bank customer may receive information at the loan production office on any lending account which that customer may have with the bank whether or not the loan was originated at that loan production office.

CHARLES A. VICE, Commissioner

K. GAIL RUSSELL, Acting Secretary

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PUBLIC PROTECTION CABINET
Kentucky Department of Financial Institutions
(As Amended at ARRS, March 11, 2019)

808 KAR 15:040. Multibank Companies.

RELATES TO: KRS 286.3-095, 286.3-905

STATUTORY AUTHORITY: KRS 286.1-011(2), 286.3-020

NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.1-011(2) requires the Department of Financial Institutions to exercise all administrative functions of the state in relation to the regulation, supervision, chartering, and licensing of banks. KRS 286.3-020 authorizes the commissioner to approve applications for a bank or trust company charter. KRS 286.3-095 and 286.3-905 set forth ~~the~~ statutory procedures for filing applications by a bank holding company or individual to acquire control of a state-chartered bank or bank holding company

~~that controls[which includes]~~ a state-chartered bank~~[when either a state-chartered bank or a bank holding company which includes a state-chartered bank is involved in the transaction]~~; the setting of filing and examination fees; and the examination of any holding company that controls a state-chartered bank. This administrative regulation establishes/is to insure uniformity in the procedures to be used in the application and examination processes.

Section 1. (1) KRS 286.3-095(1), (2), and KRS 286.3-905 shall not apply to transactions involving applications filed with the Federal Reserve Board for prior approval to become a one-bank holding company.

(2) KRS 286.3-905 shall apply to transactions involving:

(a) Applications by a bank holding company to acquire control of a state-chartered bank or to acquire control of a bank holding company ~~that[which]~~ controls a state-chartered bank;~~[and]~~

(b) Applications by a bank holding company ~~that[which]~~ controls a state-chartered bank to acquire control of a national bank or bank holding company ~~that[which]~~ controls a national bank;~~[and]~~

(c) Applications by a bank holding company ~~that[which]~~ controls a state-chartered bank to acquire control of a bank or bank holding company not having its principal place of business in this state; and

(d) Applications by a bank holding company not having its principal place of business in this state to acquire control of a state-chartered bank or bank holding company ~~that controls[which includes]~~ a state-chartered bank~~[- are subject to KRS 286.3-905]~~.

(3) If a proposed change occurs in the outstanding voting stock of a state-chartered bank subject to KRS 286.3-095 or 286.3-905 and a bank holding company application or change of control notice is required by federal regulatory agencies, the concurrent filing of a copy of the application or notice submitted to the federal regulatory agency with the commissioner shall fulfill the documentation requirement of KRS 286.3-095 or 286.3-905.

(4) The original bank holding company application shall be filed with the commissioner concurrently with the application filed with the Federal Reserve Board and shall be on the same application form used by the Federal Reserve Board. All subsequent information furnished by the applicant to the Federal Reserve Board shall be concurrently filed with the department.

(5) A complete application is which includes all information necessary for the commissioner to make a decision to approve or disapprove the application pursuant to KRS 286.3-905(1) and has been accepted for processing by the Federal Reserve Board.

Section 2. Filing Fee. Each application shall include a nonrefundable investigation fee of \$2,500. The fee assessed by the commissioner shall be paid prior to approval of the application by the commissioner.

Section 3. Examination Fees. If the commissioner examines or elects to participate in a joint examination with the applicable federal regulatory agency of any holding company that controls a state-chartered bank, the examination fee assessed against the company examined shall be based upon fair compensation for time and actual expenses.

Section 4. Publication of Notice. Publication of notice of intention of a bank holding company to acquire control of a state-chartered bank or to acquire control of a bank holding company which controls a state-chartered bank shall be the responsibility of the applicant pursuant to Regulation Y issued by the Federal Reserve Board (12 C.F.R. 225, as revised effective December 28, 2004).

Section 5. Hearings. The department shall not hold hearings on any application or notice. Hearings, if any, shall be conducted by the Federal Reserve Board in accordance with Regulation Y or by the appropriate federal banking agency pursuant to the federal Bank Change in Control Act of 1978, as amended (12 U.S.C.

1817(j)).

Section 6. Nonbank Activities and Acquisitions. Nonbank activities and acquisitions for bank holding companies are regulated by the Federal Reserve Board in accordance with Regulation Y.

Section 7. Coordination with Federal Reserve Board. The commissioner shall coordinate the application process for acquisition of control of state-chartered banks and bank holding companies which control a state-chartered bank with the Federal Reserve Board to ensure that no unreasonable delays occur in the approval process.

CHARLES A. VICE, Commissioner

K. GAIL RUSSELL, Acting Secretary

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CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(As Amended at ARRS, March 11, 2019)

907 KAR 1:560. Medicaid hearings and appeals regarding eligibility.

RELATES TO: KRS Chapter 13B, 205.231, 205.237, 205.520, 205.531, ~~211.461, 211.466,~~ 42 C.F.R. 431 subpart E, 42 C.F.R. 431.233, 42 C.F.R. part 456, 42 U.S.C. 1396

STATUTORY AUTHORITY: KRS 194A.025(1), 194A.030(2), 194A.050(1), 205.531[-EO 2004-726]

NECESSITY, FUNCTION, AND CONFORMITY: [EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and placed the Department for Medicaid Services and the Medicaid Program under the Cabinet for Health and Family Services.] The Cabinet for Health and Family Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes provisions relating to the Medicaid grievance, hearing and appeal process regarding Medicaid eligibility issues.

Section 1. Definitions.

(1) "Appeal board" means the secretary, or entity or individual designated by the secretary of the Cabinet for Health and Family Services to hear appeals following a recommended order[decision] by a designated hearing agency.

(2) "Applicant" means an individual applying for Medicaid. (3)[(2)] "Authorized representative" means an individual acting on behalf of an applicant or recipient.

(4)[(3)] "Department" means the Department for Medicaid Services or its designee.

(5)[(4)] "Designated hearing agency" means the entity designated by the secretary of the Cabinet for Health and Family Services to adjudicate administrative hearings[Department for Social Insurance].

(6)[(5)] "Recipient" means an individual who receives Medicaid.

(7) "Secretary" means the secretary of the Cabinet for Health and Family Services.

Section 2. Informing the Applicant or Recipient of His Rights. With the exception of a dispute resolution regarding a utilization review denial, which shall be processed in accordance with 42 C.F.R. Part 456[906 KAR 1:080], the following provisions shall apply:

(1) ~~Each~~[An] applicant or recipient shall be informed of his or her right to a hearing:

- (a) Verbally and in writing when application is made; and
- (b) In writing if an action is taken affecting the applicant's or recipient's[his] eligibility in accordance with KRS 13B.050.

(2) ~~Each~~[An] applicant or recipient shall be informed of the method by which the applicant or recipient[he] may obtain a hearing and that the applicant or recipient[he] may be represented by:

- (a) Legal counsel;
- (b) A relative;
- (c) A friend;
- (d) Other spokesperson; or
- (e) The applicant or recipient if electing[may elect] to self-represent[Himself].

Section 3. Request for a Hearing. With the exception of a dispute resolution regarding a utilization review denial, which shall be processed in accordance with 42 C.F.R. Part 456[906–KAR 4:080], the following provisions shall apply:

(1) An applicant, recipient, or an authorized representative may request a hearing by filing a request with the designated hearing agency at the local office or central office of the Department for Community Based Services.

(2) The applicant, recipient, or authorized representative shall clearly indicate a desire for a hearing by submitting a statement:

- (a) In written form; or
- (b) Verbally and followed up in writing. ~~[(3) An applicant, recipient or authorized representative may use Form PAFS-78, Request for Hearing, Appeal, or Withdrawal, to submit the written request.]~~

Section 4. Time Limitation for Request.

(1) To be considered timely, a hearing request relating to a Medicaid eligibility action or delay in taking a timely action[written or verbal (with appropriate follow-up in writing) request] from an applicant, recipient, or authorized representative ~~[with regard to an action or a delay in taking a timely action by the Department for Medicaid Services or its designee regarding Medicaid eligibility]~~ shall be postmarked or received by the designated hearing agency within:

- (a) Thirty (30) days of the notice of:
 - 1. Denial of an application;
 - 2. Discontinuance of an active case; or
 - 3. Increase in patient liability; or

(b) A time period equal to the delay in action by the agency.

(2) An additional thirty (30) days for requesting a hearing shall be granted if it is determined by the representative of the designated hearing agency[hearing officer] that the delay was for good cause in accordance with the following criteria:

- (a) The applicant or recipient was away from home during the entire filing period;
- (b) The applicant or recipient is unable to read or to comprehend the right to request a hearing on the notice of:
 - 1. Adverse action;
 - 2. Discontinuance of Medicaid eligibility; or
 - 3. Increase in patient liability;
- (c) The applicant or recipient moved resulting in delay in receiving or failure to receive the notice of:
 - 1. Adverse action;
 - 2. Discontinuance of the Medicaid eligibility; or
 - 3. Increase in patient liability;
- (d) Serious illness of the applicant or recipient; or
- (e) The delay was no fault of the applicant or recipient.

Section 5. Continuation of Medicaid.

(1) Except as provided in subsection (3) or (4) of this section, Medicaid eligibility shall be continued at the level prior to the adverse action through the month in which the final order[representative of the designated hearing agency's][hearing officer's][decision] is:

(a) Rendered if the request results from dissatisfaction regarding a:

- 1. Proposed discontinuance; or
- 2. Proposed increase in patient liability; and
- (b) Received within ten (10) days of the date of the:
 - 1. Advance notice of adverse action; or
 - 2. Notice of discontinuance from the Department for Medicaid Services or its designee.

(2) Except as provided in subsection (4) of this section, Medicaid shall be reinstated and continued through the month in which the final order[representative of the designated hearing agency's][hearing officer's][decision] is rendered if:

- (a) The request is received within twenty (20) days of the date of the advance notice of:
 - 1. Adverse action;
 - 2. Discontinuance of Medicaid eligibility; or
 - 3. Increase in patient liability; and

(b) The reason for delay meets the good cause criteria established in Section 4(2) of this administrative regulation.

(3) Subsection (1) of this section shall not apply if the applicant, recipient, or authorized representative requests the discontinuance or increase in patient liability to be in effect pending the final order[hearing decision].

(4) Subsections (1) and (2) of this section shall not apply if the program benefit has been reduced or discontinued as a result of a change in law or administrative regulation.

(5) A continued or reinstated benefit shall be considered an overpayment if the agency decision is upheld.

(6) A time limited benefit shall not be extended based on a request for an appeal or hearing.

Section 6. Acknowledgement of the Request.

(1) A hearing request shall be acknowledged by the designated hearing agency.

(a) The acknowledgement letter shall contain information regarding:

- 1. The hearing process;
- 2. The right to case record review prior to the hearing;
- 3. The right to representation; and
- 4. A statement that the local office can provide information regarding the availability of free representation by legal aid or a welfare rights organization within the community.

(b) Subsequent notification shall comply with the requirements of KRS 13B.050.

(2)(a) A party to the hearing shall be provided at least twenty (20) days timely notice of the hearing to permit adequate preparation of the case.

(b) Less timely notice may be requested by the applicant, recipient, or authorized representative to expedite the scheduling of the hearing.

(3)(a) A hearing complying with the requirements of KRS Chapter 13B shall be scheduled on a timely basis to assure no more than ninety (90) days shall elapse from the date of the request to the date of the recommended order[decision].

(b) ~~A [with the exception that a] hearing determination shall be held within thirty (30) days of the hearing request date if it is regarding a:~~

- 1. Community[community] spouse income; or
- 2. Resource[resource] allowance ~~[shall be held within thirty (30) days of the hearing request date].~~

Section 7. Withdrawal or Abandonment of Request.

(1) The applicant, recipient or authorized representative:

(a) May withdraw a[his] request for a hearing prior to release of the representative of the designated hearing agency's recommended order[hearing officer's][decision]; and

(b) Shall be granted the opportunity to discuss withdrawal with the applicant's, recipient's, or authorized representative's[his] legal counsel or representative prior to finalizing the action.

(2)[Abandonment of request:] (a) A hearing request shall be considered abandoned if the applicant, recipient, or authorized representative fails without prior notification to report for the hearing.

(b) A hearing request shall not be considered as abandoned without extending to the applicant or recipient, and, if applicable,

his legal counsel or representative, a period of ten (10) days to establish that the failure was for good cause in accordance with the good cause criteria established in Section 4(2) of this administrative regulation.

Section 8. Applicant's or Recipient's Rights Prior to a Hearing.

(1) An applicant or recipient shall receive notice consistent with KRS 13B.050 including the right to:

- (a) Legal counsel or other representation;
- (b) Review the case record relating to the issue; and
- (c) Submit additional information in support of the applicant's or recipient's claim.

(2) If the hearing involves medical issues:

(a) A medical assessment by an individual other than a person involved in the original decision or recommended order shall be obtained, at the department's expense, if the representative of the designated hearing agency[hearing officer] considers it necessary; and

(b) If a medical assessment, at the department's expense, is requested by the applicant, recipient, or authorized representative and is denied by the representative of the designated hearing agency[hearing officer], the reason for denial shall be set forth in writing.

Section 9. Postponement of a Hearing.

(1) The applicant, recipient, or authorized representative may request and shall be entitled to a postponement of a hearing if the request is made:

- (a) Before the hearing; and
- (b) In accordance with the good cause criteria established in Section 4(2) of this administrative regulation.

(2) The decision to grant the postponement shall be made by the representative of the designated hearing agency[hearing officer].

(a) The postponement of the hearing shall not exceed thirty (30) days from the date of the request.

(b) The time limit for action on the recommended order[decision] shall be extended for as many days as the hearing is postponed.

Section 10. Corrective Action for Medicaid.

(1) The department may determine that corrective action to provide or restore eligibility is appropriate if:

- (a) A hearing has been requested;
- (b) A recommended order[hearing decision] has not been rendered; and

(c) The department's action or proposed action made the applicant or recipient ineligible for benefits to which the applicant or recipient was entitled.

(2) After corrective action has been taken:

(a) The applicant, recipient, or authorized representative shall be given the opportunity to withdraw the hearing request; and

(b) The hearing process shall continue if the applicant, recipient, or authorized representative wishes to pursue the request.

Section 11. Conduct of a Hearing.

(1) The hearing shall be conducted in accordance with the requirements of KRS 13B.080 and 13B.090.

(2) Impartiality. The representative of the designated hearing agency[hearing officer] shall be impartial and if necessary, the representative shall disqualify himself or herself as required by KRS 13B.040.

(3) The hearing shall be conducted in-state and at a location where the applicant, recipient, or authorized representative may attend without undue inconvenience.

(4) If necessary to receive full information on the issue, the representative of the designated hearing agency[hearing officer] may examine each party who appears and the party's[his] witnesses.

(5) The representative of the designated hearing agency[hearing officer] may schedule a hearing and take additional evidence as is deemed necessary. Evidence shall be taken in

accordance with the provisions of KRS 13B.080 and 13B.090.

Section 12. Exceptions to a Recommended Order.

(1) Filing an exception to a recommended order shall be the same as filing a request for review of a local evidentiary hearing decision as established in 42 C.F.R. 431.233.

(2)(a) A party may file an exception to a recommended order in accordance with KRS 13B.110(4).

(b) If a party wishes to file an exception to the recommended order, the exception shall be filed with the Cabinet for Health and Family Services, Division of Administrative Hearings, within fifteen (15) days from the date that the recommended order is mailed.

Section 13. The Recommended Order[Decision]. With the exception of a dispute resolution regarding a utilization review denial, which shall be processed in accordance with 42 C.F.R. Part 456[906 KAR 1:080], the following provisions shall apply:

(1) After the hearing is concluded, the representative of the designated hearing agency[hearing officer] shall issue a recommended order[decision] in accordance with the requirements of KRS 13B.110.

(2) A recommended order[decision] with regard to a community spouse's income allowance shall be subject to a downward adjustment as deemed necessary by the agency as circumstances causing financial duress change or no longer exist.

(a) The resource allowance shall be subject to this adjustment with regard to a resource that is:

- 1. Attributed to the community spouse; and
- 2. Not transferred within six (6) months of the Medicaid approval date.

(b) This adjustment shall be appealable pursuant to Section 5 of this administrative regulation.

(3)(a) A copy of the recommended order[decision] shall be mailed to the applicant or recipient and his representative; or

(b) The applicant, recipient, or authorized representative may elect to receive a copy of the recommended order or the final order by electronic format.

(4) The recommended order[decision], with respect to the issue considered, shall be reviewed by the appeal board[final unless further appeal is initiated within twenty (20) days from the date of mailing of the decision].

Section 14[13]. Appeal from Recommended Order[Decision] of Representative of the Designated Hearing Agency [hearing officer] for an Applicant and Recipient.

(1) An applicant, recipient, or his authorized representative wishing to appeal the recommended order[decision] of a representative of the designated hearing agency[hearing officer] shall file an appeal to the designated[an appointed] appeal board.

(2) The appeal request shall be considered timely if it is received in a local office or the central office of the designated hearing agency within twenty (20) days of the date on which the representative of the designated hearing agency's recommended order[hearing officer's][decision] was postmarked[mailed].

(3) If the good cause criteria established in Section 4(2) of this administrative regulation is met, an appeal request received or postmarked within thirty (30) days of the representative of the designated hearing agency's recommended order[hearing officer's][decision] shall be considered timely.

(4) The request shall be:

- (a) Filed:
 - 1. In writing; or
 - 2. Verbally, if a written request is subsequently sent; and
- (b) Considered filed on the day the request is received or postmarked.

(5) [An applicant, recipient or authorized representative may use Form PAFS-78, Request for Hearing, Appeal or Withdrawal, to submit the written request.

(6) Medicaid eligibility shall continue to be denied, discontinued, patient liability increased, or Medicaid coverage reduced if the department's action is upheld by the representative of the designated hearing agency[hearing officer].

Section ~~15~~[44]. Applicant's or Recipient's Rights Prior to an Appeal Board Consideration.

(1) An appeal shall be acknowledged in writing to the applicant or recipient and his authorized representative.

(2) The acknowledgment shall offer the opportunity to file a brief or submit new and additional proof and state the tentative date on which the board shall consider the appeal.

Section 16[45]. Appeal Board Review.

(1) An appeal to the appeal board shall be considered upon the records of the department and the evidence or exhibits introduced before the representative of the designated hearing agency~~[hearing officer]~~ unless the applicant, recipient, or authorized representative specifically requests permission to file additional proof or an exception to the recommended order was filed.

(2) If an appeal is being considered on the record, a party may present a written argument and at the appeal board's discretion, be allowed to present an oral argument.

(3) If needed, the appeal board may direct the taking of additional evidence to resolve the appeal.

(4) Evidence shall be taken by the appeal board after seven (7) days notice to the parties, giving them the opportunity to object to the introduction of additional evidence or to rebut or refute the additional evidence.

Section 17[46]. The Appeal Board **Final Order**~~[Decision]~~. The **final order**~~[decision]~~ of the appeal board shall:

(1) Be duly signed by the secretary or members of the appeal board;

(2) Set forth in writing the facts on which the **final order**~~[decision]~~ is based; and

(3) Be irrevocable in respect to the issue in the individual case unless the **final order**~~[decision]~~ is set aside through the judicial review process pursuant to KRS 13B.140 and 13B.150.

Section 18[47]. Medicaid Case Actions Following a **Final Order**~~[Decision]~~.

(1) A Medicaid case action following a **final order** ~~[decision]~~ of a representative of the designated hearing agency's~~[hearing officer]~~ or the appeal board shall be made promptly and shall include:

(a) The month of application; or

(b) If it is established that the applicant or recipient was eligible during an entire period, the month in which the incorrect action of the department adversely affected the applicant or recipient.

(2) For a reversal involving an increase in patient liability, action shall be taken to reduce the patient liability within ten (10) days of the receipt of the **final order**~~[hearing or appeal board decision]~~.

Section 19[48]. Medicaid Managed Care Provision of Services.

(1) A dispute resolution between a recipient and a partnership or managed behavioral health care organization shall be in accordance with ~~[KRS 211.461 through 211.466 and]~~ 42 C.F.R. part 456~~[906-KAR-1:080]~~.

(2) All other hearings or appeals relating to the Medicaid managed care provision of services shall be processed in accordance with 907 KAR 1:563.

Section 20[49]. Limitation of Fees.

(1) Pursuant to KRS 205.237, the maximum fee that an attorney may charge the applicant or recipient for the representation in all categories of Medicaid shall be:

(a) Seventy-five (75) dollars for preparation and appearance at a hearing before a hearing officer;

(b) Seventy-five (75) dollars for preparation and presentation (brief included) of an appeal to the appeal board;

(c) \$175 for preparation and presentation, including a pleading and appearance in court, of an appeal to the circuit court;

(d) \$300 for preparatory work and briefs and all other matters incident to an appeal to the Court of Appeals.

(2) Enforcement of payment of the fee shall be a matter

entirely between the counsel or agent and the recipient. The fee shall not be deducted from a public assistance payment otherwise due and payable to the recipient.

Section 21[20]. Burden of Proof. The party bearing the burden of proof shall be determined in accordance with KRS 13B.090(7).~~[Section 21. Incorporation by Reference. (1) Form PAFS-78, May 1996 edition, Department of Medicaid Services, is incorporated by reference.~~

~~(2) This material may be inspected, copied, or obtained at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

CAROL H. STECKEL, Commissioner

ADAM M. MEIER, Secretary

APPROVED BY AGENCY: February 14, 2019

FILED WITH LRC: February 15, 2019 at noon

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

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(As Amended at ARRS, March 11, 2019)

907 KAR 1:563. Medicaid covered services appeals and hearings unrelated to managed care.

RELATES TO: KRS Chapter 13B, 194A.025, 205.231, 205.237, 205.520, 205.8451, 210.270 42 C.F.R. 431.233, 431.244, Part 475, 475.101, 483.2, 483.12, 431 Subpart E, 483 Subpart E, 42 U.S.C. 1396n(c)

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(2) and (3), 205.6315, 42 U.S.C. 1396

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes policies and requirements relating to an adverse action, an appeal, or a hearing regarding Medicaid covered services that are not the responsibility of a managed care organization.

Section 1. Definitions.

(1) "1915(c) home and community based waiver service" means a service available or provided via a 1915(c) home and community based waiver services program.

(2) "1915(c) home and community based waiver services program" means a Kentucky Medicaid program established pursuant to and in accordance with 42 U.S.C. 1396n(c).

(3) "Administrative hearing" is defined by KRS 13B.010(2).

(4) "**Appeal board**" means the entity or individual designated by the secretary of the Cabinet for Health and Family Services to hear appeals of recommended orders or final orders following a decision by a representative of the designated hearing agency or hearing officer.

(5) "Applicant" means an individual who has applied for Medicaid covered services.

(6)~~[(5)]~~ "Authorized representative" means:

(a) For a recipient or applicant who is authorized by Kentucky law to provide written consent, an individual or entity acting on behalf of, and with written consent from, the recipient or the applicant; or

(b) A legal guardian.

(7)~~[(6)]~~ "Cabinet" means the Cabinet for Health and Family Services.

(8)~~[(7)]~~ "Department" means the Department for Medicaid Services or its designee.

(9) "Designated hearing agency" means the entity designated by the secretary of the Cabinet for Health and Family Services to adjudicate administrative hearings.

(10)(8) "Enrollee" means a recipient who is enrolled with a managed care organization for the purpose of receiving Medicaid or Kentucky Children's Health Insurance Program covered services.

(11)(9) "Final order" is defined by KRS 13B.010(6).

(12)(40) "Hearing officer" is defined by KRS 13B.010(7), and includes a representative from a designated hearing agency.

(13)(44) "ICF IID" means intermediate care facility for an individual with an intellectual disability.

(14)(42) "Managed care organization" or "MCO" means an entity for which the Department for Medicaid Services has contracted to serve as a managed care organization as defined in 42 C.F.R. 438.2.

(15)(43) "Medicaid covered services" means items or services a Medicaid recipient may receive through the Medicaid Program.

(16)(44) "Party" is defined by KRS 13B.010(3).

(17)(45) "PASRR" means preadmission screening and resident review.

(18)(46) "Patient liability" means the financial obligation of a recipient towards the cost of the recipient's nursing facility services or services provided pursuant to a 1915(c) waiver.

(19)(47) "Provider" is defined by KRS 205.8451(7).

(20)(48) "QIO" or "quality improvement organization" means an entity that meets the requirements established in 42 C.F.R. 475.101.

(21)(49) "Recipient" is defined by KRS 205.8451(9).

(22)(20) "Recommended order" is defined by KRS 13B.010(5).

(23)(24) "Time-limited benefits" means Medicaid coverage which is restricted to a specified period in time.

Section 2. Informing the Recipient of Medicaid Coverage Administrative Hearing Rights.

(1) An applicant, recipient, or authorized representative shall be informed, in writing, of the applicant's or recipient's right to an administrative hearing if an adverse action is taken affecting covered services.

(2) An applicant, recipient, or authorized representative shall be informed of the method by which the applicant or recipient may obtain an administrative hearing and that the applicant or recipient may be represented by:

- (a) Legal counsel;
- (b) A relative;
- (c) A friend;
- (d) A spokesperson not listed in paragraph (a), (b), (c), (e), or (f) of this subsection;
- (e) An authorized representative; or
- (f) Himself or herself.

(3) An adverse action notice shall contain a statement of:

- (a) The Medicaid adverse action;
- (b) The reason for the action;
- (c) The specific federal or state law or administrative regulation that supports the action; and

(d) An explanation of the circumstances under which payment for services shall be continued if an administrative hearing is requested in a timely manner pursuant to Section 5 of this administrative regulation.

Section 3. Notification Process.

(1) An adverse action notice regarding an applicant or a recipient shall be mailed to the applicant, recipient, or authorized representative of the applicant or recipient using:

- (a) The United States Postal Service; and
- (b) A return receipt requested format.

(2) Refusal by an applicant, a recipient, or an authorized representative to confirm receipt of an adverse action notice shall be considered receipt of the adverse action notice.

Section 4. Request for an Administrative Hearing.

(1) An applicant, recipient, or an authorized representative may

request an administrative hearing by filing a written request with the department.

(2) If an applicant, recipient, or authorized representative requests an administrative hearing, the request shall:

- (a) Be in writing and clearly specify the reason for the request;
- (b) Indicate the date of service or type of service for which payments may be denied; and
- (c) Be postmarked within thirty (30) calendar days from the date of the department's written notice of adverse action of:

1. Discontinuance of services;
2. Adverse determination made with regard to the PASRR requirements of 42 U.S.C. 1396r(e); or
3. Patient liability.

Section 5. Continuation of Medicaid Covered Services.

(1)(a) Except as established in paragraphs (b) or (c) of this subsection or subsections (2), (3), or (4) of this section, if a request for an administrative hearing is postmarked or received within ten (10) days of the advance notice date of denial, the individual shall remain eligible for the care, program participation, or service denied until the date that the final order is rendered in accordance with Section 12(44) of this administrative regulation.

(b) The individual shall not remain eligible for the care, program participation, or service denied if:

1.a. It is determined at the administrative hearing that the sole issue is one of federal or state law or policy; and

b. The department promptly informs the individual in writing that the services shall be terminated or reduced pending the administrative hearing decision;

2. The individual's eligibility for time-limited benefits has expired; or

3. The individual receives in full the specified amount of care or number of services that were authorized by the department.

(c) Except as established in paragraph (d) of this subsection, a request for an amount of care or number of services subsequent to receiving a previously authorized amount of care or number of services in full shall not be considered a continuation of the previously authorized amount of care or number of services.

(d) The following shall qualify for continuation of services in accordance with paragraph (a) of this subsection if the care, program participation, or service was previously received by the individual within thirty (30) days of the request for continuation:

1. Denial that an individual meets patient status criteria to qualify for nursing facility services pursuant to 907 KAR 1:022;

2. Denial that an individual meets patient status criteria to qualify for ICF IID services pursuant to 907 KAR 1:022;

3. Denial that an individual meets nursing facility level of care criteria, nursing facility patient status criteria, or ICF IID patient status criteria pursuant to 907 KAR 1:022 to qualify for 1915(c) home and community based waiver services; or

4. Denial of a 1915(c) home and community based waiver service.

(2) Subsection (1) of this section shall not apply if the Medicaid Program service has been reduced or discontinued as a result of a change in law or administrative regulation.

(3) Time-limited benefits shall not be extended based on a request for an administrative hearing.

(4) If a request for an administrative hearing is postmarked or received from a recipient within ten (10) days of the advance notice of an adverse PASRR determination made in the context of a resident review, the department shall continue to reimburse for nursing facility services until the date that the final order is rendered.

Section 6. Notice of Scheduled Hearing.

(1) A scheduled administrative hearing notice shall contain:

(a) The date, time, and place of the scheduled administrative hearing; and

(b) A statement that the local Department for Community Based Services office provides information regarding the availability of free representation by legal aid or a welfare rights organization within the community.

(2) An administrative hearing shall be conducted within thirty

(30) days of the date of the request for an administrative hearing unless otherwise authorized by the representative of the designated hearing agency[hearing officer].

(3) An applicant or recipient shall receive notice consistent with KRS 13B.050 including the right to:

- (a) Legal counsel or other representation;
- (b) Review the case record relating to the issue; and
- (c) Submit additional information in support of the applicant's or recipient's claim.

(4)(a) If an administrative hearing involves medical issues, a medical assessment by an independent physician participating in the Medicaid Program shall be obtained at the department's expense if the hearing officer considers it necessary based on case record review.

(b) If an independent physician assessment at the department's expense is requested by the recipient or authorized representative and is denied by the hearing officer, notification of the reason for denial shall be established in writing.

Section 7. Conduct of an Administrative Hearing.

(1) An administrative hearing shall be conducted in accordance with the requirements of KRS Chapter 13B.

(2) A hearing officer shall be impartial and shall disqualify himself or herself as required by KRS 13B.040.

(3) An administrative hearing shall be conducted in-state where the recipient or authorized representative may attend without undue inconvenience.

(4) A representative of the designated hearing agency[hearing officer] shall offer to transmit a recommended order by electronic format.

(5) If necessary to receive full information on the issue, a representative of the designated hearing agency[hearing officer] may examine each party who appears and the party's witnesses.

(6)(a) A representative of the designated hearing agency[hearing officer] may reopen the administrative hearing and take additional evidence as is deemed necessary.

(b) Evidence shall be taken in accordance with the provisions of KRS 13B.080 and 13B.090.

Section 8. Designation of Alternative Hearing Agency and Appeal Board.

(1) The secretary of the cabinet may:

- (a) Select a designated hearing agency; or
- (b) Create a designated hearing agency.

(2) A designated hearing agency shall:

(a) Be composed of cabinet employees who shall serve as hearing officers; and

(b) Follow all requirements established pursuant to KRS Chapter 13B.

(3) The secretary of the cabinet may:

- (a) Select an appeals board; or
- (b) Create an appeals board.

(4) An appeals board shall follow all requirements established pursuant to KRS Chapter 13B and KRS 194A.025.

Section 9. Withdrawal or Abandonment of Request.

(1) A recipient or authorized representative:

(a) May withdraw the appeal for an administrative hearing prior to the release of the hearing officer's decision; and

(b) Shall be granted the opportunity to discuss withdrawal with the recipient's legal counsel or authorized representative prior to finalizing the action.

(2) An administrative hearing request shall be considered abandoned if the recipient or authorized representative fails without prior notification to report for the administrative hearing.

Section 10[9]. Recommended Order.

(1) After an administrative hearing is concluded, the hearing officer shall issue a recommended order in accordance with KRS 13B.110.

(2)(a) A recommended order shall be issued within thirty (30) days of the administrative hearing date, except for a recommended order regarding:

- 1. A nursing facility level of care or patient status decision;
 - 2. An ICF IID patient status decision;
 - 3. A nursing facility level of care, nursing facility patient status, or ICF IID patient status decision related to 1915(c) home and community based waiver program participation; or
 - 4. A 1915(c) home and community based waiver service.
- (b) A recommended order regarding an item listed in paragraph (a) of this subsection shall be issued within fifteen (15) calendar days of the administrative hearing date.

(3)(a) A copy of the recommended order shall be:

- 1. Mailed to each party in accordance with KRS 13B.110(4); or
- 2. Sent by electronic means to any party which requests, during the administrative hearing, that the order be sent by electronic means.

(b) If requested during the administrative hearing, a copy of the recommended order shall be electronically transmitted to a site specified by the applicant or recipient on the date the recommended order is rendered.

Section 11[40]. Exceptions to a Recommended Order.

(1) Filing an exception to a recommended order shall be the same as filing a request for review of a local evidentiary hearing decision as established in 42 C.F.R. 431.233.

(2)(a) A party may file an exception to a recommended order in accordance with KRS 13B.110(4).

(b) If a party wishes to file an exception to the recommended order, the exception shall be filed with the Cabinet for Health and Family Services, Division of Administrative Hearings within fifteen (15) days from the date that the recommended order is mailed.

Section 12[44]. Final Order or Review of Recommended Order.

(1) The secretary of the Cabinet for Health and Family Services or other party authorized by KRS 13B.010 shall issue a final order:

(a) Within ninety (90) days from the date of the request for an administrative hearing; or

(b) As established in 42 C.F.R. 431.244(f).

(2) In accordance with 42 C.F.R. 431.233, unless a recipient requests a de novo hearing, the review of a recommended order shall consist of a cabinet level review of the record of the administrative hearing.

(b) If an exception to a recommended order was not filed, the information in the record considered in the cabinet level review or final order shall be limited to the information considered at the administrative hearing.

(c) If a recipient requests a de novo hearing, at the de novo hearing either party may offer:

- 1. Evidence not presented at the hearing below; and
- 2. The evidentiary record of the fair hearing.

Section 13[42]. Judicial Review of a Final Order.

(1) A further appeal at the circuit court level may be initiated within thirty (30) days from the date of mailing of the final order in accordance with KRS 13B.140 and 13B.150.

(2) Information regarding free legal aid and welfare rights organizations may be obtained in accordance with Section 6(1)(b) of this administrative regulation.

Section 14[43]. Medicaid Case Actions Following Circuit Court Level Appeal Decision.

(1) For a reversal involving a reduction of Medicaid coverage, action shall be taken to restore services within ten (10) days of the receipt of the circuit court decision.

(2) If a recipient continues to:

(a) Remain in a nursing facility or an ICF IID during the circuit court appeal process, the department shall reimburse for the nursing facility services or ICF IID services which occurred during the circuit court appeal process; or

(b) Receive a 1915(c) home and community based waiver service during the circuit court appeal process, the department shall reimburse for the service which occurred during the circuit court appeal process.

Section 15[44]. Special Procedures Relating to a Managed Care Participant.

(1) For an adverse action toward an enrollee regarding a service that is within the scope of managed care, the requirements governing the MCO internal appeal process and the department's hearing process for the enrollee shall be as established in 907 KAR 17:010.

(2) For an adverse action by the department toward an enrollee regarding a service that is not within the scope of managed care, the appeals policies and requirements established in this administrative regulation shall apply.

Section 16[45]. Limitation of Fees.

(1) Pursuant to KRS 205.237, the maximum fee that an attorney may charge the applicant or recipient for the representation in all categories of Medicaid shall be:

(a) Seventy-five (75) dollars for preparation and appearance at a hearing before a hearing officer;

(b) \$175 for preparation and presentation, including a pleading and appearance in court, of an appeal to the circuit court; or

(c) \$300 for preparatory work and briefs and all other matters incident to an appeal to the:

(a) Court of Appeals; or

(b) Supreme Court of Kentucky.

(2)(a) Enforcement of payment of a fee shall:

1. Not be a matter for the department or the cabinet; and

2. Be a matter between the counsel or agent and the recipient.

(b) The fee shall not be deducted from a public assistance payment otherwise due and payable to the recipient.

(3)(a) The fee limitations stated in subsection (1) of this section shall:

1. Apply to the amount an attorney may charge a recipient or applicant; and

2. Not apply to the amount an attorney may collect from another entity or person who represents the recipient or applicant in all categories of Medicaid.

(b) The amount an attorney may collect from an entity or person who is not a recipient or applicant for representing the recipient or applicant in all categories of Medicaid shall:

1. Be a matter between the attorney and other entity or person; and

2. Not be a matter that involves the department or cabinet.

Section 17[46]. Hearings and Appeals for Individuals with an Intellectual Disability Residing in State Institutions. A hearing or an appeal relating to a decision to reclassify or transfer a person with an intellectual disability in a state institution shall be in accordance with the requirements of KRS 210.270 and 907 KAR 1:075.

Section 18[47]. Burden of Proof. The party bearing the burden of proof shall be determined in accordance with KRS 13B.090(7).

CAROL H. STECKEL, Commissioner

ADAM M. MEIER, Secretary

APPROVED BY AGENCY: February 14, 2019

FILED WITH LRC: February 15, 2019 at noon

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

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Aging and Independent Living
Division of Operations and Support
(As Amended at ARRS, March 11, 2019)

910 KAR 1:240. Certification of assisted-living communities.

RELATES TO: KRS Chapter 13B, 17.165(1), (2), 194A.060(1), 194A.700-729, 209.030, 216.300(1), 216.595, 216.789, 216.793

STATUTORY AUTHORITY: KRS 194A.050(1), 194A.707(1), (9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires 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 194A.707(1) and (2) require[requires] the cabinet to promulgate an administrative regulation establishing an initial and annual certification review process for assisted-living communities that shall include an on-site visit and procedures related to applying for, reviewing, and approving, denying, or revoking certification, as well as the conduct of hearings upon appeals as governed by KRS Chapter 13B. This administrative regulation establishes the certification process for assisted-living communities.

Section 1. Definitions.

(1) "Activities of daily living" is defined by KRS 194A.700(1).

(2) "Ambulatory" means the ability to walk without assistance.

(3) "Applicant" means the owner or manager who represents a business seeking initial or annual certification as an assisted-living community.

(4) "Assisted-living community" is defined by KRS 194A.700(4).

(5) "Certification review" means the process of reviewing applications and issuing certification for an assisted-living community.

(6) "Client", "resident", or "tenant" is defined by KRS 194A.700(5).

(7) "Client's designated representative" means a person identified in a document signed and dated by the client, client's guardian, or attorney-in-fact identifying a representative authorized to prepare or direct medication pursuant to KRS 194A.700(3).

(8) "Danger" is defined by KRS 194A.700(6).

(9) "Functional needs assessment" means the client data required by KRS 194A.705(5)(a) and (b).

(10) "Instrumental activities of daily living" is defined by 194A.700(9).

(11) "Licensed healthcare professional" is defined by KRS 216.300(1).

(12) "Living unit" is defined by KRS 194A.700(10).

(13) "Mobile non-ambulatory" is defined by KRS 194A.700(11).

(14) "Plan of correction" is defined by KRS 194A.700(12).

(15) "Statement of danger" is defined by KRS 194A.700(13).

(16) "Statement of noncompliance" is defined by KRS 194A.700(14).

(17) "Temporary condition" means a condition that affects a client as follows:

(a) The client loses mobility either before or after entering a lease agreement with the assisted-living community but is expected to regain mobility within six (6) months of loss of ambulation or mobile nonambulation; is documented by a licensed healthcare professional who is not the owner, manager, or employee of the assisted-living community; and the assisted-living community has a written plan in place to ensure that the client is not a danger; or

(b) 1. The client loses mobility after entering a lease agreement;

2. The client is not expected to regain mobility;

3. Hospice or similar end-of-life services are provided in accordance with KRS 194A.705(2) documented by hospice or a licensed health care professional; and

4. The assisted-living community has a written plan in place to ensure that the client is not a danger.

Section 2. Application and Fees for Initial Certification Review.

(1) For initial certification an applicant shall, at least sixty (60) days prior to a planned opening, file with the department:

(a) A completed DAIL-ALC-1, Assisted-Living Community Certification Application;

(b) A copy of a blank lease agreement and any documentation incorporated by reference into the lease agreement;

(c) A copy of written material used to market the proposed

assisted-living community, including material that markets offered special programming, staffing, or training in accordance with KRS 194A.713(11);

(d) The floor plan of the proposed assisted-living community identifying the:

1. Living units, including features that meet the requirements of KRS

194A.703(1);

2. Central dining area;

3. Laundry facility; and

4. Central living room; and

(e) A nonrefundable application[certification] fee for applications submitted for certification beginning July 1, 2019 shall be:

1. Forty (40)[In the amount of \$1,000 plus sixty (60)] dollars per unit requested to be certified, according to the DAIL-ALC-1, Assisted-Living Community Certification Application, in addition to the following fee schedule:

a. 100 or more units \$2,000;

b. 75–99 units \$1,750;

c. 50–74 units \$1,500;

d. 25–49 units \$1,000; or

e. < 25 units \$500[for applications submitted for certification beginning July 1, 2019][Assessed by the department in accordance with KRS 194A.707(8)];

2. Made payable to the Kentucky State Treasurer; and

3. Mailed to the Department for Aging and Independent Living, 275 East Main Street, Frankfort, Kentucky 40621.

(2) The applicant shall notify the department upon occupancy of five (5) residents in the assisted-living community.

Section 3. Application and Fees for Annual Certification Review. The department shall renew a certification if an assisted-living community:

(1) Has obtained its initial certification in accordance with Section 5 of this administrative regulation; and

(2) Submits to the department annually by July 1:

(a) A completed DAIL-ALC-1, Assisted-Living Community Certification Application;

(b) The documentation required by Section 2(1)(a) through (d) of this administrative regulation, if changes have occurred since the previous certification; and

(c) The nonrefundable annual application and certification fee, that beginning July 1, 2019, shall be:

1.[In the amount of] Forty (40)[\$500 plus sixty (60)] dollars per certified unit, in addition to the following fee schedule:

a.[1.] 100 or more units \$2,000;

b.[2.] 75–99 units \$1,750;

c.[3.] 30–74 units \$1,500;

d.[4.] 25–49 units \$1,000; or

e.[5.] < 25 units \$500;[that shall be:]

2.[a.][1.] Made payable to the Kentucky State Treasurer; and

3.[b.][2.] Mailed to the Department for Aging and Independent Living, 275 East Main Street, Frankfort, Kentucky 40621[required by Section 2(1)(e) of this administrative regulation].

(3) The 2019 annual certification fee may be made in payments over six (6) months if:

(a) There is a documented hardship; and

(b) The payments are approved by the department's commissioner.

Section 4. Change in an Assisted-Living Community.

(1) If there is an increase in the number of living units, an assisted-living community shall reapply for certification with the department:

(a) In accordance with Section 2(1) of this administrative regulation; and

(b) Not less than sixty (60) days prior to the increase.

(2) If the increase in units occurs before or after the required annual certification date, the certification fee shall be sixty (60)[twenty (20)] dollars per each additional unit.

(3) If there is a decrease in the number of living units, an assisted-living community shall notify the department within sixty

(60) days of the decrease.

(4) If there is a change of more than fifty (50) percent interest in ownership of an assisted-living community, the new owner shall apply for certification:

(a) By following the procedures in Section 3 of this administrative regulation; and

(b) Within thirty (30) days of the change of owners.

(5) An assisted-living community shall:

(a) Notify the department in writing:

1. Within thirty (30) days of a name or mailing address change for the assisted-living community or the applicant; or

2. At least sixty (60) days prior to termination of operation; and

(b) Notify a client of termination of operation sixty (60) days prior to closure unless there is sudden termination due to:

1. Fire;

2. Natural disaster; or

3. Closure by a local, state, or federal agency.

Section 5. Initial Certification of an Assisted-Living Community. If department staff determines that an applicant for initial certification meets the application requirements specified in Section 2(1) of this administrative regulation, the department shall:

(1) Consider the application process complete;

(2) Notify the applicant of operation status within ten (10) business days of receipt of the completed DAIL-ALC-1, Assisted-Living Community Certification Application; and

(3) Conduct an announced on-site review.

Section 6. Annual Certification of an Assisted-Living Community. If department staff determines that an applicant for annual certification meets the application requirements specified in Section 3 of this administrative regulation, the department shall:

(1) Consider the application process complete; and

(2) Conduct an unannounced on-site review pursuant to KRS 194A.707(2)(b) or (c).

Section 7. On-Site Review of an Assisted-Living Community.

(1)(a) A representative of the department conducting a certification review shall not disclose information made confidential by KRS 194A.060(1).

(b) A confidential interview with a client or access to a client's living unit shall be subject to the client's oral or written consent.

(2) The on-site review shall consist of:

(a) Review of staffing pursuant to KRS 194A.717(1);

(b) Review of employment records in accordance with subsection (3) of this section;

(c) Verification that an employee reads and agrees to the policy and procedures of the assisted-living community regarding communicable disease pursuant to KRS 194A.717(4);

(d) Documentation of:

1. Completion of employee orientation:

a. Pursuant to KRS 194A.719(1); and

b. Within ninety (90) days of the date of hire; and

2. Annual in-service education pursuant to KRS 194.719(2);

(e) Verification of compliance with the applicable building and life safety codes in accordance with KRS 194A.703(3);

(f) Review of client records in accordance with subsection (4) of this section;

(g) Review of an assisted-living community's policies and procedures for compliance with KRS 194A.700 through 194A.729 using a DAIL-ALC-2, Assisted-Living Community Certification Checklist;

(h) Review of an assisted-living community's written service provision and practices in accordance with subsection (5) of this section; and

(i) Review of any documentation or records to ensure compliance pursuant to KRS 194A.707(10).

(3) Review of Employment Records.

(a) During the on-site review, the following employment records shall be reviewed, except as provided in paragraph (b) of this subsection:

1. An employment application that shall contain a criminal record check notice pursuant to KRS 216.793(1);

2. A criminal record check that shall:
 - a. Be requested in accordance with KRS 216.789(3);
 - b. Be applied for no sooner than forty-five (45) days prior to but no later than seven (7) days following an employee's first day of work;
 - c. Be checked every other year through the Kentucky Justice and Public Safety Cabinet or Administrative Office of the Courts;
 - d. Include a criminal record check upon hire from any state in which the employee lived outside of Kentucky in the last three (3) years; and
 - e. Include a criminal record check at least every other year from the state in which the employee resides if the employee maintains residency outside of Kentucky; and
3. A check of the central registry, the adult protective services caregiver misconduct registry, and nurse aide [Abuse] registry that shall:
 - a. Be performed on an employee upon the initial date of hire and at least annually thereafter; and
 - b. Show that the employee was not found on the registries.
- (b) An assisted living community may use Kentucky's national background check program established by 906 KAR 1:190 to satisfy the background check requirements of this subsection.
- (4) Review of Client Records. During the on-site review, the following client records shall be reviewed:
 - (a) A completed client functional needs assessment that shall:
 1. Be completed:
 - a. Upon move in;
 - b. Once every twelve (12) months thereafter; and
 - c. As needed due to a change in function or condition;
 2. Be administered by a person with at least:
 - a. A bachelor's degree in health or human services[service] or a related field;
 - b. An associate's degree in health or human services or a related field and at least one (1) year of experience working with the elderly or conducting assessments; or
 - c. A high school diploma or its equivalency and two (2) years of experience working with the elderly or conducting assessments;
 3. Assess to ensure the client meets the eligibility requirements for assisted-living pursuant to KRS 194A.711 and 194A.700(2);
 4. Reflect the client's ability to perform activities of daily living and instrumental activities of daily living pursuant to KRS 194A.700(2)[194A.705(5)]; and
 5. Be provided to the client pursuant to KRS 194A.705(5)[(a)];
 - (b) Personal preferences and social factors that shall be updated at least every two (2) years;
 - (c) A signed lease with all attachments;
 - (d) Documentation of a client's designated representative, if applicable; and
 - (e) Documentation that the client received a copy of the assisted-living community's cardiopulmonary resuscitation policies pursuant to KRS 194A.719(1)(d).
- (5) Review of Written Service Provision and Practices. The on-site review shall review an assisted-living community's written service provision and practices related to:
 - (a) Assistance with self-administration of medication in accordance with KRS 194A.705(1)(d), which, for medications not preset in a medication organizer or single dose unit container as described in KRS 194A.700(3)(a), may include but shall not exceed the following staff actions if the client requests assistance:
 1. Providing the client with a medication reminder;
 2. Reading the medication's label to the client, and confirming that the medication is being taken by the client for whom it is prescribed; and
 3. Opening the medication container or dosage package, but not handling or removing the medication;
 - (b) Health services, delivered by assisted-living staff, which shall be reported in compliance with KRS 194A.709(1);
 - (c) Documentation in a client's file:
 1. From a licensed health care professional defined by KRS 216.300(1) or entity providing the health service to the client:
 - a. Requested of the client by the assisted-living community; and
 - b. That states the client has a temporary condition pursuant to

KRS 194A.711(1); and

2. From the assisted-living community to ensure that the client is not a danger, including if hospice or similar end-of-life services are provided;

(d) Compliance with KRS 194A.713(11), 194A.719(1)(j), and 216.595 regarding special programming, staffing, or training that may be provided to a client of an assisted-living community if the assisted-living community:

1. Ensures a client's functional needs assessment that:
 - a. Reflects the client's abilities as specified in subsection (4)(a)4 of this section; and
 - b. Shall be updated at least annually; and
2. Complies with the requirements of KRS 216.595; and
- (e) Compliance with a department approved waiver request in accordance with Section 8 of this administrative regulation.

(6) The department may, pursuant to KRS 194A.707~~(11)~~~~(10)~~, request additional information to ensure an assisted-living community complies with KRS 194A.700-729 and 216.789(1).

(7) Prior to completion of the on-site visit at the assisted-living community, a department representative shall hold a meeting with the assisted-living community manager or designee to discuss the preliminary results of the on-site visit.

Section 8. Waiver of Building Requirements.

(1) Pursuant to KRS 216.595(3), an assisted-living community may request a waiver from the department regarding building requirements to address the specialized needs of individuals with Alzheimer's disease or other brain disorders.

(2) The department shall:

- (a) Review the waiver request for approval; and
- (b) Not waive the building and life safety codes established in KRS 194A.703(3).

(3) An assisted-living community shall not alter the building requirements established in KRS 194A.703(1) and (2) without department approval.

Section 9. Assisted-living On-Site Review Findings.

(1) The department shall:

(a) Document any noncompliance with KRS 194A.700 through 194A.729 or this administrative regulation found during an on-site review on the DAIL-ALC-2, Assisted-Living Community Certification Checklist; and

(b) Submit the finding of noncompliance to the applicant:

1. On a statement of noncompliance located on the DAIL-ALC-3, Assisted-Living Community Statement of Noncompliance and Plan of Correction; and

2. Unless the finding is due to a client being a danger pursuant to Subsection (9) of this section, within fifteen (15) business days upon completion of the on-site review.

(2)(a) The assisted-living community shall complete a plan of correction on the DAIL-ALC-3, Assisted-Living Community Statement of Noncompliance and Plan of Correction and submit the form to the department within fifteen (15) business days of receipt of the notice of noncompliance.

(b) The assisted-living community shall specify in the plan the dates by which the noncompliance shall be corrected.

(3) The department shall notify the applicant in writing within fifteen (15) business days of receipt of the plan of correction:

(a) Whether the plan of correction is approved or not approved; and

(b) The reasons for the department's decision.

(4)(a) If the plan of correction is approved and the department determines a follow-up on-site review is unnecessary, the department shall issue a certification certificate.

(b) The assisted-living community shall post the certificate in a public area.

(5) If the plan of correction is not approved, the applicant shall submit to the department an amended plan of correction within fifteen (15) business days of receipt of notice the plan was not approved.

(6) If the department determines after reviewing the amended plan of correction that certification may be denied or revoked, the department shall notify the assisted-living community within ten

(10) business days of the determination and of the following rights~~[with the]~~:

- (a) The opportunity for an informal dispute resolution meeting:
 1. Between the department and the assisted-living community;
 2. To be held within fifteen (15) days of the assisted-living community's receipt of the notice; and
 3. To address a dispute, including the provision of additional documentation or support materials; and

(b) Appeal rights as specified in Section 12 of this administrative regulation if:

1. An informal dispute is not requested; or
 2. A dispute is not resolved with the informal dispute resolution.
- (7) If an applicant meets all the requirements on the DAIL-ALC-2, Assisted-Living Community Certification Checklist, the department shall issue a certification certificate verifying its status.

(8) The assisted-living community shall post the certification certificate in a public area.

(9) If the department finds during a complaint or certification review that a client is a danger, the department shall:

- (a) Immediately notify the assisted-living community as established in Section 7(7) of this administrative regulation; and
- (b) Provide the DAIL-ALC-4, Statement of Danger to the assisted-living community.

(10) Within forty-eight (48) hours, unless issued on a Friday and then by 4:30 p.m. eastern standard time of the next business day, of receiving the DAIL-ALC-4, Statement of Danger, the assisted-living community shall begin to implement a plan to correct the danger in accordance with Section 10(2)(e)1 or 2 of this administrative regulation.

(11) The department shall make a report of suspected abuse, neglect, or exploitation to Adult Protective Services in accordance with KRS 209.030(3).

(12) The department may conduct additional on-site visits pursuant to KRS 194A.707~~(11)~~~~[(40)]~~.

Section 10. Denial and Revocation of Certification.

(1) Certification shall be denied or revoked if:

(a)1. The department determines upon a complaint or certification review that an assisted-living community knowingly employs any individual convicted of an offense prohibited by KRS 216.789(1) or 216.789(2) as disclosed by the individual's employment application or a criminal records check and if the assisted-living community fails to immediately terminate the employment upon the department's finding; or

2. The same repeat violation of subparagraph 1 of this paragraph is found by the department within a three (3) year period; or

(b) An assisted-living community or applicant fails to submit a plan of correction to the department as specified in Section 9(2) through (7) of this administrative regulation.

(2) Certification may be denied or revoked if an assisted-living community:

(a) Fails to apply for certification as specified in Sections 2(1), 3(1), or 4(1) of this administrative regulation;

(b) Submits a completed DAIL-ALC-1, Assisted-Living Community Certification Application more than fifteen (15) days late for two (2) consecutive years;

(c) Fails to submit a completed DAIL-ALC-1, Assisted-Living Community Certification Application within thirty (30) days of July 1 annually;

(d) Fails to implement its most recent approved plan of correction:

1. Under current ownership; and
2. Within the plan of correction's specified timeframe on the DAIL-ALC-3, Assisted-Living Community Statement of Noncompliance and Plan of Correction;

(e) Fails to comply with one (1) of the following requirements if the department finds that a client is a danger and the department initially verifies those findings in writing pursuant to Section 9(9) of this administrative regulation:

1. Within forty-eight (48) hours, unless issued on a Friday and then by 4:30 p.m. eastern standard time of the next business day, of receiving the DAIL-ALC-4, Statement of Danger, the assisted-

living community shall submit a written response to the department that confirms how the danger has been eliminated or why the danger is disputed, with submission occurring via:

- a. Email;
- b. Facsimile transmission;
- c. Delivery to the department by hand;
- d. United States mail; or
- e. Courier service; or

2. Within forty-eight (48) hours, unless issued on a Friday and then by 4:30 p.m. eastern standard time of the next business day, of receiving the DAIL-ALC-4, Statement of Danger, the assisted-living community shall:

a. Initiate a move-out notice and begin the process of assisting the client to find appropriate living arrangements pursuant to KRS 194A.705(4); and

b. Submit a written response to the department that confirms the assisted-living community took the required action, with submission occurring via:

- (i) Email;
- (ii) Facsimile transmission;
- (iii) Delivery to the department by hand;
- (iv) United States mail; or
- (v) Courier service; or

(f) Except as provided in subsection (3) of this section, fails to initiate the requirements of paragraph (e)2 of this subsection, if the department:

1. Notifies the assisted-living community in writing that the client remains a danger; and

2. Does not accept the assisted-living community's written response pursuant to paragraph (e)1 of this subsection.

(3) If, after reviewing the assisted-living community's written response pursuant to subsection (2)(e)1 of this section, the department determines the client remains a danger, the department shall notify the assisted-living community in writing that:

(a) Certification may be denied or revoked;

(b) The assisted-living community has the right to an informal dispute resolution meeting:

1. Between the department and the assisted-living community;
2. For the purpose of attempting to resolve a dispute, including the provision of additional documentation or support materials; and
3. To be requested by the assisted-living community in writing within three (3) business days of receiving the department's written notice; and

(c) It has appeal rights pursuant to Section 12 of this administrative regulation if:

1. An informal dispute resolution meeting is not requested; or
2. A dispute is not resolved with the informal dispute resolution meeting.

(4) The department shall issue a written notice to the assisted-living community if the department determines:

- (a)1. A danger is unsubstantiated; or
2. The danger has been eliminated; or

(b) To deny or revoke certification following an informal dispute resolution meeting pursuant to subsection (3)(b) of this section.

(5)(a) If an assisted-living community continues to operate after its certification is revoked and fails to request an informal dispute resolution meeting or an administrative hearing pursuant to Section 12 of this administrative regulation to resolve a danger dispute, the assisted-living community may be fined in accordance with KRS 194A.723.

(b) The fine shall be paid as specified in Section 11(1) of this administrative regulation.

Section 11. Collection of Fees and Fines.

(1) An entity or business found to be in violation of KRS 194A.723 and~~[pursuant to KRS 194A.724]~~ assessed a penalty pursuant to KRS 194A.724 shall make a check payable to the Kentucky State Treasurer and mail it to the Department for Aging and Independent Living, 275 East Main Street, Frankfort, Kentucky 40621.

(2) A party aggrieved by a determination of the department may appeal the determination or the fine in accordance with KRS

Chapter 13B.

(3) The fee established for the notification of conditional compliance to a lender after review of the architectural drawings and lease agreement, pursuant to KRS 194A.729, shall be \$250.

Section 12. Right to Appeal Decision and Hearings.

(1) If the department determines that a certification shall be denied or revoked, the applicant shall be notified of the right to appeal the determination:

- (a) By certified mail; and
- (b) Within ten (10) days of determination.

(2) To request an administrative hearing, an applicant shall send a written request to the department within thirty (30) days of receipt of a written notice of:

- (a) Nonapproval of the amended plan of correction; or
- (b) Denial or revocation of certification.

(3) After receipt of the request for a hearing, the cabinet shall conduct a hearing pursuant to KRS Chapter 13B.

(4) The denial or revocation of certification shall be effective upon the final decision of the secretary pursuant to KRS Chapter 13B.

(5) If the denial or revocation is upheld by the secretary, the assisted-living community shall cease to operate and the assisted-living community shall:

- (a) Assist clients in locating alternate living arrangements pursuant to KRS 194A.705(4); and
- (b) Ensure that all clients are relocated within thirty (30) days of final notice of revocation or denial.

(6) The commissioner of the department shall have the authority to extend the time limit specified in subsection (5)(b) of this section, not to exceed an additional fifteen (15) days.

Section 13. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "DAIL-ALC-1, Assisted-Living Community Certification Application", 06/2015;
- (b) "DAIL-ALC-2, Assisted-Living Community Certification Check List", 10/2015;
- (c) "DAIL-ALC-3, Assisted-Living Community Statement of Noncompliance and Plan of Correction", 2/09; and
- (d) "DAIL-ALC-4, Statement of Danger", 06/2015.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Aging and Independent Living, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

SHANNON GADD, Commissioner

ADAM MEIER, Secretary

APPROVED BY AGENCY: February 11, 2019

FILED WITH LRC: February 15, 2019 at noon

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621, phone 502-564-6746, fax 502-564-7091, email CHFSregs@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES Department for Community Based Services Division of Family Support (As Amended at ARRS, March 11, 2019)

921 KAR 2:055. Hearings and appeals.

RELATES TO: KRS Chapter 13B, 23A.010, 45.237, 199.892, 205.211, 205.231, 205.237, 45 C.F.R. 205.10, 30 U.S.C. 901-944, 38 U.S.C. 1101-1163, 1501-1525, 42 U.S.C. 401-434, 601-619, 1381-1383f, 8621-8630, 9857-9858q, 45 U.S.C. 231-231v

STATUTORY AUTHORITY: KRS 13B.170, 194A.010(2), 194A.050(1), 199.8994, 205.231(5), 42 U.S.C. 602, 8624

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.010(2) requires the Cabinet for Health and Family Services to administer income-supplement programs that protect, develop, preserve, and maintain families and children in the

Commonwealth. KRS 194A.050(1) requires the secretary to promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. 42 U.S.C. 602 and 42 U.S.C. 8624 require states receiving Temporary Assistance for Needy Families (TANF) and Low Income Home Energy Assistance Program (LIHEAP) grants, respectively, to provide a grievance procedure for participants and outline this procedure in the applicable state plan. KRS 199.8994(1) requires the cabinet to administer all child care funds to the extent allowable under federal law or regulation and in a manner that [which] is in the best interest of the clients to be served. KRS Chapter 13B establishes the hearing process to be followed in the Commonwealth, and KRS 205.231(5) requires the cabinet to promulgate administrative regulations for the hearing process. This administrative regulation establishes the requirements to be followed in conducting a hearing related to the Kentucky Transitional Assistance Program (K-TAP), the Low-Income Home Energy Assistance Program (LIHEAP), the State Supplementation Program (SSP), or an applicant or a recipient of the Child Care Assistance Program (CCAP).

Section 1. Hearing Information.

(1) A participant shall be informed of:

- (a) The right to a hearing;
- (b) The procedures for requesting a hearing, as established in Section 3 of this administrative regulation; and
- (c) Who may represent the participant in a hearing, as established in Section 2 of this administrative regulation.

(2) When the participant files an application, the cabinet shall inform the participant of the right to hearing both orally and in writing.

(3) When an action is taken that [which] affects the benefits of the participant, the cabinet shall inform the participant of the right to hearing in writing.

Section 2. Request for a Hearing.

(1) An individual shall request a hearing by:

- (a) ~~Completing and submitting a PAFS-78, Request for Hearing or Withdrawal;~~
- ~~(b)~~ Submitting a written request; or
- ~~(b)~~ ~~(c)~~ Making an oral request.

(2) The hearing request may be:

- (a) Submitted to the local Department for Community Based Services office; or
- (b) Sent to the Cabinet for Health and Family Services, Division of Administrative Hearings, Families and Children Administrative Hearings Branch, 105 Sea Hero Road, Suite 2, Frankfort, Kentucky 40601.

(3) The reason for the hearing shall be included in the hearing request.

Section 3. Timeframe for Hearing Request.

(1) A written or oral request for a hearing shall be considered timely if received by the cabinet within:

- (a) Forty (40) days of the date of the advance notice of adverse action;
- (b) Thirty (30) days of the notice of:
 - 1. Denial of an application; or
 - 2. Decrease or discontinuance of an active case; or
- (c) The time period the action is pending if the hearing issue is a delay in action.

(2) If a hearing officer determines an appellant meets good cause criteria in accordance with subsection (3) of this section, the appellant may be granted up to an additional thirty (30) days to submit a hearing request.

(3) An appellant may be granted good cause by the cabinet:

- (a) For:
 - 1. A delay in requesting a hearing;
 - 2. A delay in requesting a continuation of benefits;
 - 3. Failure to appear for a hearing; or

4. Postponement of a scheduled hearing; and
- (b) If the appellant:
 1. Was away from home during the entire filing period;
 2. Is unable to read or to comprehend the right to request a hearing on an adverse action notice;
 3. Moved, resulting in delay in receiving or failure to receive the adverse action notice;
 4. Had a household member who was seriously ill; ~~or~~
 5. Was not at fault for the delay of the request, as determined by the hearing officer; or
 6. Did not receive the notice.

Section 4. Continuation of Assistance Program Benefits.

- (1) If a hearing is requested, benefits shall remain inactive or reduced pending the issuance of a final order unless the appellant requests a continuation of benefits.
- (2) Benefits shall be reinstated to the benefit level that was received prior to the adverse action being taken if the request for a continuation of benefits is received within:
 - (a) Ten (10) days of the date on the notice of adverse action; or
 - (b) Twenty (20) days of the date on the notice of adverse action or notice if the reason for delay meets the good cause criteria contained in Section 3(3) of this administrative regulation.
- (3) If the program benefit has been reduced or discontinued as a result of a change in law or administrative regulation, subsection (2) of this section shall not apply.
- (4) If the action taken by the agency is upheld, continued, or reinstated benefits shall be:
 - (a) Considered overpayments as defined in KRS 205.211; and
 - (b) Collected in accordance with KRS 45.237.

Section 5. Hearing Notification.

- (1) The Division of Administrative Hearings, Families and Children Administrative Hearings Branch, shall acknowledge a hearing request.
- (2) In accordance with KRS 13B.050, the notice of the hearing shall contain information regarding the:
 - (a) Hearing process, including the right to case record review prior to the hearing;
 - (b) Right to representation;
 - (c) Availability of free representation by legal aid or assistance from other organizations within the community; and
 - (d) Time and location of the hearing.
- (3) The cabinet may deny or dismiss a hearing request in accordance with 45 C.F.R. 205.10(a)(5)(v).

Section 6. Withdrawal or Abandonment of Request.

- (1) The appellant may withdraw a hearing request prior to the:
 - (a) Hearing; or
 - (b) Final order being issued if the hearing has already been conducted.
- (2) The cabinet shall consider a hearing request abandoned if the appellant or authorized representative fails to:
 - (a) Appear for the scheduled hearing without notifying the cabinet prior to the hearing; and
 - (b) Establish good cause for failure to appear, in accordance with the criteria specified in Section 3(3) of this administrative regulation, within ten (10) days of the scheduled hearing date.

Section 7. Appellant's Hearing Rights.

- (1) In addition to the rights described in Section 5 of this administrative regulation, the appellant shall have the right to submit additional information in support of the claim.
- (2) The appellant shall have the right to a medical assessment or professional evaluation at the expense of the cabinet by a source:
 - (a) Not associated with the original action; and
 - (b) Agreeable to both the appellant and the cabinet if:
 1. The hearing involves medical issues; and
 2. The hearing officer considers it necessary.
- (3) If a request for a medical assessment at cabinet expense is received and denied by the hearing officer, the denial shall:

- (a) Be in writing; and
- (b) Specify the reason for the denial.

Section 8. Postponement of a Hearing.

- (1) An appellant shall be entitled to a postponement of a hearing if the:
 - (a) Request for the postponement is made prior to the hearing; and
 - (b) Need for the delay is due to an essential reason beyond the control of the appellant in accordance with good cause criteria contained in Section 3(3) of this administrative regulation.
- (2) The hearing officer shall decide if a hearing is postponed.
- (3) The postponement of a hearing shall not exceed thirty (30) days from the date of the request for postponement.

Section 9. Conduct of a Hearing.

- (1) A hearing shall be:
 - (a) Scheduled by the hearing officer; and
 - (b) Conducted in accordance with KRS 13B.080 and 13B.090.
- (2) A hearing officer shall make an effort to conduct a hearing at a location within the state that is convenient for the appellant and other parties involved.
- (3) To secure all pertinent information on the issue, the hearing officer may:
 - (a) Examine each party or witness who appears; and
 - (b) If necessary, collect additional evidence from a party.
- (4)(a) If consent is obtained from each party to the appeal and from each party required to testify under oath, a telephonic hearing may be conducted.
- (b) Parties to a telephonic hearing shall:
 1. Submit all available documentary evidence to be used during the hearing to the hearing officer and the opposing party prior to the hearing being convened; and
 2. Within the timeframe specified by the hearing officer, mail the hearing officer and opposing party any documents or written materials that:
 - a. Are introduced as evidence into the hearing record; and
 - b. Have not been supplied to the opposing party prior to the hearing.
- (5) If evidence addressed in subsection (4)(b) of this section is not provided to the hearing officer and the opposing party, the evidence may be excluded from the hearing record.

Section 10. A Recommended [Hearing Officer's] [Recommended] Order.

- (1) After the hearing has concluded, the hearing officer shall draft a recommended [an] [a-recommended] order in accordance with KRS 13B.110 ~~that~~ which:
 - (a) Summarizes the facts of the case;
 - (b) Specifies the:
 1. Reasons for the recommended[recommended] order; and
 2. Address to which a party in the hearing may send an exception to the recommended[recommended] order;~~[and]~~
 - (c) Identifies the:
 1. Findings of fact;
 2. Conclusions of law;
 3. Supporting evidence; and
 4. Applicable state and federal regulations; and
 - (d) Addresses the parties' arguments.
- (2) A copy of the recommended[~~hearing officer's~~]~~[recommended]~~ order shall be sent simultaneously to the:
 - (a) Appellant or representative; and
 - (b) ~~[Appeal Board for Public Assistance established in accordance with KRS 205.231; and~~
 - (c) ~~Department for Community Based Services,[]~~ Division of Family Support.
- (3) A recommended[~~hearing officer's~~]~~[recommended]~~ order shall become a final order for an administrative hearing upon review and acceptance by the agency head, in accordance with KRS 13B.120(2), and 205.231 sixteen (16) days from the issuance of the order unless a written exception is filed pursuant to Section 11 of this administrative regulation.

Section 11. Written Exceptions and Rebuttals.

(1) If a party to a hearing disagrees with the ~~recommended[hearing officer's]~~[recommended] order, the party may file a written exception in accordance with KRS 13B.110(4) with the ~~secretary or the secretary's designee~~[Appeal Board for Public Assistance].

(2) A written exception or rebuttal shall:

- (a) Be filed within fifteen (15) days of the date the ~~recommended[hearing officer's]~~[recommended] order was mailed;
- (b) Be based on facts and evidence presented at the hearing;
- (c) Not refer to evidence that was not introduced at the hearing; and
- (d) Be sent to each other party involved in the hearing.

Section 12. Final Order.

~~(1) [Unless Section 10(3) of this administrative regulation applies.] The secretary or the secretary's designee shall issue a final order in accordance with KRS 13B.120[and 205.231].~~[Appeal Board Review. (1) In accordance with KRS 13B.120 and 205.231, the Appeal Board for Public Assistance shall send a written acknowledgement of the exception to the recommended order and subsequent appeal to the:

- (a) Parties to the hearing; and
- (b) Commissioner of the Department for Community Based Services.

(2) The acknowledgement shall:

- (a) Offer the opportunity to:
 - 1. File a brief; or
 - 2. Request permission to submit new or additional evidence; and

(b) State the tentative date on which:

- 1. A brief, new evidence, or new exhibit are to be received by the Appeal Board for Public Assistance for consideration; and
- 2. The Appeal Board for Public Assistance shall consider the appeal.

(3) The Appeal Board for Public Assistance shall consider:

- (a) The records of the hearing; and
- (b) New evidence or exhibits introduced before the Appeal Board for Public Assistance in accordance with this section.

(4) If an appeal is being considered on the record, the parties may:

- (a) Submit written arguments; and
- (b) Present oral arguments at the Appeal Board for Public Assistance's discretion. Telecommunications may be utilized for the presentation of oral arguments.

(5) If needed, the Appeal Board for Public Assistance may request additional evidence to resolve the appeal.

Section 13. The Appeal Board Decision. (1) The decision of the Appeal Board for Public Assistance shall be in accordance with KRS 13B.120 and 205.231.]

(2) The ~~secretary or the secretary's designee~~[Appeal Board for Public Assistance] may reverse the decision in subsection (1) of this section if the following criteria are met:

- (a) The correct determination of eligibility based on incapacity or disability is the only issue being considered in the ~~secretary or the secretary's designee~~[appeal board] decision; and
- (b) Within twenty (20) days of the ~~hearing officer's~~[Appeal Board for Public Assistance's] decision, the appellant, or household member whose incapacity or disability is the issue of the hearing, receives and provides to the ~~secretary or the secretary's designee~~[appeal board] an award letter for benefits based on disability including:

- 1. Supplemental Security Income pursuant to 42 U.S.C. 1381-1383f;
- 2. ~~Federal Old-Age~~[Retirement], Survivors, and Disability Insurance, pursuant to 42 U.S.C. 401-434;
- 3. Federal Black Lung Benefits pursuant to 30 U.S.C. 901-944;
- 4. Railroad Retirement Benefits pursuant to 45 U.S.C. 231-231v; or
- 5. Veterans Administration Benefits based on 100 percent disability pursuant to 38 U.S.C. 1101-1163 or 1501-1525.

(3) A party aggrieved by the ~~Appeal Board for Public Assistance's~~ decision of the secretary or the secretary's designee may pursue judicial review of the decision in accordance with:

- (a) KRS 13B.140 to 13B.160[-or
- (b) ~~KRS 23A.010~~][and 13B.150].

Section ~~13~~[14]. Payments of Assistance.

(1) Payments of assistance shall be made within ten (10) days of the receipt of a final order ~~issued by the Appeal Board for Public Assistance~~ and shall include:

- (a) The month of application; or
- (b) If it is established that the appellant was eligible during the entire period in which assistance was withheld, a month in which incorrect action of the cabinet adversely affected the appellant.

(2) For reversals involving reduction of benefits, action shall be taken to restore benefits within ten (10) days of the receipt of a final order ~~issued by the Appeal Board for Public Assistance~~.

Section ~~14~~[15]. Limitation of Fees.

(1) The cabinet shall not be responsible for payment of attorney fees.

(2) Pursuant to KRS 205.237, an attorney representing an appellant shall not charge more than the following amounts for his services:

- (a) Seventy-five (75) dollars for preparation and appearance at a hearing before a hearing officer;
- (b) Seventy-five (75) dollars for preparation and presentation, including any briefs, of appeals to the ~~secretary or the secretary's designee~~[appeal board];
- (c) \$175 for preparation and presentation, including pleadings and appearance in court, of appeals to the circuit court; or
- (d) \$300 for preparatory work, briefs, and other materials related to an appeal to the Court of Appeals.

(3) The cabinet shall approve the amount of a fee, if the:

- (a) Appellant and legal counsel agree to the fee; and
- (b) Fee is within the maximums specified in subsection (2) of this section.

(4) Collection of an attorney fee shall:

- (a) Be the responsibility of the counsel or agent; and
- (b) Not be deducted from the benefits provided to an appellant.[Section 16. Incorporation by Reference. (1) The form, "PAFS-78, Request for Hearing or Withdrawal", 12/28/15, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, 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.]

ERIC T. CLARK, Commissioner

ADAM M. MEIER, Secretary

APPROVED BY AGENCY: February 14, 2019

FILED WITH LRC: February 15, 2019 at noon

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621, phone 502-564-6746, fax 502-564-7091, email CHFSregs@ky.gov.

**ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS**

**LABOR CABINET
Department of Workers' Claims
(Amended After Comments)**

803 KAR 25:270. Pharmaceutical formulary.

RELATES TO: KRS 342.0011(13), 342.020, 342.035.

STATUTORY AUTHORITY: 342.035, 342.260, 342.265, 342.270, 342.275.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.260(1) requires the commissioner to promulgate administrative regulations necessary to carry on the work of the department and the work of administrative law judges so long as those administrative regulations are consistent with KRS Chapter 342 or KRS Chapter 13A. KRS 342.035 requires the commissioner to develop or adopt a pharmaceutical formulary and promulgate administrative regulations to implement the developed or adopted pharmaceutical formulary. This administrative regulation establishes the formulary and provides guidance to implement the adopted formulary.

Section 1. Definitions. (1) "Carrier" or "Insurance Carrier" means any insurer authorized to insure the liability of employers arising under Chapter 342 of the Kentucky Revised Statutes, an employer authorized by the commissioner to pay directly the compensation provided in Chapter 42 of the Kentucky Revised Statutes as those liabilities are incurred, a self-insured group, and any person acting on behalf of or as an agent of the insurer, self-insured employer, or self-insured group.

(2) "Commissioner" means the commissioner charged in KRS 342.228 to administer the Department of Workers' Claims and whose duties are stated in KRS 342.230.

(3) "Compound/compounding" means the process of combining, mixing, or altering ingredients to create a medication that is tailored to meet the needs of an individual patient.

(4) "Department" or "Department of Workers' Claims" means the governmental agency whose responsibilities are provided in KRS 342.228.

(5) "Dispense" means to deliver a drug to an ultimate user pursuant to the lawful order of a medical provider, including the packaging, labeling, or compounding necessary to prepare the drug for delivery.

(6) "Drug" means a substance recognized as a drug in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or any supplement to them, which is intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man.

(7) "Employee" means those natural persons constituting an employee subject to the provisions of the Act as defined in KRS 342.640 and the employee's legal counsel.

(8) "Employer" means those persons constituting an employer as defined in KRS 342.630, the employer's insurance carrier, self-insured group or other payment obligor, third party administrator, other person acting on behalf of the employer in a workers' compensation matter, and the employer's legal counsel.

(9) "Formulary" or "Pharmaceutical Formulary" means the pharmaceutical formulary developed or adopted by the commissioner pursuant to KRS 342.035(8)(b).

(10) "Medical Provider" means a natural person who has prescriptive authority for drugs under the professional licensing laws of Kentucky, another state, or federal law, unless that person's license has been revoked, suspended, restricted or probated.

(11) "N" or "N status" means the drug is a non-preferred drug.

(12) "Natural person" means a biological human being.

(13) "Non-prescription drug" or "over-the-counter-drug" means a drug that may be sold without a prescription.

(14) "Person" means an individual, corporation, government, or governmental subdivision or agency, business, estate, trust, partnership, association, or any other legal entity.

(15) "Pharmacist" means a natural person lawfully licensed to engage in the practice of the profession of pharmacy.

(16) "Preauthorization" means the process whereby payment for a medical service or course of treatment is assured in advance by a carrier.

(17) "Prescription" or "prescribed" means a written, electronic, or oral order for a drug, signed or given or authorized by a medical provider and intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man.

(18) "Prescription Drug" means:

(a) A substance for which federal or state law requires a prescription before the substance may be legally dispensed to the public;

(b) A drug that under federal law is required, before being dispensed or delivered, to be labeled with the statement: "Caution: federal law prohibits dispensing without prescription"; "Rx only"; or another legend that complies with federal law; or

(c) A drug that is required by federal or state statute or regulation to be dispensed on prescription or that is restricted to use by a medical provider only.

(19) "Refill" means a prescription for the same drug, at the same dose or strength, and in the same quantity and frequency, and with the same instructions as was initially prescribed.

(20) "Utilization Review" means utilization review as defined in 803 KAR 25:190 §1 (6).

(21) "Y" or "Y status" means the drug is a preferred drug.

Section 2. Purpose and Adoption. (1) The purpose of the formulary is to facilitate the safe and appropriate use of prescription drugs in the treatment of work-related injury and occupational disease.

(2) The commissioner adopts the current edition and any future published updates of the ODG formulary currently published by MCG Health. The commissioner shall review the formulary not less than annually and update or amend this administrative regulation, if necessary, to ensure that the formulary is consistent with the provisions of KRS 342.020 and 342.035.

(3) The formulary shall be made available by the department. Subsequent updates shall be effective on the first day of the month following the update.

(4) To the extent this administrative regulation or the formulary conflict with any state or federal statute or regulation limiting prescriptive authority, including KRS 218A.172, 218A.020(3), 314.011(8) and 201 KAR 9:260, the statute or administrative regulation limiting prescriptive authority shall apply.

Section 3. Application. (1) An employer or its payment obligor is liable for payment of up to a seven (7)-day supply of a "Y" drug dispensed to or prescribed for an injured employee within seven (7) days of a work-related injury in treatment of that work-related injury even if the employer ultimately denies liability for the claim. Payment by the employer or its payment obligor pursuant to this subsection does not waive the employer's right to contest its liability for the claim or benefits to be provided.

(2) Unless the employer, in good faith, denies the claim as not compensable, drugs assigned "Y" status in the formulary on the date the prescription is issued shall be filled without the need for preauthorization and without delay if prescribed for and appropriate for the work injury or occupational disease. Utilization review shall not be required for a "Y" drug but may be conducted retrospectively to determine medical reasonableness and necessity. A denial of a "Y" drug based on retrospective utilization review shall apply only to refill prescriptions of that drug after the date of the utilization review.

(3) Unless the employer, in good faith, denies the claim as not compensable, drugs assigned "N" status in the formulary on the date the prescription is issued shall require preauthorization. A prescription for a drug with an "N" status issued without articulated sound medical reasoning does not constitute a request for preauthorization nor a request for payment. Within two (2)

business days of presentation of a prescription for a drug with an "N" status without articulated sound medical reasoning, the insurance carrier shall notify the medical provider that preauthorization is required for the prescribed drug.

(4) Except as provided in subsection (1) of this Section, prescription drugs dispensed for outpatient use by any person other than a pharmacist require preauthorization.

(5) Any prescription drug not listed in the formulary shall require preauthorization. Any non-prescription drug shall not require preauthorization.

(6) Compound medications require preauthorization even if all of the components of the compound are listed as "Y" drugs in the formulary.

(7) Medical providers are required to prescribe in accordance with the formulary unless the medical provider can sufficiently articulate sound medical reasoning for deviating from the formulary, which may include:

(a) Documentation that reasonable alternatives allowable in the formulary have been adequately trialed and failed;

(b) The clinical rationale that justifies the proposed treatment plan, including criteria that will constitute a clinically meaningful benefit; or

(c) Any other circumstances that reasonably preclude the approved formulary options.

(8) Before an employer denies authorization for a drug that requires preauthorization, the employer must consider any sound medical reasoning furnished by the medical provider for prescribing that drug.

Section 4. Preauthorization. (1) Requests for preauthorization shall be subject to utilization review unless the employer waives utilization review.

(2) Except as modified in this section, 803 KAR 25:190 Sections 5, 7, and 8 apply to all prescriptions for which preauthorization is required under this administrative regulation. If the medical provider has provided sound medical reasoning for the prescription, the employer shall not deny a prescribed drug based solely on the status of the drug in the formulary.

(3) If as a result of utilization review the carrier denies a request for preauthorization, the medical provider may request reconsideration of the denial to include a peer-to-peer conference with a utilization review physician. The request for a peer-to-peer conference shall be made by electronic communication and shall provide:

(a) A telephone number for the reviewing physician to call;

(b) A date for the conference not less than two (2) business days after the date of the request; and

(c) A one (1) - hour period during which the requesting medical provider (or its designee) will be available to participate in the conference between the hours of 8:00 a.m. and 6:00 p.m. (Eastern Time), Monday through Friday.

(4) The peer-to-peer conference must be conducted by a physician of the same specialty as the medical provider requesting reconsideration.

(5) Failure of the reviewing physician to participate in the peer-to-peer conference during the date and time specified shall result in the approval of the request for preauthorization and approval of the requested prescription. Failure of the requesting medical provider or its designee to participate in the peer-to-peer conference during the time he or she specified availability may result in denial of the request for reconsideration.

(6) Pursuant to 803 KAR 25:190 Section 8(1)(c), a written reconsideration decision shall be rendered within ten (10) days of date of the peer-to-peer conference. The written decision shall be entitled "FINAL UTILIZATION REVIEW DECISION".

(7) If a Final Utilization Review Decision is rendered denying authorization for a prescribed drug before an award has been entered by or agreement approved by an administrative law judge, the requesting medical provider or the injured employee may file a medical dispute pursuant to 803 KAR 25:012. If a Final Utilization Review Decision is rendered denying authorization for a prescribed drug after an award has been entered by or agreement approved by an administrative law judge, the employer shall file a medical

dispute pursuant to 803 KAR 25:012.

(8) Pursuant to KRS 342.285(1), a decision of an administrative law judge on a medical dispute is subject to review by the workers' compensation board under the procedures set out in 803 KAR 25:010, Section 22.

Section 5. Effective Dates. (1) For claims with a date of injury or last exposure on or after January 1, 2019, the formulary applies to all drugs that are prescribed or dispensed on or after July 1, 2019, for outpatient use;

(2) For claims with a date of injury or last exposure prior to January 1, 2019, the formulary applies as follows:

(a) For a prescription that is not a refill prescription, the formulary applies to all drugs prescribed or dispensed on or after July 1, 2019, for outpatient use;

(b) For a refill prescription of a drug initially prescribed prior to July 1, 2019, the formulary applies to all drugs prescribed or dispensed on or after January 1, 2020, for outpatient use.

This is to certify that the commissioner has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 342.260 and 342.035.

ROBERT L. SWISHER, Commissioner

APPROVED BY AGENCY: March 14, 2019

FILED WITH LRC: March 14, 2019 at 4 p.m.

CONTACT PERSON: B. Dale Hamblin, Jr., Assistant General Counsel, Workers' Claims Legal Division, Prevention Park, 657 Chamberlin Avenue, Frankfort, Kentucky 40601, phone (502) 782-4404, fax (502) 564-0681, email dale.hamblin@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: B. Dale Hamblin, Jr.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation adopts a pharmaceutical formulary for medications prescribed for the cure of and relief of a work injury or occupational disease and provides guidance for its implementation and use.

(b) The necessity of this administrative regulation: KRS 342.035(8) requires the commissioner to promulgate an administrative regulation to implement the pharmaceutical formulary.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 342.035 requires the commissioner to adopt a pharmaceutical formulary for medications prescribed for the cure of and relief of a work injury or occupational disease and to promulgate an administrative regulation to implement that formulary.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 342.020 provides an employer is responsible to pay for the cure and relief from the effects of an injury or occupational disease as may reasonably be required at the time of injury and thereafter during disability or as may be required for the cure and treatment of an occupational disease. KRS 342.035 requires the commissioner to adopt a pharmaceutical formulary for medications prescribed for the cure of and relief of a work injury or occupational disease. This administrative regulation provides guidance to the employee and employer with respect to that pharmaceutical formulary.

(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: All injured employees, physicians and medical providers providing services to injured workers pursuant to KRS Chapter 342, insurance carriers, self-insurance groups, self-insured employers, insured employers, and third party administrators.

(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 and medical providers are required to use the pharmaceutical formulary adopted by the commissioner. Employers and their payment obligors will apply the pharmaceutical formulary when paying for treatment as required by KRS 342.020.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost of completing the medical report cannot exceed \$100. The cost to the payment obligors cannot be ascertained until treatment is sought and provided to the injured employee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Injured employees are less likely to receive inappropriate prescription drugs and more likely to receive the appropriate prescription drugs in a more timely fashion. Employers may experience a long-term reduction in medical benefit costs.

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

(a) Initially: None

(b) On a continuing basis: The cost associated with this administrative regulation is the cost of maintaining the pharmaceutical formulary on the Cabinet's website.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department of Workers' Claims normal budget is the source of 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 increase in fees or funding is needed 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 or increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied; the regulation applies to all parties 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 Department of Workers' Claims and all agencies or departments of government with employees.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 342.020, 342.035, 342.260, 342.265, 342.275.

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 should be no direct effect on expenditures.

(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 cost of maintaining the pharmaceutical formulary on the Cabinet's website is nominal.

(d) How much will it cost to administer this program for subsequent years? Other than the cost to maintain the pharmaceutical formulary on the Cabinet's website, it does not appear there will be additional costs.

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: It is possible the application of the pharmaceutical formulary will cause drug costs to stabilize or reduce, providing a reduction of costs to the workers' compensation system as a whole.

CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services Division of Fiscal Management (Amended After Comments)

907 KAR 10:820. Disproportionate share hospital distributions.

RELATES TO: KRS 205.565, 205.637, 205.639, 205.640, 205.641, 216.380, 42 C.F.R. Parts 412, 413, 440.10, 440.140, 447.250-447.280, 42 U.S.C. 1395f(l), 1395ww(d)(5)(f), 1395x(mm), 1396a, 1396b, 1396d, 1396r-4

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560(2), 205.637(3), 205.639, 205.640, 205.6401, 205.6403, 216.380(12), 42 C.F.R. Parts 412, 413, 447.252, 447.253, 447, Subpart E, 42 U.S.C. 1395ww(d)(5)(F), 1396a, 1396r-4

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This administrative regulation establishes disproportionate share hospital fund distribution provisions in accordance with KRS 205.639, [and] 205.640, 205.6401, and 205.6403.

Section 1. Definitions. (1) "Base year" means the year of historical Medicaid DSH survey data used to determine initial DSH payments["Acute care hospital" is defined by KRS 205.639(1)].

(2) [~~"Countable resource"~~] means cash or an asset readily convertible to cash including a checking account, savings account, stock, bond, mutual fund, certificate of deposit, money market account, or similar financial instrument.

(3) [~~"Critical access hospital"~~ or "CAH"] means a hospital meeting the licensure requirements established in 906 KAR 1:110.

(4) "Department" is defined by KRS 205.639(4)[~~means the Department for Medicaid Services or its designated agent~~].

(3) [(5)] "Disproportionate share hospital" or "DSH" means an in-state hospital that:

(a) Has an inpatient Medicaid utilization rate of one (1) percent or higher; and

(b) Meets the criteria established in 42 U.S.C. 1396r-4(d).

(4) "Final disproportionate share hospital payment" or "final DSH payment" is defined by KRS 205.639(6).

(5) "Hospital-specific disproportionate share hospital limit" or "hospital-specific DSH limit" is defined by KRS 205.639(7).

(6) "Initial disproportionate share hospital payment" or "initial DSH payment" is defined by KRS 205.639(8).

(7) "Medicaid disproportionate share hospital survey" or "Medicaid DSH survey" is defined by KRS 205.639(12), and may include an attestation by a hospital that information has not changed from the submission of an original Medicaid DSH survey.

(8) "Medicaid inpatient utilization rate" or "MIUR" is defined by KRS 205.639(14).

(9) "Total uncompensated care costs" is defined by KRS 205.639(19). (6) "DRG" or "diagnosis related group" means a clinically similar grouping of services that can be expected to consume similar amounts of hospital resources.

(7) "DRG-reimbursed hospital" means an in-state hospital reimbursed via a DRG methodology pursuant to 907 KAR 10:825.

(8) "Federal Register" means the official daily publication for rules, proposed rules, and notices of federal agencies and organizations, as well as executive orders and other presidential documents.

(9) "Indigent care" means the unreimbursed cost to a hospital of providing a service on an inpatient or outpatient basis:

(a) To an individual who is:

1. Determined to be indigent in accordance with KRS 205.640; and

2. Not a Medicaid recipient; and

(b) For which an individual shall not be billed by the hospital.

(10) "Indigent care eligibility criteria" means the criteria as specified in Section 9 of this administrative regulation used by a hospital to determine if an individual is eligible for indigent care.

(11) "Inpatient equivalency" means the equivalency that is:

(a) Determined by taking a hospital's aggregate Medicaid DRG reimbursement, dividing it by the aggregate Medicaid DRG allowed days, and determining a per diem amount paid; and

(b) Based on the Medicaid schedule contained in the most recently finalized Medicare cost report.

(12) "Long-term acute care hospital" means a hospital that meets the requirements established in 42 C.F.R. 412.23(e).

(13) "Per diem rate" means a hospital's all-inclusive daily rate as calculated by the department.

(14) "Private psychiatric hospital" is defined by KRS 205.639(2).

(15) "Pro rata basis" means a basis for allocating an amount proportionately to all hospitals within a hospital category.

(16) "Rehabilitation hospital" means a hospital meeting the licensure requirements as established in 902 KAR 20:240.

(17) "Resident" means an individual living in Kentucky who is not receiving public assistance in another state.

(18) "State mental hospital" is defined by KRS 205.639(3).

(19) "Third-party payor" means a payor of a third party pursuant to KRS 205.510(16).

(20) "University hospital" is defined by KRS 205.639(4).]

Section 2. Disproportionate Share Hospital Distribution General Provisions. (1) Beginning with the state fiscal year 2019 DSH payment, each DSH payment shall be made in accordance with KRS 205.639, 205.640, 205.6401, and 205.6403.

(2) During the determination of an initial DSH payment, the department may adjust a hospital's total uncompensated care costs reported on the hospital's base year Medicaid DSH survey if the amount reported appears likely to result in a substantial redistribution of DSH funds that could have been avoided by adjusting the hospital's total uncompensated care costs.

(3) If an overpayment has been identified, **the hospital has not filed a timely appeal**, and repayment was not made by the hospital on or before January 31, pursuant to KRS 205.640, the department shall withhold future payment to the hospital until the department has collected in full the amount owed by the hospital to the department.

Section 3. Disproportionate Share Hospital Medicaid DSH Survey Submission Provisions. (1) Each Medicaid DSH survey submitted for the purpose of determining initial DSH payment amounts shall be submitted in accordance with the timeline established in KRS 205.640.

(2) Each Medicaid DSH survey and supporting documentation submitted pursuant to subsection (1) of this section shall be updated prior to the start of the final DSH examination to incorporate more complete data.

(a) The updated Medicaid DSH survey and the accompanying supporting documentation shall be submitted no later than October

31 of the calendar year ending two (2) calendar years after the end of the state fiscal year to which the DSH payment pertains.

(b) The updated Medicaid DSH survey and the accompanying supporting documentation shall be submitted even if no changes were made since the original submission.

(c) A submission of a Medicaid DSH survey by a hospital shall serve as certification that all Medicaid and uninsured DSH data is:

1. Complete;

2. Accurate; and

3. In agreement with the hospital's internal records.

[(d) Failure to submit a final DSH survey in accordance with paragraph (a) of this subsection or other required information for receipt of a final DSH payment shall result in:

1. A recoupment of the initial DSH payment; and

2. No calculation of a final payment by the department.]

(3) If a provider does not have twelve (12) months of cost report data needed to determine an initial DSH payment, the cost report used in determining the provider's initial DSH payment shall be prioritized as follows:

(a) The most recent cost report, based on the fiscal year end, in the base year with greater than or equal to six (6) months of data;

(b) The most recent cost report, based on the fiscal year end, from the year prior to the base year with greater than or equal to six (6) months of data; or

(c) If a cost report is not available with at least six (6) months of data, the new provider proxy method shall be utilized pursuant to KRS 205.640(3)(e)1.d.

Section 4. Disproportionate Share Hospital Medicaid DSH Payment Appeals Provisions. (1) An initial DSH payment shall not be subject to appeal in accordance with KRS 205.640; and

(2) A final DSH payment shall be subject to appeal in accordance with 907 KAR 1:671.

Section 5. Disproportionate Share Hospital Medicaid DSH Survey Payment Redistribution Provisions. For state fiscal year 2011 to state fiscal year 2018, a DSH payment shall be redistributed in accordance with this section. (1) A DSH payment found in the DSH audit process for a given state fiscal year that exceeds the DSH limit for a hospital shall be recouped from that hospital in order to reduce the DSH payment to the limit established pursuant to this administrative regulation.

(a) The excess amount identified shall be due to the department within sixty (60) days after notification, **unless an appeal is filed in a timely fashion.**

(b) If a hospital **does not file a timely appeal and** does not submit the excess amount established pursuant to this subsection within sixty (60) days, the department shall withhold future payments to the hospital until the department has collected in full the amount owed by the hospital to the department.

(2) A payment that is recouped from a hospital as a result of the DSH audit shall be redistributed to hospitals that have been determined by the department to have paid less than their hospital-specific DSH limit pursuant to this administrative regulation.

(3) Each redistribution shall:

(a) Occur proportionately to the original distribution of DSH funds; and

(b) Not exceed each hospital's specific DSH limit.

(4) If, because of the hospital-specific DSH limits, DSH funds cannot be fully redistributed within the original distribution pool established pursuant to subsection (3) of this section, the excess funds shall be redistributed to the other distribution pools in proportion to the original DSH payments made by the department.

(5) If the Medicaid program's original DSH payments do not fully expend the federal DSH allotment for any state fiscal year, the remaining DSH allotment shall be:

(a) Retroactively paid to each hospital that is determined to have received less than its hospital-specific DSH limit after consideration of any potential redistributions pursuant to subsection (1) of this section;

(b) Proportional to the original DSH payment made to each hospital; and

(c) Limited to each hospital's specific DSH limit.

Section 6. Federal Approval and Federal Financial Participation. The department's coverage of DSH payments or other services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation;
- (2) Availability of state funds; and
- (3) Centers for Medicare and Medicaid Services' approval.[A DSH distribution shall:
 - (1) Be made to a qualified hospital;
 - (2) Be based upon available funds in accordance with KRS 205.640;
 - (3) Be based upon a hospital's proportion of inpatient and outpatient indigent care from the preceding state fiscal year;
 - (4) Be a prospective amount. For example, a DSH distribution made to a hospital in October 2007 shall cover the state fiscal year beginning July 1, 2007 and ending June 30, 2008;
 - (5) Not be subject to settlement or revision based on a change in utilization during the year to which it applies; and
 - (6) Be made on an annual basis.

~~Section 3. Disproportionate Share Hospital Distribution to a DRG-Reimbursed Acute Care Hospital. The department shall determine a DSH distribution to a DRG-reimbursed acute care hospital by:~~

- ~~(1) Determining a hospital's average reimbursement per discharge;~~
- ~~(2) Dividing the hospital's average reimbursement per discharge by Medicaid days per discharge;~~
- ~~(3) Multiplying the amount established in subsection (2) of this section by the hospital's total number of inpatient indigent care days for the most recently completed state fiscal year to establish the hospital's inpatient indigent care cost;~~
- ~~(4) Determining an in-state hospital's outpatient indigent care cost by multiplying each in-state hospital's indigent outpatient charges by the most recent cost-to-charge ratio used by the Department of Labor in accordance with 803 KAR 25:091;~~
- ~~(5) Combining the inpatient indigent care cost established in subsection (3) of this section with the outpatient indigent care cost established in subsection (4) of this section to establish a hospital's indigent care cost total; and~~
- ~~(6) Comparing the total indigent care cost for each DRG-reimbursed hospital to the indigent care costs of all hospitals receiving DSH distributions under the acute care pool pursuant to KRS 205.640(3)(d) to establish a DSH distribution on a pro rata basis.~~

~~Section 4. Disproportionate Share Hospital Distribution to a Critical Access Hospital, Rehabilitation Hospital or Long Term Acute Care Hospital. The department shall determine a DSH distribution to a critical access hospital, rehabilitation hospital, or long term acute care hospital:~~

- ~~(1) For the period beginning with the state fiscal year beginning July 1, 2007 and ending June 30, 2008 by:

 - ~~(a) Multiplying the hospital's per diem rate in effect as of June 30, 2007 by its total number of inpatient indigent care days for the preceding state fiscal year (July 1, 2006 – June 30, 2007) to establish the hospital's inpatient indigent care cost;~~
 - ~~(b) Determining an in-state hospital's outpatient indigent care cost by multiplying each in-state hospital's indigent outpatient charges by the most recent cost-to-charge ratio used by the Department of Labor in accordance with 803 KAR 25:091;~~
 - ~~(c) Combining the inpatient indigent care cost established in paragraph (a) of this subsection with the outpatient indigent care cost established in paragraph (b) of this subsection to establish a hospital's indigent care cost total; and~~
 - ~~(d) Comparing the indigent care cost totals for each critical access hospital, rehabilitation hospital and long term acute care hospital to the indigent care costs of all hospitals receiving DSH distributions from the acute care pool pursuant to KRS 205.640(3)(d) to establish a hospital's DSH distribution on a pro rata basis; and~~~~

~~(2) For the state fiscal year period beginning July 1, 2008 and subsequent state fiscal years, by:~~

- ~~(a) Multiplying the hospital's per diem rate in effect as of August 1 of the state fiscal year period included in the state fiscal year period referenced in subsection (2) of this Section by its total number of inpatient indigent care days for the preceding state fiscal year to establish the hospital's inpatient indigent care cost;~~
- ~~(b) Determining an in-state hospital's outpatient indigent care cost by multiplying each in-state hospital's indigent outpatient charges by the most recent cost-to-charge ratio used by the Department of Labor in accordance with 803 KAR 25:091;~~
- ~~(c) Combining the inpatient indigent care cost established in paragraph (a) of this subsection with the outpatient indigent care cost established in paragraph (b) of this subsection to establish a hospital's indigent care cost total; and~~
- ~~(d) Comparing the indigent care cost totals for each critical access hospital, rehabilitation hospital and long term acute care hospital to the indigent care costs of all hospitals receiving DSH distributions from the acute care pool pursuant to KRS 205.640(3)(d) to establish a hospital's DSH distribution on a pro rata basis.~~

~~Section 5. Disproportionate Share Hospital Distribution to a Private Psychiatric Hospital. The department shall determine a DSH distribution to a private psychiatric hospital:~~

- ~~(1) For the period beginning with the state fiscal year beginning July 1, 2007 and ending June 30, 2008 by:

 - ~~(a) Multiplying the hospital's per diem rate in effect as of June 30, 2007 by its total number of inpatient indigent care days for the preceding state fiscal year (July 1, 2006 – June 30, 2007) to establish the hospital's inpatient indigent care cost;~~
 - ~~(b) Determining an in-state hospital's outpatient indigent care cost by multiplying each in-state hospital's indigent outpatient charges by the most recent cost-to-charge ratio used by the Department of Labor in accordance with 803 KAR 25:091 or by establishing an inpatient equivalency;~~
 - ~~(c) Combining the inpatient indigent care cost established in paragraph (a) of this subsection with the outpatient indigent care cost established in paragraph (b) of this subsection to establish a hospital's indigent care cost total; and~~
 - ~~(d) Comparing the indigent care cost totals of each private psychiatric hospital to establish, using the DSH funding allocated to private psychiatric hospitals, a private psychiatric hospital's DSH distribution on a pro rata basis; and~~~~
- ~~(2) For the state fiscal year period beginning July 1, 2008 and subsequent state fiscal years, by:

 - ~~(a) Multiplying the hospital's per diem rate in effect as of August 1 of the state fiscal year period included in the state fiscal year period referenced in subsection (2) of this Section by its total number of inpatient indigent care days for the preceding state fiscal year to establish the hospital's inpatient indigent care cost;~~
 - ~~(b) Determining an in-state hospital's outpatient indigent care cost by multiplying each in-state hospital's indigent outpatient charges by the most recent cost-to-charge ratio used by the Department of Labor in accordance with 803 KAR 25:091 or by establishing an inpatient equivalency;~~
 - ~~(c) Combining the inpatient indigent care cost established in paragraph (a) of this subsection with the outpatient indigent care cost established in paragraph (b) of this subsection to establish a hospital's indigent care cost total; and~~
 - ~~(d) Comparing the indigent care cost totals of each private psychiatric hospital to establish, using the DSH funding allocated to private psychiatric hospitals, a private psychiatric hospital's DSH distribution on a pro rata basis.~~~~

~~Section 6. Disproportionate Share Hospital Distribution to a State Mental Hospital. The Department shall determine a DSH distribution to a state mental hospital by:~~

- ~~(1) Comparing each state mental hospital's costs of services provided to individuals meeting the indigent eligibility criteria established in Section 9 of this administration regulation, minus any payment made by or on behalf of the individual to the hospital; and~~
- ~~(2) Using the DSH funding allocated to state mental hospitals~~

to establish a state mental hospital's DSH distribution on a pro rata basis.

~~Section 7. Disproportionate Share Hospital Distribution to a University Hospital. The department's DSH distribution to a university hospital shall:~~

- ~~(1) Be based on the hospital's historical proportion of the costs of services to Medicaid recipients, minus reimbursement paid via 907 KAR 10:825 or 907 KAR 10:815, plus the costs of services to indigent and uninsured patients minus any distributions made on behalf of indigent and uninsured patients;~~
- ~~(2) Be contingent upon a facility providing up to 100 percent of matching funds to receive federal financial participation for distribution under this subsection; and~~
- ~~(3) Comply with KRS 205.640(3)(a)2.~~

~~Section 8. Indigent Care Eligibility. (1) Prior to billing a patient and prior to submitting the cost of a hospital service to the department as uncompensated, a hospital shall use the indigent care eligibility form, DSH-001, Application for Disproportionate Share Hospital (DSH) Program, and the Disproportionate Share Hospital (DSH) Program Manual, to assess a patient's financial situation to determine if:~~

- ~~(a) Medicaid or Kentucky Children's Health Insurance Program (KCHIP) may cover hospital expenses; or~~
- ~~(b) A patient meets the indigent care eligibility criteria.~~
- ~~(2) An individual referred to Medicaid or KCHIP by a hospital shall apply for the referred assistance, Medicaid or KCHIP, within thirty (30) days of completing the DSH-001, Application for Disproportionate Share Hospital Program (DSH), at the hospital.~~

~~Section 9. Indigent Care Eligibility Criteria. (1) A hospital shall receive disproportionate share hospital funding for an inpatient or outpatient medical service provided to an indigent patient under the provisions of this administrative regulation if the following apply:~~

- ~~(a) The patient is a resident of Kentucky;~~
- ~~(b) The patient is not eligible for Medicaid or KCHIP;~~
- ~~(c) The patient is not covered by a third-party payor;~~
- ~~(d) The patient is not in the custody of a unit of government that is responsible for coverage of the acute care needs of the individual;~~
- ~~(e) The hospital shall consider all income and countable resources of the patient's family unit and the family unit shall include:~~
 - ~~1. The patient;~~
 - ~~2. The patient's spouse;~~
 - ~~3. The minor's parent or parents living in the home; and~~
 - ~~4. Any minor living in the home;~~
- ~~(f) A household member who does not fall in one (1) of the groups listed in paragraph (e) of this subsection shall be considered a separate family unit;~~
- ~~(g) The annual countable resources of a family unit shall not exceed:~~

- ~~1. \$2,000 for an individual;~~
- ~~2. \$4,000 for a family unit size of two (2); and~~
- ~~3. Fifty (50) dollars for each additional family unit member;~~
- ~~(h) Countable resources shall be reduced by unpaid medical expenses of the family unit to establish eligibility; and~~
- ~~(i) The patient or family unit's gross income shall not exceed the federal poverty limits published annually in the Federal Register and in accordance with KRS 205.640.~~

~~(2) Except as provided in subsection (3) of this section, total annual gross income shall be the lesser of:~~

- ~~(a) Income received during the twelve (12) months preceding the month of receiving a service; or~~
- ~~(b) The amount determined by multiplying the patient's or family unit's income, as applicable, for the three (3) months preceding the date the service was provided by four (4).~~
- ~~(3) A work expense for a self-employed patient shall be deducted from gross income if:~~
 - ~~(a) The work expense is directly related to producing a good or service; and~~
 - ~~(b) Without it the good or service could not be produced.~~

~~(4) A hospital shall notify the patient or responsible party of his eligibility for indigent care.~~

~~(5) If indigent care eligibility is established for a patient, the patient shall remain eligible for a period not to exceed six (6) months without another determination.~~

~~Section 10. Indigent Care Eligibility Determination Fair Hearing Process. (1) If a hospital determines that a patient does not meet indigent care eligibility criteria as established in Section 9 of this administrative regulation, the patient or responsible party may request a fair hearing regarding the determination within thirty (30) days of receiving the determination.~~

~~(2) If a hospital receives a request for a fair hearing regarding an indigent care eligibility determination, impartial hospital staff not involved in the initial determination shall conduct the hearing within thirty (30) days of receiving the hearing request.~~

~~(3) A fair hearing regarding a patient's indigent care eligibility determination shall allow the individual to:~~

- ~~(a) Review evidence regarding the indigent care eligibility determination;~~
- ~~(b) Cross-examine witnesses regarding the indigent care eligibility determination;~~
- ~~(c) Present evidence regarding the indigent care eligibility determination; and~~
- ~~(d) Be represented by counsel.~~

~~(4) A hospital shall render a fair hearing decision within fourteen (14) days of the hearing and shall provide a copy of its decision to:~~

- ~~(a) The patient or responsible party who requested the fair hearing; and~~
- ~~(b) The department.~~

~~(5) A fair hearing process shall be terminated if a hospital reverses its earlier decision and notifies, prior to the hearing, the patient or responsible party who requested the hearing.~~

~~(6) A patient or responsible party may appeal a fair hearing decision to a court of competent jurisdiction in accordance with KRS 13B.140.~~

~~Section 11. Indigent Care Reporting Requirements. (1) On a quarterly basis, a hospital shall collect and report to the department indigent care patient and cost data.~~

~~(2) If a patient meeting hospital indigent care eligibility criteria is later determined to be Medicaid or KCHIP eligible or has other third-party payor coverage, a hospital shall adjust its indigent care report previously submitted to the department in a future reporting period.~~

~~Section 12. Merged Facility. If two (2) separate entities merge into one (1) organization and one (1) of the merging entities has disproportionate status and the other does not, the department shall retain for the merged entity the status of the entity which reported the highest number of Medicaid days paid.~~

~~Section 13. Incorporation by Reference. (1) The following material is incorporate by reference:~~

- ~~(a) "The Disproportionate Share Hospital (DSH) Program Manual", January 2008 edition; and~~
- ~~(b) The "DSH-001, Application for Disproportionate Share Hospital (DSH) Program", March 2007 edition.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.].~~

CAROL H. STECKEL, Commissioner

ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 15, 2019

FILED WITH LRC: March 15, 2019 at 11 a.m.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes disproportionate share hospital fund distribution provisions in accordance with KRS 205.639 and 205.640.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the Kentucky Medicaid program policies for disproportionate share hospital fund distribution provisions.

(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 implementing state and federal requirements relating to disproportionate share hospital fund distributions.

(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 implementing state and federal requirements relating to disproportionate share hospital fund distributions.

(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 amendments to this administrative regulation implement House Bill 289 from the 2018 Regular Session. House Bill 289 abolished the previous DSH payment methodology and implemented a new DSH payment methodology. The administrative regulation is amended to include new definitions of "base year", "hospital-specific DSH limit", "initial disproportionate share hospital payment", "Medicaid disproportionate share hospital survey", "Medicaid inpatient utilization rate", and "total uncompensated care costs". Additional changes align the DSH payment methodology with KRS 205.639, 205.640, 205.6401, and 205.6403 by allowing the department to adjust total uncompensated care costs, establish provisions relating to initial and final DSH survey submission, implement requirements for when a hospital does not have 12 months of cost report data, establish appeals provisions for DSH payments, establish DSH payment redistribution provisions, and clarify that DSH payments are contingent upon federal financial participation and approval and the availability of state funds.

The amended after comments version of this administrative regulation allows for a hospital to file a timely appeal to a DSH overpayment determination, and for any statutorily required withholding to apply to future regular Medicaid claim payments. In addition, DMS will allow a "Medicaid DSH survey" to include an attestation by a hospital that its original DSH survey is identical to its final survey. The administrative regulation is further amended to delete a provision that would have allowed for recoupment or suspension of a final DSH payment, to let KRS 205.640 control in those circumstances.

(b) The necessity of the amendment to this administrative regulation: The amendments to this administrative regulation are necessary to implement House Bill 289 from the 2018 General Assembly and conform the department's administrative regulations and processes to the new requirements. The amended after comments version of this administrative regulation is necessary to further clarify some provisions of this administrative regulation and KRS Chapter 205.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by further implementing and clarifying the requirements established pursuant to KRS 205.639, 205.640, 205.6401, and 205.6403.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the authorizing statutes by further implementing and clarifying the DSH payment methodology established pursuant to House Bill 289.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: The amendment applies to all inpatient acute care hospitals reimbursed by a diagnosis related grouper methodology. Currently, there are approximately sixty-five (65) acute care hospitals participating in the Kentucky Medicaid program.

(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 compliance action is mandated.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment imposes no cost on the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Inpatient acute care hospitals will be reimbursed via a methodology designed to more accurately capture and reflect their costs.

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

(a) Initially: The amendment does not result in additional costs to the Department for Medicaid Services for the first year.

(b) On a continuing basis: The amendment does not result in additional costs to the Department for Medicaid Services for subsequent years.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX of the Social Security Act and matching funds of general fund appropriations.

(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. Neither an increase in fees nor funding will be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment to this administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is not applied as the amendment applies to all regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 C.F.R. 447 Subpart E.

2. State compliance standards. KRS 205.639 to 205.6403, KRS 205.520(3) states, "to qualify for federal funds the secretary for health and family services may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect."

3. Minimum or uniform standards contained in the federal mandate. Requires that payments take into account hospitals that serve a disproportionate share of low income patients.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendment does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The policy is not stricter than the federal standard.

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 for

Medicaid Services (DMS) will be impacted by the amendment.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 205.639, 205.640, 205.6401, and 205.6403 authorize the action taken by this administrative regulation.

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? DMS anticipates no revenue above the current revenue level being generated for the first year for state or local government due to the amendment to this 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? DMS anticipates no revenue above the current revenue level being generated in subsequent years for state or local government due to the amendment to this administrative regulation.

(c) How much will it cost to administer this program for the first year? The amendment does not result in additional costs to the Department for Medicaid Services for the first year.

(d) How much will it cost to administer this program for subsequent years? The amendment does not result in additional costs to the Department for Medicaid Services 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:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(Amended After Comments)

922 KAR 1:140. Foster care and adoption permanency services.

RELATES TO: KRS 2.015, 194A.005(1), 199.011(3), (4), (9), 199.462, 199.467, 199.555, 199.557, 199.801, 387.025, 527.100, 527.110, 600.020[(2), (7), (8)], 610.110, 610.125, 610.127, 620.020(1), (11), 620.060, 620.090, 620.140, 620.180, 625.040, 625.090, 45 C.F.R. 1355 -1357, 25 U.S.C. 1901-1963, 42 U.S.C. 621-629m, 670-679c, 1996, 1996b

STATUTORY AUTHORITY: KRS 194A.050(1), 199.467, 620.180

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.467 requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations establishing specific goals for the cabinet, for each fiscal year, regarding the maximum number of children who will remain in foster care longer than twenty-four (24) months, and describing the steps to be taken to achieve the goals. KRS 620.180(2) requires the cabinet to promulgate administrative regulations for status review, ongoing case work, and supportive services to children in placement. This administrative regulation establishes the maximum number of children remaining in foster care longer than twenty-four (24) months, and establishes permanency services available to children in placement.

Section 1. Definitions. (1) "Absent parent search" means cabinet initiated efforts to locate a biological or legal parent, or a relative.

(2) "Age or developmentally appropriate" is defined by KRS 600.020(2).

(3) "Cabinet" is defined by KRS 194A.005(1), 199.011(3) and 600.020(7).

(4) "Case permanency plan" is defined by KRS 620.020(1).

(5) "Child" means:

(a) A child defined by KRS 199.011(4) and 600.020(9);

(b) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(e)[(d)]; or

(c) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015.

(6) "Concurrent planning" means the cabinet simultaneously plans for:

(a) The return of a child in the custody of the cabinet to the child's parent; and

(b) Another permanency goal for the child if return to parent is not achieved within fifteen (15) of the last twenty two (22) months, in accordance with 42 U.S.C. 675(5)(E).

(7) "Fictive kin" is defined by KRS 199.011(9) and 600.020(28).

(8) "Parent" is defined by 42 U.S.C. 675(2).

(9) "Reasonable efforts" is defined by KRS 620.020(11).

(10) "Relative" means an individual related to a child by blood, marriage, or adoption.

(11) "Sufficient progress" means compliance with case permanency plan objectives that support the safe return of the child to the child's parent.

Section 2. Children in Care. Unless the secretary of the cabinet or designee approves an exception based on overall trends in the foster care population, the maximum number of children who receive foster care in excess of twenty-four (24) months shall be 3,000 during a state fiscal year.

Section 3. Permanency Planning. (1) In a court permanency hearing held pursuant to KRS 610.125, the cabinet shall demonstrate that reasonable efforts to return the child to the child's parent:

(a) Have been unsuccessful; or

(b) Are not required under the provisions of KRS 610.127.

(2)[A child shall be removed from the child's home if:

(a) An emergency custody order has been obtained pursuant to KRS 620.060;

(b) A temporary custody order has been obtained pursuant to KRS 620.090; or

(c) A court orders the removal pursuant to KRS 620.140(1)(c).

(3) Upon removal of a child from the child's home, placement shall be:

(a) ~~Selected according to the least restrictive appropriate placement available, as required by KRS 620.090(2); and~~

(b) ~~Closest in proximity to the child's home, in accordance with KRS 199.801.~~

(4) In the provision of permanency services, the cabinet shall meet the requirements of the:

(a) Indian Child Welfare Act in accordance with 25 U.S.C. 1901-1963, 42 U.S.C. 671(a)(32), and 42 U.S.C. 1996; or

(b) Multiethnic Placement Act as amended by the Interethnic Adoption Provisions of 1996 in accordance with 42 U.S.C. 622(b)(7), 671(a)(18), and 1996b.

(3)[(4)] If a child entering the custody of the cabinet has an absent parent, an absent parent search shall:

(a) Be conducted within thirty (30) days of a child entering the custody of the cabinet;

(b) Be conducted to gather as much information as possible related to the person and the person's location, which may include:

1. Date of birth;

2. Social Security number;

3. Present or previous employers;

4. Present or most recent address; and

(c) Include a written record of all search attempts, written

correspondence, and telephone contacts with any person to assist in locating a parent or relative.

~~(4) [(6) If a relative or fictive kin placement is in the best interest of the child, the cabinet shall:~~

~~(a) Use an absent parent search to locate a relative;~~
~~(b) Discuss with the relative or fictive kin the option to pursue approval as a foster parent in accordance with 922 KAR 1:350 and document the relative's decision or fictive kin's decision in the case file using the Relative and Fictive Kin Caregiver Agreement.~~

~~1. A relative's decision or fictive kin's decision to pursue approval as a foster parent shall not guarantee the cabinet's approval.~~

~~2. If a relative or fictive kin declines to pursue approval as a foster parent prior to accepting custody of a child, the relative or fictive kin shall not have another opportunity to pursue being a foster parent at a later time in the child's placement due to ineligibility under 42 U.S.C. 672;~~

~~(c) Document in the case file that the fictive kin has completed training on the prevention and recognition of pediatric abusive head trauma in accordance with KRS 199.462;~~

~~(d) Provide information to the relative and fictive kin on how to recognize and report child abuse and neglect;~~

~~(e) Conduct background checks on the relative or fictive kin pursuant to 922 KAR 1:490; and~~

~~(f) Complete a home evaluation with consideration given to the relative's or fictive kin's:~~

~~1. Willingness and ability to:~~

~~a. Protect the child from abuse or neglect;~~

~~b. Participate in the child's case permanency plan;~~

~~c. Access:~~

~~(i) Transportation;~~

~~(ii) Telephone;~~

~~(iii) Medical services;~~

~~(iv) First aid supplies; and~~

~~(v) School;~~

~~d. Provide full-time care;~~

~~e. Provide for the child's sleeping and eating;~~

~~f. Maintain adequate heat and ventilation in the home;~~

~~g. Use active smoke detectors in the home; and~~

~~h. Assure the child's inaccessibility to:~~

~~(i) Medication unless an exception consistent with 922 KAR~~

~~1:350, Section 3(12) applies;~~

~~(ii) Alcoholic beverages;~~

~~(iii) Poisonous materials;~~

~~(iv) Firearms or ammunition in accordance with KRS 527.100 and 527.110;~~

~~(v) Unsupervised contact with the birth parent; and~~

~~(vi) Cleaning materials unless the materials are age or developmentally appropriate for the child or the child is supervised; and~~

~~2. Understanding of the impact that familial abuse, neglect, or substance abuse may have on a child and the child's extended family.~~

~~(7) The cabinet shall not be obligated to search for or seek fictive kin as a placement for a child.~~

~~(5) [(8) A relative or fictive kin who accepts custody of a child removed from the child's home of origin by a court shall not be entitled to reimbursement in accordance with 922 KAR 1:350, Section 40.~~

~~(9) [When a] [If the] case conference is held in compliance with KRS 620.180(2)(a)1 for a child [results in the child being] placed in the custody of the cabinet, the cabinet shall develop and document a case permanency plan, using the DPP-1281, Family Case Plan.~~

~~(6) [(40)] The case permanency plan shall identify the permanency goal described in Section 4(2) of this administrative regulation.~~

~~(7) [(44)] Concurrent planning shall be considered:~~

~~(a) During development of the case permanency plan; and~~

~~(b) At the six (6) month case review.~~

Section 4. Permanency Goals. (1) A permanency goal for a child who has been removed from the child's home of origin by a

court shall be established according to the particular needs and best interest of the child.

(2) A permanency goal shall include one (1) of the following:

(a) Return to parent;

(b) Adoption;

(c) Permanent relative placement;

(d) Legal guardianship; or

(e) Another planned permanent living arrangement.

Section 5. Return to Parent. (1) The cabinet shall recommend to the court that a child who has been removed from the child's home of origin by the court is returned to the parent if the cabinet determines:

(a) A family has made sufficient progress toward completing the case permanency plan; and

(b) Return to the parent is in the best interest of the child.

(2) If the cabinet determines that a family has not made sufficient progress towards achieving the objectives specified in the case permanency plan, the cabinet shall seek a court order for:

(a) A change in the permanency goal;

(b) Termination of parental rights; or

(c) A civil action in support of the child's permanency goal.

(3) If the court determines that a circumstance occurs that negates the requirement to make reasonable efforts to reunify the child and family, as described in KRS 610.127, the cabinet shall select a permanency goal other than return to parent.

Section 6. Adoption. (1) The permanency goal for a child in the custody of the cabinet shall be adoption if:

(a) The parent pursues voluntary termination of parental rights pursuant to KRS 625.040; or

(b) The cabinet pursues involuntary termination of parental rights:

1. Pursuant to KRS 620.180(2)(c)3 or 625.090; or

2. If the child has been in foster care for fifteen (15) of the most recent twenty-two (22) months pursuant to 42 U.S.C. 675(5)(E).

(2) The cabinet shall request an exception for proceeding with involuntary termination of parental rights pursuant to subsection (1)(b) of this section, if:

(a) A relative or fictive kin placement has been secured;

(b) Termination is not in the best interest of the child, for a compelling reason:

1. Documented in the case permanency plan; and

2. Monitored on a continual basis; or

(c) A service necessary for return to parent has not been provided within the time period specified in the case permanency plan.

(3) Cabinet staff shall consider involuntary termination of parental rights at each permanency hearing held pursuant to KRS 610.125(1) or a case review in accordance with KRS 620.180(2)(c)1 and 2.

Section 7. Permanent Relative Placement. The permanency goal for a child who has been removed from the child's home of origin by a court shall be permanent custody if:

(1) Return to the parent is not in the child's best interest; and

(2) The cabinet determines that a relative or fictive kin who does not pursue adoption or legal guardianship is able to provide a permanent home for the child.

Section 8. Legal Guardianship. (1) The permanency goal for a child who has been removed from the child's home of origin by a court shall be legal guardianship if the cabinet determines that:

(a) Return to the parent or adoption is not in the child's best interest;

(b) There is an identified adult, including fictive kin, willing to seek legal guardianship of the child; and

(c) Legal guardianship by the adult identified in paragraph (b) of this subsection is in the child's best interest.

(2) Legal guardianship shall be requested pursuant to KRS 387.025.

Section 9. Another Planned Permanent Living Arrangement.

(1) The permanency goal for a child in the custody of the cabinet who is sixteen (16) years of age or older shall be another planned permanent living arrangement if:

(a) An unsuccessful effort has been made to place the child for adoption or with a relative or fictive kin, and the child has been placed on a national adoption register;

(b) Other permanency goal options have been exhausted and are no longer appropriate due to the specific circumstances of the child;

(c) The cabinet has reviewed documentation that a goal of another planned permanent living arrangement is in the best interest of the child;

(d) The court has determined that another planned permanent living arrangement is in the best interest of the child to be placed; and

(e) The child has formed psychological ties with those with whom the child lives, and adoption and guardianship have been discussed with the care provider and are not viable alternatives.

(2) Approval shall be obtained from the commissioner or designee prior to the establishment of another planned permanent living arrangement as a permanency goal for a child placed with a private child-caring agency.

Section 10. Permanency Services. (1) The cabinet shall provide services for a child who has been removed from the child's home of origin by a court so that permanency is achieved.

(2) Permanency services may include:

(a) Ongoing case work and monitoring of the family to:

1. Maintain the child safely in the child's home; and

2. Ensure safe return of the child if the goal is return to the parent;

(b) Independent living services and programming for the child in accordance with 42 U.S.C. 677;

(c) Adoption assistance pursuant to 922 KAR 1:050 or 922 KAR 1:060;

(d) Post-finalization adoption assistance if adoption assistance has not been previously approved pursuant to KRS 199.555 and 199.557;

(e) Post-adoption placement stabilization services as described in 922 KAR 1:530; or

(f) Referral to other cabinet and community resources necessary for the achievement or maintenance of the child's permanency goal.

~~(3)[Other]~~ Cabinet resources for a prospective or existing permanent relative or fictive kin placement shall be established in 922 KAR 1:565~~[may include:~~

1. ~~The Kentucky Transitional Assistance Program (K-TAP) for a child if an application is made in accordance with 921 KAR 2:006 and 921 KAR 2:016;~~

2. ~~Health benefits for a child if an application is made in accordance with 907 KAR 20:015, 907 KAR 4:020, or 907 KAR 4:030;~~

3. ~~Supplemental Nutrition Assistance Program (SNAP) benefits for a household if an application is made in accordance with 921 KAR 3:030;~~

4. ~~Relative placement support benefit in accordance with 922 KAR 1:400, to the extent funds are available; or~~

5. ~~The Child Care Assistance Program in accordance with 922 KAR 2:160].~~

Section 11. Funerals and Burials. (1) The biological or legal parent of a child deceased while in temporary custody or committed to the cabinet, shall be responsible for funeral arrangements, unless the:

(a) Parental rights have been terminated;

(b) Parent cannot be located; or

(c) Parent is unable to make funeral arrangements.

(2) Personal and family resources, including the deceased child's trust fund and insurance in the deceased child's name, shall be exhausted prior to the approval of cabinet funds for funeral and burial expenses.

Section 12. Incorporation by Reference. (1)~~The following~~

~~material is incorporated by reference:~~

~~(a)] "DPP-1281, Family Case Plan", 11/16, is incorporated by reference[; and~~

~~(b)] "Relative and Fictive Kin Caregiver Agreement", 1/18].~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, 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.
922 KAR 1:140

ERIC T. CLARK, Commissioner

ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 15, 2019

FILED WITH LRC: March 15, 2019 at 11 a.m.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Laura Begin, Phone (502) 564-3703, Email: Laura.Begin@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the maximum number of children remaining in foster care for longer than twenty-four (24) months and permanency services available to children in placement.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the policies and procedures for foster care and adoption permanency services that are mandated by federal and state laws.

(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 the establishment of the maximum number of children remaining in foster care for longer than twenty-four (24) months and permanency services available to children in placement.

(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 the maximum number of children remaining in foster care for longer than twenty-four (24) months and permanency services available to children in placement.

(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 removes content incorporated in a new administrative regulation, 922 KAR 1:565, governing the service array for a relative or fictive kin caregiver. In addition, the amendment includes updates conforming to KRS 620.180, as amended by House Bill 1 from the 2018 Regular Session (2018 Ky. Acts ch. 159), concerning case reviews. Lastly, the amendment makes technical corrections in accordance with KRS Chapter 13A. The administrative regulation is being further amended in response to comments received to clarify that an absent parent search is only required to be conducted when a child entering the custody of the cabinet has an absent parent and that the cabinet develops and documents a case permanency plan when a case conference is held.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update the administrative regulation and align its content with the proposed new administrative regulation, 922 KAR 1:565, which consolidates the service array for a relative or fictive kin caregiver into one administrative regulation, and KRS 620.180, as amended by 2018 Ky. Acts ch. 159. This administrative regulation was further amended for clarification in response to comments received during the public comment period.

(c) How the amendment conforms to the content of the

authorizing statutes: The amendment conforms to the content of the authorizing statute through its alignment of permanency services with the service array offered to relative and fictive kin caregivers.

(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 alignment of permanency services with the service array offered to relative and fictive kin.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: As of the October 7, 2018, Statewide Foster Care FACTS, there were 9,891 children in the cabinet's custody of which 1,084 children were placed with a relative or fictive kin.

(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 will be no new or additional action required on the part of regulated entities as a result of this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Relatives and fictive kin who accept children for placement will have a service array outlined in a new administrative regulation, 922 KAR 1:565, from which they can select the legal or service options most congruent with their preferences, unique circumstances, and the needs of the children being placed.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The service array for a relative or fictive kin caregiver will be outlined in one administrative regulation ensuring better clarity regarding options and cabinet practice.

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

(a) Initially: This amendment is technical and conforming in nature and is not projected to entail a new or additional cost.

(b) On a continuing basis: This amendment is technical and conforming in nature and is not projected to entail a new or additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal Titles IV-B and IV-E (of the Social Security Act) funds, the federal Temporary Assistance for Needy Families Block Grant, the federal Social Services Block Grant, restricted or agency funds derived from Medicaid, and state funds are the funding sources for 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: An increase in fees or funding will not be 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 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.

45 C.F.R. 1355 -1357, 25 U.S.C. 1901-1963, 42 U.S.C. 621-629m, 670-679c, 1996, 1996b

2. State compliance standards. KRS 194A.050(1), 199.467, 620.180

3. Minimum or uniform standards contained in the federal mandate. 45 C.F.R. 1355 -1357, 25 U.S.C. 1901-1963, 42 U.S.C. 621-629m, 670-679c, 1996, 1996b

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 a stricter standard or additional or different responsibilities or 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 Cabinet for Health and Family Services is 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), 199.467, 620.180, 45 C.F.R. 1355 -1357, 25 U.S.C. 1901-1963, 42 U.S.C. 621-629m, 670-679c, 1996, 1996b

(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? There will be no new or additional costs to the agency to implement this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? There will be no new or additional costs to the agency to implement this administrative regulation 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:

CABINET FOR HEALTH AND FAMILY SERVICES Department for Community Based Services Division of Protection and Permanency (Amended After Comments)

922 KAR 1:305. Licensure of child-caring facilities and child-placing agencies.

RELATES TO: KRS 2.015, 13B.050, 17.165(6), 199.011[(2), (3), (4), (6), (7)], 199.640, 199.670, 199.990, 600.020[(8)-(10)], 610.110(6), 620.140, 42 U.S.C. 671

STATUTORY AUTHORITY: KRS 194A.050(1), 199.640(5)(a), (c)

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 programs and fulfill the responsibilities vested in the cabinet. KRS 199.640(5)(c) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations relating to licensure for child-caring facilities and child-placing agencies. This administrative regulation governs the

licensure process for child-caring facilities and child-placing agencies and the appeals process.

Section 1. Definitions. (1) "Advisory board" means a group of citizens, approved by the board of directors, who gives advice, counsel, and support to a child-caring facility or a child-placing agency.

(2) "Cabinet" is defined by[at] KRS 199.011(3)[(2)].

(3) "Child" means:

(a) A child as:

1. [(1)] [is] Defined by [at] KRS 199.011(4) and [,] 600.020(9); or
2. [(2)] Referenced in KRS [(8), and] 610.110(6);

(b) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 620.140(1)(d); or

(c) A person under age twenty-one (21) who meets the exception to the age of majority in accordance with KRS 2.015.

(4) "Child-caring facility" is defined by[at] KRS 199.011(5)[(6)] and 600.020(10)[(9)].

(5) "Child-placing agency" is defined by[at] KRS 199.011(6)[(4)].

(6) "Division" means the Division of Regulated[Licensed] Child Care, Office of the Inspector General.

(7) "Licensee" means an individual, partnership, corporation or other entity authorized to operate a child-caring facility or child-placing agency, including a board of directors and a person authorized to make application.

Section 2. Initial Application. (1) An applicant for a license shall submit to the division[a]:

(a) A completed Application for Licensure to Operate a Child-Caring Facility or a Child-Placing Agency, Form OIG 136;

(b) A nonrefundable licensure fee in the amount of \$100 in accordance with KRS 199.640(4)[designated in KRS 199.640(4)];

(c) A copy of the Articles of Incorporation on file with the Secretary of State, if the applicant is a corporation;

(d) A mission statement of purpose, objective, scope of service provided, and intake policy specifying the type of child to be accepted for care;

(e) A copy of the constitution and bylaws;

(f) A list of officers, board members, and advisory board members, if any, including the address and profession;

(g) The name and title of each officer and the term of office; [and]

(h) A list of staff including position or title and qualifications;

(i) Verification or approval from the Department of Housing, Buildings and Construction [Written documentation from the local authority showing compliance with local zoning requirements];

(j) Approval from the Office of the State Fire Marshal or designee; and

(k) Written documentation of an approved water and sewage system in accordance with local, county, and state laws.

(2) A license issued by the division shall be:

(a) For a specific physical location within the state;

(b) For operation by a specific licensee;

(c) Nontransferable;

(d) Approved and documented by the State Fire Marshal before a licensure survey is conducted; and

(e) Awarded if an on-site inspection, described in Section 6 of this administrative regulation, results in:

1. A determination that the applicant qualifies for licensure as established in 922 KAR 1:300 or 922 KAR 1:310; or

2. An acceptable plan of correction as described in Section 4 of this administrative regulation, if applicable.

(3) A child-caring facility or a child-placing agency operating without a license shall be subject to legal action, pursuant to KRS 199.990.

Section 3. Renewal Licensure. Relicensure[shall be in accordance with KRS 199.640(3), and] shall require the following procedures:

(1)(a) Not less than sixty (60) days prior to the date of

expiration of its license, a licensee[the applicant] shall submit a:

1. [(a)] Completed Application for Licensure to Operate a Child-Caring Facility or a Child Placing Agency, Form OIG 136; and

2. Nonrefundable[(b)] licensure fee in the amount of fifty (50) dollars in accordance with KRS 199.640(4)[designated in KRS 199.640(3)].

(b) If a licensee has made application for renewal within the timeframe specified in paragraph (a) of this subsection, the existing license shall remain in effect until the division takes action on the renewal application.

(2) The applicant shall provide the following documentation to the annual inspector:

(a) A list of officers, board members, and advisory board members, if any, including address and profession;

(b) The name and title of each officer and term of office; and

(c) A list of staff that includes position or title and qualifications.

(3) The child-caring facility or child-placing agency shall comply with its mission statement, program narrative, and applicable federal and state administrative regulations in regard to the program operation.

(4) The child-caring facility or child-placing agency shall have an annual financial audit completed by an independent accounting firm or a certified public accountant.

(5) Notification of a change in the following shall be made to the division in advance to allow for approval from the division, and the State Fire Marshal or designee when applicable, before implementation:

(a) Ownership or sponsorship;

(b) Location approval documented by the State Fire Marshal or designee; [or]

(c) Service type provision described in 922 KAR 1:300 or 922 KAR 1:310;

(d) Increase in capacity approval documented by the State Fire Marshal or designee; or [and]

(e) The addition of a new building or converting of administrative space to living space approval documented by the State Fire Marshal or designee.

(6) A renewal license shall be issued by the division if the division determines the applicant qualified for renewal licensure in accordance with 922 KAR 1:300 or 922 KAR 1:310.

(7) The child-caring facility or child-placing agency shall post its license in a place visible to the public.

(8) A license shall not be sold or transferred.

(9) Change of ownership.

(a) A prospective new owner shall submit:

1. A Licensing and Regulation Application for Licensure to Operate a Child-Caring Facility or a Child-Placing Agency, form OIG 136;

2. A fee as specified in Section 2(1)(b) of this administrative regulation; and

3. If the child-caring facility increases capacity, documentation of approval by the Office of the State Fire Marshal or designee.

(b) The division shall perform an on-site inspection, pursuant to KRS 199.640(3) and (5).

(c) The effective date of a license granted on an application for change of ownership shall be:

1. For a child-caring facility or a child-placing agency that meets requirements of this administrative regulation and 922 KAR 1:300 or 922 KAR 1:310, the date the child-caring facility or the child-placing agency is acquired by the new owner;

2. For a child-caring facility or a child-placing agency that does not meet requirements, the date that compliance with this administrative regulation and 922 KAR 1:300 or 922 KAR 1:310 is achieved; or

3. For a child-caring facility requesting an increase in capacity, not before the approval date issued by the State Fire Marshal or designee.

(10) Changes to the child-caring facility or the child-placing agency.

(a) A licensee shall notify the division, in writing, if there is a change to the child-caring facility or child-placing agency, as described in subsection (5) of this section.

(b) The notification shall be signed by each owner listed on the

license application.

(c) A fee shall not be charged.

Section 4. Corrective Action Plans. (1) The division shall perform an on-site inspection, as required by KRS 199.640(3) and (5). A regulatory violation of the standards identified in 922 KAR 1:300 or 922 KAR 1:310 during inspection shall be reported to the child-caring facility or the child-placing agency in a written statement of deficiency. An applicant or licensee may request the opportunity to informally dispute a deficiency, pursuant to KRS 199.670(4).

(2) Unless a request for the opportunity to informally dispute a deficiency has been made, the child-caring facility or child-placing agency shall submit, within ten (10) days of receipt of the statement of deficiency, a written corrective action plan for the elimination or correction of a violation. The corrective action plan shall detail:

- (a) Specific action undertaken to correct a violation;
- (b) The date action was initiated; [and]
- (c) Action utilized to assure ongoing compliance;
- (d) Supplemental documentation requested as a part of the corrective action plan; and

(e) Signature of the licensee or designated representative of the licensee and the date of signature.

(3) The division shall review the corrective action plan and notify the child-caring facility or the child-placing agency, in writing, of the decision to:

- (a) Accept the corrective action plan;
- (b) Not accept the corrective action plan; or
- (c) Deny, suspend, or revoke the license, as described in Section 7 of this administrative regulation.

(4) A notice of unacceptability shall state the specific reasons the plan is unacceptable.

(5) A child-caring facility or a child-placing agency notified of unacceptability of its corrective action plan shall, within ten (10) days of notification:

- (a) Submit an amended corrective action plan; or
- (b) Have its license revoked or denied.

(6) ~~(a) The cabinet shall not review or accept more than three (3) corrective action plans from a licensee in response to the same written statement of deficiency.~~

~~(b)(7) If a licensee fails to submit an acceptable corrective action plan or does not implement corrective measures in accordance with the corrective action plan, the cabinet shall deny or revoke the license.~~

~~(7)(8) If the cabinet[for Health and Family Services] proposes to deny, suspend, or revoke an application or licensure, the division shall notify the applicant or licensee, in writing, of the right to request an informal dispute resolution meeting as required by KRS 199.670(2).~~

~~(8)(9) A license shall be issued as required by[pursuant to] KRS 199.640(3)[(4)], if the child-caring facility or the child-placing agency has met the requirements of this administrative regulation and 922 KAR 1:300 or 922 KAR 1:310.~~

Section 5. Fees. (1) A licensing fee shall be charged as pursuant to KRS 199.640(4).

(2) A licensing fee shall be:

- (a) Submitted with the OIG-316;
- (b) Made payable to the Kentucky State Treasurer; and
- (c) Paid by:
 - 1. Certified or cashier's check;
 - 2. Money order;
 - 3. A prepaid account established with the cabinet; or
 - 4. Electronic fund transfer, including credit or debit card, once the function becomes available[A check or money order payable to the Kentucky State Treasurer shall be attached to the licensure application.

~~(3) A fee shall not be refunded if an inspection has been made by the division or the State Fire Marshal's Office].~~

Section 6. Inspection. (1) A child-caring facility or a child-placing agency shall not deny access to a human services

surveyor or other representative of the cabinet, after proper identification, to make an inspection for determining compliance with the requirements of this administrative regulation and 922 KAR 1:300 or 922 KAR 1:310. Denial of access shall result in an immediate revocation of its license.

(2) A human services surveyor or other representative of the cabinet shall make an unannounced inspection of a child-caring facility or child-placing agency based on:

- (a) An application for license;
- (b) An application for renewal of a license;
- (c) A complaint; or

(d) A follow-up visit to verify implementation of a plan of correction as described in Section 4 of this administrative regulation.

(3)(a) An unannounced inspection of a child-caring facility or a child-placing agency:

1. Shall be made during any time services are provided by the facility or agency;

2. May include the search and seizure, if necessary, of any records or paperwork. A photocopy of any record or paperwork by the surveyor is the preferred method of obtaining a copy; and

3. Shall be limited to ensure compliance with the standards set forth in:

- a. KRS 199.640(5);
- b. This administrative regulation; and
- c. 922 KAR 1:300 or 922 KAR 1:310.

(b) The inspection of a licensed child-caring facility or a child-placing agency based on a complaint or a follow-up visit shall not limit the scope of the inspection to the basis of the complaint or the implementation of a plan of correction.[Inspection of a licensed child-caring facility or child-placing agency shall be made as described in administrative regulations established by authority of KRS 199.640(3) and (5)(d); and

(2) A human services surveyor or other representative of the division shall have access to the child-caring facility or child-placing agency at any time.]

Section 7. Basis for Denial, Suspension, or Revocation. (1) The division shall deny an application or suspend or revoke a license if the applicant or the licensee[-(a)] fails to meet the requirements of:

(a) This administrative regulation,[or these of] 922 KAR 1:300, or 922 KAR 1:310;[or]

(b) KRS 17.165(6); or

(c) 42 U.S.C. 671 and implemented federal rule[Has been convicted:

1. Of a sexual offense designated in KRS Chapter 510, 529.020 to 529.050, 530.020, 530.064, or 531.300 to 531.370;

2. Of a crime of abuse, neglect or exploitation of a child, as established in KRS 508.100 to 508.120; or

3. As a violent offender, established in KRS 17.165(2); or

(c) Is listed on the central registry as described in 922 KAR 1:470].

(2) Effect of denial or revocation. The division shall not accept an application to operate a child-caring facility or a child-placing agency from an entity that:

(a) Previously had a license denied, suspended, or revoked for a reason described in subsection (1)(b) of this section; or

(b) Within the previous five (5) years, voluntarily forfeited a license after the cabinet initiated denial or revocation action.

(3) A penalty for violation of this administrative regulation shall be determined by reference to KRS 199.990.

Section 8. Right of Appeal. (1) If an application or license has been denied, suspended, or revoked, the division shall proceed in accordance with KRS 199.670(2) and (3).

(2) If, within fifteen (15) days after receiving notice of the division's action, the applicant or licensee requests a hearing, the division shall:

(a) Appoint a hearing officer; and

(b) Proceed pursuant to KRS 13B.050.

(3) The cabinet may take emergency action pursuant to KRS 199.670(3).

Section 9. Incorporation by Reference. (1) "OIG 136, Application for Licensure to Operate a Child-Caring Facility or a Child-Placing Agency[~~March, 2002~~]", 12/2018, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Inspector General, Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ERIC T. CLARK, Commissioner

ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 15, 2019

FILED WITH LRC: March 15, 2019 at 11 a.m.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Laura Begin, Phone (502) 564-3703, Email: Laura.Begin@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This amended administrative regulation establishes the process for initial and renewal applications for licensure, fee requirements, guidelines for corrective plans, inspection protocol and basis for denial, suspension, and revocation for child-caring and child-placing agencies.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure licensure of child-caring and child-placing agencies.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms with KRS 194A.050(1) and 199.640(5)(a), (c).

(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 explaining the process through which child-caring and child-placing agencies obtain 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 to this administrative regulation incorporates the fees for initial and renewal licensure. This amendment also makes updates and technical corrections in accordance with KRS Chapter 13A. The administrative regulation is being further amended in response to comments received to replace local housing authority approval with verification or approval from the Department of Housing, Buildings and Construction consistent with other department administrative regulations and to add clarifying language.

(b) The necessity of the amendment to this administrative regulation: The amendment to the administrative regulation is necessary to meet KRS 199.640(4), which authorizes the inclusion of fees within the administrative regulation.

Comments were received during the public comment period requesting clarifying language.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms with KRS 199.640.

(d) How the amendment will assist in the effective administration of the statutes: KRS 199.640 requires licensure standards, and authorizes fees to be promulgated in regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently 184 child-caring and child-placing agencies who are licensed by the cabinet.

(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: Child-caring and child-placing agencies are required to apply for licensure according to the regulation. This administrative regulation amendment does not change this process.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The amendment to this administrative regulation imposes no new or additional costs to child-caring and child-placing agencies.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There is no change in benefits for licensure.

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

(a) Initially: This is an existing program and the cabinet projects there will be no additional costs.

(b) On a continuing basis: This is an existing program and the cabinet projects there will be no additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation incorporates a fee that was formerly established in statute to offset a portion of the incurred cost to the cabinet. The licensing fees included in this administrative regulation were originally established in KRS 199.640(4) in 1982. There has been no fee increase since that time and one is not included in this amendment. Not all of the cabinet's costs for licensure and inspection of Kentucky's 184 child-caring and child-placing agencies are offset by this fee, therefore the cabinet will continue to absorb a portion of the programmatic costs.

(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 cabinet is not increasing fees associated with this program at this time.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation incorporates a fee that was formerly established in KRS 199.640(4) in 1982. Fees are not being increased through this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied. This amended administrative regulation will be implemented in a like manner statewide.

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, namely, the Department of Community Based 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), 199.640(5)(a), (c)

(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.

(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.

(c) How much will it cost to administer this program for the first year? The administrative body currently administers this program. There will be no new costs to administer this program.

(d) How much will it cost to administer this program for subsequent years? The administrative body currently administers this program. There will be no new costs to administer this program.

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
(Amended After Comments)

922 KAR 1:565. Service array for a relative or fictive kin caregiver.

RELATES TO: KRS 2.015, 45.237-45.241, 156.496, 194A.005(1), 194A.050(1), 199.011, 199.462, 199.470-199.590, 205.211, Chapter 387, 403.270-403.355, 405.024, 527.100, 527.110, 600.020, 605.120, 605.130(7), 605.150(1), 610.110, 620.020(1), 620.090, 620.140, 620.170, 42 U.S.C. 600-619, 671, 673, 675, D.O. v. Glisson, 847 F.3d 374 (6th Cir. 2017), cert. denied, 17-17, 2017 WL 2869916 (U.S. Oct. 10, 2017)

STATUTORY AUTHORITY: KRS 194A.050(1), 605.120(6), 605.130(7), 605.150(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate, administer, and enforce administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 605.150(1) allows the cabinet to promulgate administrative regulations to implement provisions of the chapter, including KRS 605.130(7), which authorizes the cabinet to perform such other services as may be deemed necessary for the protection of children. KRS 605.120(6) requires the cabinet to promulgate administrative regulations governing programming and other relative caregiver and fictive kin services that support a safe, developmentally appropriate, and more permanent placement with a qualified relative or fictive kin caregiver for a child who would be placed[place] in another out-of-home placement as authorized by KRS 605.120(5). This administrative regulation establishes the service array for a relative or fictive kin caregiver to the extent funds are available.

Section 1. Definitions. (1) "Absent parent search" means cabinet-initiated efforts to locate a biological or legal parent, or a relative.

(2) "Cabinet" is defined by KRS 194A.005(1), 199.011(3), and 600.020(7).

(3) "Case permanency plan" is defined by KRS 620.020(1).

(4) "Child" means a:

(a) Child defined by KRS 199.011(4) and 600.020(9);

(b) Person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(e); or

(c) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015.

(5) "Child Care Assistance Program" or "CCAP" means Kentucky's child care subsidy program providing families who meet the eligibility requirements with the financial resources to find and afford quality child care, as established in 922 KAR 2:160.

(6) "Child who is a candidate for foster care" is defined by 42 U.S.C. 675(13).

(7) "Fictive kin" is defined by KRS 199.011(9) and 600.020(28).

(8) "Kentucky Transitional Assistance Program" or "K-TAP" means Kentucky's Temporary Assistance for Needy Families (TANF) money payment program for a child who is deprived of parental support or care, as established in 921 KAR 2:006.

(9) "Parent" is defined by 42 U.S.C. 675(2).

(10) "Relative" means an individual related to a child by blood, marriage, or adoption.

Section 2. Identification of a Relative. (1) If a relative or fictive kin placement is in the best interest of a child upon removal from the child's home of origin, the cabinet shall:

(a) Use an absent parent search in accordance with 922 KAR 1:140, Section 3, to locate a relative; or

(b) Discuss a prospective relative or fictive kin placement with the:

1. Child's parent; and

2. Child based upon the age and development of the child.

(2) Cabinet staff shall make reasonable attempts to:

(a) Contact the relative or fictive kin; and

(b) Assess the relative's or fictive kin's fitness[appropriateness] to serve as a placement resource for the child in accordance with Section 3 of this administrative regulation.

(3) The cabinet shall:

(a) Disclose legal and service options available to a prospective relative or fictive kin:

1. Who is being assessed as a placement resource; and

2. Prior to the time a child is placed in the relative's or fictive kin's home; and

(b) Obtain written acknowledgement of the disclosure of legal and service options from the relative or fictive kin.

Section 3. Fitness of the Relative or Fictive Kin. (1) To support a child's health, safety, and wellbeing in placement with a relative or fictive kin caregiver, based upon the legal option selected by the relative or fictive kin, the cabinet shall:

(a) Complete a safety check and review[home evaluation] with consideration given to the relative's or fictive kin's:

1. Willingness and ability to:

a. Protect the child from abuse or neglect;

b. Participate in the child's case permanency plan;

c. Access:

(i) Transportation;

(ii) Telephone;

(iii) Medical and dental services;

(iv) First aid supplies; and

(v) School;

d. Provide full-time care;

e. Provide for the child's sleeping and eating;

f. Maintain adequate heat and ventilation in the home;

g. Use active smoke detectors in the home; and

h. Assure the child's inaccessibility to:

(i) Medication unless an exception consistent with 922 KAR 1:350, Section 3(12), applies;

(ii) Alcoholic beverages;

(iii) Poisonous materials;

(iv) Firearms or ammunition in accordance with KRS 527.100 and 527.110;

(v) Unsupervised contact with the birth parent, if prohibited; and

(vi) Cleaning materials unless the materials are age or developmentally appropriate for the child or the child is supervised; and

2. Understanding of the impact that familial abuse, neglect, or substance abuse may have on a child and the child's extended family; and

3. Fitness in accordance with 922 KAR 1:490; or

(b) Conduct a home study and background checks in accordance with 922 KAR 1:350 and 922 KAR 1:490 in consideration of the relative or fictive kin as a prospective foster or adoptive home.

(2) A relative or fictive kin caregiver who seeks approval as a foster or adoptive parent shall meet the training requirements established in 922 KAR 1:495.

(3) The cabinet shall:

(a) Document in the case file that the fictive kin has completed training on the prevention and recognition of pediatric abusive

head trauma in accordance with KRS 199.462; and

(b) Provide information to the relative or fictive kin on how to recognize and report child abuse and neglect.

(4) To the extent funds are available, the cabinet shall make available to a relative or fictive kin caregiver training:

(a) For foster parents, adoptive parents, and respite care providers in accordance with 922 KAR 1:495; and

(b) Developed to address the needs of relative and fictive kin caregivers, including management of the relationship with the child's parent.

(5) A relative's or fictive kin's decision to pursue approval as a foster parent shall not guarantee the cabinet's approval.

Section 4. Relative Placement Support Benefit. (1) To the extent that funds are available, the cabinet shall provide, if requested, a one (1) time relative placement support benefit:

(a) To facilitate the cabinet's placement of a child with a nonparental relative as an alternative to the child's placement in foster care;

(b) If a court of competent jurisdiction has granted temporary custody of the child to the relative or the cabinet due to:

1. Child abuse or neglect by the child's biological or adoptive parent; or

2. The death of both parents;

(c) That will provide for a child's immediate needs, such as:

1. Clothing;

2. School supplies;

3. Additional furniture; or

4. A deposit for a larger apartment; and

(d) That is equal to or does not exceed the amount for the appropriate number of eligible children as follows:

Number of Eligible Children	Payment Amount
1	\$350
2	\$700
3	\$1,050
4	\$1,400
5	\$1,750
6 or more	\$2,100

(2)(a) The relative placement support benefit shall be issued by check or electronic fund transfer directly to:

1. The relative with whom the child is placed; or

2. A vendor providing the needed service or item listed in subsection (1)(c) of this section.

(b) Before the provision of the relative placement support benefit, the relative or the vendor shall provide tax status and contact information for accounting of the benefit's disbursement.

(3) In accordance with Kentucky's Title IV-A Temporary Assistance for Needy Families Block Grant state plan, the cabinet shall prioritize a child for the relative placement support benefit if the child is:

(a) Placed with a relative whose household income is at or below 200 percent of the federal poverty level as determined annually by the U.S. Department of Health and Human Services; or

(b) Determined eligible for K-TAP pursuant to 921 KAR 2:006 and 921 KAR 2:016.

(4) A relative shall not be eligible for an initial allowance as a foster parent if the relative receives the relative placement support benefit.

Section 5. Legal Options. (1) The following legal options shall be available to a prospective relative or fictive kin caregiver:

(a) Family-arranged care through:

1. A prevention plan in accordance with 922 KAR 1:330;

2. An affidavit to make health care treatment and school-related decisions for the child in accordance with KRS 405.024; or

3. A power of attorney for temporary delegation of parental rights and responsibilities in accordance with KRS 403.352 and 403.353;

(b) Court-ordered custody to the relative or fictive kin caregiver in accordance with KRS 403.270-403.355, 620.090, or 620.140(1)(c);

(c) **Court-ordered [Court-order]** custody to the cabinet in accordance with KRS 620.090, 620.140(1)(c), or 620.170;

(d) Adoption in accordance with KRS 199.470-199.590 or 922 KAR 1:100; or

(e) Guardianship in accordance with KRS Chapter 387.

(2) Considerations in assessing the legal options for a relative or fictive kin caregiver shall include:

(a) The likelihood of the child's reunification with the child's home of origin, including the child's permanency goal in accordance with 922 KAR 1:140;

(b) The relationship that the relative or fictive kin caregiver has with the child's home of origin or parent;

(c) The ability of the relative or fictive kin caregiver to:

1. Manage parental visitation; and

2. Ensure the child's safety;

(d) The relative or fictive kin caregiver's financial situation and need for additional resources to support the safety, permanency, and wellbeing of the child;

(e) The level of involvement and types of services that will be needed from the cabinet to the caregiver and the child to ensure the safety, permanency, and wellbeing of the child; and

(f) The level of support and types of services that will be needed if:

1. The caregiver assumes legal responsibility for the child; or

2. Reunification with the child's home of origin is not possible for the child.

(3) Permanency services for a child in the custody of the cabinet shall be in accordance with 922 KAR 1:140.

Section 6. Service Options. (1) The array of monetary supports on behalf of a child placed with a relative or fictive kin caregiver shall include:

(a) The Relative Placement Support Benefit in accordance with Section 4 of this administrative regulation;

(b) CCAP in accordance with 922 KAR 2:160;

(c) Child support if application is made or intergovernmental process applies in accordance with 921 KAR 1:380;

(d) K-TAP if an application is made in accordance with 921 KAR 2:006 and 921 KAR 2:016;

(e) The Kinship Care Program in accordance with 922 KAR 1:130;

(f) Health benefits for the child:

1. In accordance with 907 KAR 20:005; or

2. If application is made in accordance with 907 KAR 20:015, 907 KAR 4:020, or 907 KAR 4:030;

(g) Foster care per diem in accordance with:

1.a. 922 KAR 1:350; or

b. D.O. v. Glisson, 847 F.3d 374 (6th Cir. 2017), cert. denied, 17-17, 2017 WL 2869916 (U.S. Oct. 10, 2017); and

2. The terms and conditions specified in the individual agreement between the cabinet and the foster parent;

(h) Adoption assistance in accordance with 922 KAR 1:050 or 922 KAR 1:060;

(i) To the extent funds are available, post-permanency services, including:

1. Subsidized guardianship under 42 U.S.C. 671 and 673 once the benefit is available; or

2. Post-adoption placement stabilization services in accordance with 922 KAR 1:530; or

(j) The Supplemental Nutrition Assistance Program if application is made in accordance with 922 KAR 3:030.

(2) To the extent funds are available, effective October 1, 2019, the cabinet shall provide prevention and family services and programs in accordance with 42 U.S.C. 671(e) to a child who is a candidate for foster care, including:

(a) Mental health and substance abuse prevention and treatment services; or

(b) In-home parent skill-based programs.

(3) To the extent funds are available, the cabinet or its designee shall provide the following services for a relative or fictive kin caregiver:

(a) A hotline;

(b) Online portal;

(c) Crisis intervention;

(d) Support group;

- (e) Advocacy;
 - (f) Community education; and
 - (g) Referral to community resource or provider, such as:
 1. Family Resource and Youth Service Centers established in accordance with KRS 156.496;
 2. The Health Access Nurturing Development Services (HANDS) Program in accordance with 902 KAR 4:120;
 3. The Special Supplemental Nutrition Program for Women, Infants, and Children or "WIC program" in accordance with 902 KAR Chapter 18;
 4. Kentucky's Early Intervention Program, First Steps, in accordance with 902 KAR Chapter 30;
 5. Mental health programming; or
 6. Caregiver programming made available through the Department for Aging and Independent Living or its designee.
- (4) The cabinet shall recover the amount of an improper payment pursuant to KRS 45.237-45.241 and 205.211, including assistance paid pending the outcome of a hearing, from the claimant-payee.

Section 7. Complaint and Service Appeals. (1) A relative or fictive kin caregiver may submit a service complaint or an appeal concerning a protection and permanency service in accordance with 922 KAR 1:320.

(2) An appeal concerning CCAP shall be in accordance with 921 KAR 2:055, 922 KAR 2:020, or 922 KAR 2:260.

(3) An appeal regarding K-TAP shall be in accordance with 921 KAR 2:055.

(4) An appeal concerning the Supplemental Nutrition Assistance Program shall be in accordance with 921 KAR 3:060 or 921 KAR 3:070.

ERIC T. CLARK, Commissioner

ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 15, 2019

FILED WITH LRC: March 15, 2019 at 11 a.m.

CONTACT PERSON: Chase Coffey, Executive Administrative Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Laura Begin, Laura.Begin@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the service array for a relative or fictive kin caregiver to the extent funds are available.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the service array for a relative and fictive kin caregiver to the extent funds are available.

(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 the service array for a relative or fictive kin caregiver to the extent funds are available.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes through its establishment of a service array for a relative and fictive kin caregiver to the extent resources are available.

(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 administrative regulation is being amended in response to comments received during the public comment period for clarification.

(b) The necessity of the amendment to this administrative regulation: Clarification was requested in comments received during the public comment period. The Cabinet determines these

clarifications to be necessary for understanding.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment includes only clarifying language.

(d) How the amendment will assist in the effective administration of the statutes: This amendment includes only clarifying language.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department for Community Based Services values the use of relative and fictive kin placements for children who cannot remain safely in their homes of origin due to abuse, neglect, or dependency. While the department does not have data on the number of relative and fictive kin placements made over the years, the Annie E. Casey-Child Welfare Strategies Group estimated for every six (6) children who enter foster care, there are ten (10) children who are placed with relatives or fictive kin. As of the October 7, 2018, Statewide Foster Care FACTS, there were 1,084 children in the cabinet's custody who were placed with relative or fictive kin. As of early October 2018, 1,357 relatives or fictive kin caregivers have been notified of their qualification for foster care per diem under the *D.O. v. Glisson* ruling.

(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 on the part of regulated entities. This administrative regulation establishes the service array for relative or fictive kin caregivers from which they can select the legal arrangements of the child's placement and services provided through this department.

(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 associating with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Regulated entities will benefit from the establishment of legal and service options from which the relative or fictive kin caregiver can select based upon their preferences, unique circumstances, and the needs of the child. The administrative regulation has been informed by stakeholder engagement, review of other states' policies and practices, and national expertise and consultation from the Annie E. Casey Foundation-Child Welfare Strategy Group and Casey Family Programs.

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

(a) Initially: The department anticipates an \$18 million impact from benefit payments resulting from the *D.O. v. Glisson*, 847 F.3d 374 (6th Cir. 2017), *cert. denied*, 17-17, 2017 WL 2869916 (U.S. Oct. 10, 2017) in State Fiscal Year 2019. Other service provision will be made within available funding. The department was awarded Kinship Navigator funding totally over \$210,000 to support staff training and an online portal for relative and fictive kin caregivers in Federal Fiscal Year 2018.

(b) On a continuing basis: New programming, such as the subsidized guardianship option under Title IV-E of the Social Security Act; programmatic expansion; and program growth may necessitate additional budget request(s) in future years. Additional funding opportunities in support of services to relative and fictive kin caregivers have also been made available through Title IV-E of the Social Security Act, as amended by the Family First Prevention Services Act of 2018 (Pub.L. 115-123).

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of funding for this administrative regulation include federal funds from the Temporary Assistance for Needy Families Block grant, the Social Services Block Grant, Title IV-E of the Social Security Act; agency or restricted funds derived from Medicaid; and state 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 administrative regulation does not establish any fees. The department does not anticipate any increase in funding at this time, though new programming, programmatic expansion, and program growth may necessitate additional budget requests in future years.

(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. This administrative regulation will be applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

42 U.S.C. 600-619, 671, 673, 675

2. State compliance standards. KRS 194A.050(1), 605.120(6), 605.130(7), 605.150(1)

3. Minimum or uniform standards contained in the federal mandate. 42 U.S.C. 600-619, 671, 673, 675

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? The Cabinet for Health and Family Services and government-supported programming for relative and fictive kin caregivers 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), 605.120(6), 605.130(7), 605.150(1), 42 U.S.C. 600-619, 671, 673, 675

(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 anticipated to generate any revenues, though it may help the state qualify for additional federal reimbursement in support of state programming.

(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 anticipated to generate any revenues, though it may help qualify the state for additional federal reimbursement in support of state programming.

(c) How much will it cost to administer this program for the first year? The department anticipates an \$18 million impact in benefit issuances resulting from the *D.O. v. Glisson*, 847 F.3d 374 (6th Cir. 2017), *cert. denied*, 17-17, 2017 WL 2869916 (U.S. Oct. 10, 2017) in State Fiscal Year 2019. Other service provision will be made within available funding. The department was awarded Kinship Navigator funding totally over \$210,000 to support staff training and online portal for relative and fictive kin caregivers in Federal Fiscal Year 2018.

(d) How much will it cost to administer this program for subsequent years? New programming, such as the subsidized

guardianship option under Title IV-E of the Social Security Act; programmatic expansion; and program growth may necessitate additional budget request(s) in future years. Additional funding opportunities in support of services to relative and fictive kin caregivers have also been made available through Title IV-E of the Social Security Act, as amended by the Family First Prevention Services Act of 2018 (Pub.L. 115-123).

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 Child Care

(Amended After Comments)

922 KAR 2:160. Child Care Assistance Program.

RELATES TO: KRS 194A.060, 199.892, 199.894(1), (5), 199.896, 199.898(1), (2), 199.8982, 199.899, 199.8994, 214.036, 314.011(5), 337.275, 600.020, 605.120(5), 620.020(10), 2016 Ky. Acts ch. 149, Part 1, G.9(7), 7 C.F.R. Part 1463, 20 C.F.R. Parts 676-678, 34 C.F.R. Part 361, Part 463, 45 C.F.R. Part 98, 205.10(a)(6), 205.50(a)(1)(i), 400.66(d), 7 U.S.C. 2012, 25 U.S.C. 1261, 1401, 5501, 29 U.S.C. 723(a)(5), 34 U.S.C. 20102(c), 38 U.S.C. 1815, 42 U.S.C. 601-619, 1395w-141, 1771-1793, 2000d, 3001, 4950-5085, 8621, 9857-9858q, 9902(2)

STATUTORY AUTHORITY: KRS 194A.050(1), 199.892, 199.8994

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 programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.892 enables the Cabinet for Health and Family Services to promulgate administrative regulations to qualify to receive federal funds under provisions of the federal Social Security Act, 42 U.S.C. 9857-9858q, and to provide for effective regulation of child care centers. KRS 199.8994 requires the cabinet to administer all child care funds to the extent allowable under federal law or regulation and in a manner that is in the best interest of the clients to be served. This administrative regulation establishes requirements that enable the Cabinet for Health and Family Services to qualify for federal funds under the Child Care and Development Fund, and establishes procedures for the implementation of the Child Care Assistance Program[~~effective October 1, 2017,~~] to the extent that funding is available.

Section 1. Definitions. (1) "Applicant" means a child's natural or adoptive parent or an individual caring for a child in loco parentis who is applying for CCAP.

(2) "Cabinet" is defined by KRS 199.894(1).

(3) "Change in a circumstance" means a change that may affect eligibility or benefit amounts, such as:

- (a) Beginning or ending employment;
- (b) Change in an employer or obtaining additional employment;
- (c) Increase or decrease in the number of work hours;
- (d) Increase or decrease in the rate of pay;
- (e) Increase or decrease in family members;
- (f) Change in self-employment activity;
- (g) Change in scheduled hours care is needed;
- (h) Beginning or ending an educational activity;
- (i) Change in child care provider;
- (j) Change in address or residence;
- (k) Change in marital status; ~~or~~
- (l) Beginning or ending receipt of unearned income; or
- (m) Enrollment in a certified trade school or an accredited

college or university.

(4) "Child care" means the provision of care for a child for a portion of a day on a regular basis, designed to supplement, but not substitute for, the parent's responsibility for the child's protection, development, and supervision.

(5) "Child Care and Development Fund" or "CCDF" is defined by 45 C.F.R. 98.2.

(6) "Child Care Assistance Program" or "CCAP" means Kentucky's child care subsidy program providing families, who meet the eligibility requirements of this administrative regulation, with the financial resources to find and afford quality child care.

(7) "Child care certificate" is defined by 45 C.F.R. 98.2.

(8) "Child protective services" is defined by 922 KAR 1:330, Section 1(5).

(9) "Child with a special need" means a child who has multiple or severe functional needs requiring ongoing specialized care.

(10) "Employment" means public or private, permanent or temporary work for an average of twenty (20) hours per week for compensation or as an unpaid job requirement.

(11) "Family" means an applicant or parent, a child, and another responsible adult if present, residing in the same home.

(12) "Family child-care home" is defined by KRS 199.894(5).

(13) "Full day" means child care that is provided for five (5) or more hours per day.

(14) "Good academic standing" means a student is meeting the trade school, college, or university's requirements for attendance and satisfactory progress towards the completion of coursework.

(15) "Health professional" means a person actively licensed as a:

- (a) Physician;
- (b) Physician assistant;
- (c) Advanced practice registered nurse;
- (d) Qualified mental health professional as defined by KRS 600.020(52); or

(e) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician.

(16) [(15)] "Homeless" means an individual or a family lacking a fixed, regular, and adequate nighttime residence, including a child experiencing homelessness as defined by 45 C.F.R. 98.2.

(17) [(16)] "In loco parentis" means a person acting in place of a parent, including:

- (a) A legal guardian;
- (b) An individual related by blood, marriage, or adoption to the child; or
- (c) A nonrelative pursuing legal custody of the child within one (1) year of application.

(18) [(17)] "Infant" means a child who is less than one (1) year old.

(19) [(18)] "Kentucky Transitional Assistance Program" or "K-TAP" means Kentucky's Temporary Assistance for Needy Families or "TANF" money payment program established in 921 KAR Chapter 2.

(20) [(19)] "Parent" is defined by 45 C.F.R. 98.2.

(21) [(20)] "Part day" means child care that is provided for less than five (5) hours per day.

(22) [(21)] "Preschool child" means a child who has reached the third birthday up to, but not including, the sixth birthday.

(23) [(22)] "Preventive services" is defined by KRS 620.020(10).

(24) [(23)] "Provider" means the entity providing child care services, such as:

- (a) A member of a limited liability corporation (LLC);
- (b) The head of an organization;
- (c) An owner of a corporation;
- (d) A member of a partnership;
- (e) An owner of a business;
- (f) An individual provider; or
- (g) A stockholder of a stock-holding company.

(25) [(24)] "Qualified alien" means a child who meets the requirements of 921 KAR 2:006, Section 1(14).

(26) [(25)] "Registered provider" means a child care provider who meets the requirements of 922 KAR 2:180.

(27) [(26)] "Related" means having one (1) of the following

relationships:

- (a) Child;
- (b) Stepchild;
- (c) Grandchild;
- (d) Great-grandchild;
- (e) Niece;
- (f) Nephew;
- (g) Sibling;
- (h) Child in legal custody; or
- (i) Child living in loco parentis.

(28) [(27)] "Responsible adult" means a person other than the applicant who is in the child's household and who is:

- (a) The natural parent, adoptive parent, or stepparent; or
- (b) The spouse of an individual caring for a child in loco parentis.

(29) [(28)] "School-age child" means a child who has reached the sixth birthday.

(30) [(29)] "State median income" or "SMI" means the estimated median income of households in the state.

(31) [(30)] "Supplemental Nutrition Assistance Program" or "SNAP" means the program, formerly known as the Food Stamp Program:

- (a) Defined by 7 U.S.C. 2012; and
- (b) Governed by 921 KAR Chapter 3.

(32) [(31)] "Teen parent" means a head of household under the age of twenty (20) and attending high school or obtaining a GED.

(33) [(32)] "Toddler" means a child who has reached the first birthday up to, but not including, the third birthday.

Section 2. Application Rights and Requirements. (1) An individual may apply or reapply for CCAP through the cabinet or its designee.

(2)(a) Unless an applicant is approved according to the criteria in Section 5 or 6 of this administrative regulation, an application shall have been made on the date:

1. The following is received at the cabinet or its designee's office:

- a. A signed DCC-90, Subsidized Child Care Assistance Application Summary; or
- b. Submission in accordance with 921 KAR 2:040, Section 1(6); or

2. The agency is contacted, if the person:

- a. Has a physical or mental disability; and
- b. Needs special accommodation due to the impairment.

(b) An applicant may designate an authorized representative who presents identification to make application.

(c) An applicant may be:

1. Assisted by another individual of choice in the application process; and

2. Accompanied by the individual in a contact with the agency.

(d) In accordance with the procedures described in 920 KAR 1:070, interpreter services shall be provided for persons who are:

- 1. Deaf; or
- 2. Hard of hearing.

(e) Interpreter services shall be provided for a non-English speaking individual in accordance with Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d.

(3) The cabinet or its designee shall not discriminate against an applicant based on age, race, color, sex, disability, religious creed, national origin, or political beliefs.

(4) For the month child care payment is intended to cover, a family shall meet the technical and financial eligibility criteria, according to its particular circumstances, as described in Sections 3, 4, 5, 6, [and] 7, and 8 of this administrative regulation.

(a) An applicant or recipient shall be the primary source of information and shall:

- 1. Furnish verification of:
 - a. Income;
 - b. Technical eligibility; and
 - c. Employment; and

2. Give written consent to the cabinet or its designee necessary to verify information pertinent to the eligibility determination.

(b) Upon receiving written notice of a request for information or a scheduled appointment to present required documentation, failure of an applicant or recipient to respond shall be considered a failure to present adequate proof of eligibility.

(c) A homeless household shall have an extended period to verify information not to exceed three (3) months in accordance with 42 U.S.C. 9858c(c)(3)(B)(i).

(5) The cabinet or its designee shall:

(a) Render a decision on each application; and

(b) Within thirty (30) calendar days of receipt of the application submitted in accordance with subsection (2) of this section, send notice to the applicant in accordance with Section 12(4)[44(4)] of this administrative regulation.

(6) Each decision regarding eligibility for assistance shall be supported by documentation recorded in the applicant or recipient's case record.

(7) A family shall not receive:

(a) Assistance until approval of the application for benefits; or

(b) Benefits prior to application.

Section 3. Technical Eligibility. (1) A child shall be eligible for child care assistance, if the child:

(a) Is a:

1. Resident of Kentucky; and

2. U.S. citizen or qualified alien;

(b) Is under age:

1. Thirteen (13) at the time of application or recertification; or

2. Nineteen (19) at the time of application or recertification and is:

a. Physically or mentally incapable of caring for himself, as demonstrated by a written document provided by a health professional;

b. Under court supervision; or

c. Identified as a priority by federal statute, regulation, or funding source; and

(c) Has a current immunization certificate showing that the child is immunized, unless:

1. There is an exception pursuant to KRS 214.036; or

2. The child is attending a:

a. Licensed child-care center;

b. Certified child-care home;

c. Public school;

d. Head Start; or

e. Other entity that requires the immunization record.

(2) If a child served by the CCAP is not immunized, child care assistance benefits shall be available or continue for a period of thirty (30) calendar days following the notification of the needed immunization while the family takes necessary action to comply with the immunization requirement.

(3) A family shall not be eligible for a CCAP benefit if care is provided by:

(a) A parent or stepparent;

(b) A legal guardian;

(c) A member of the K-TAP or SNAP case in which the child in need of child care assistance is included;

(d) A person living in the same residence as the child in need of care;

(e) A provider not:

1. Licensed according to 922 KAR 2:090, Child-care center licensure;

2. Certified according to 922 KAR 2:100, Certification of family child-care homes; or

3. Registered according to 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program;

(f) A Head Start program unless the child care is provided before, after, or in between the Head Start program's operating hours as wrap-around child care; or

(g) Another child care provider if the family operates the child care business in the home.

(4) If the restrictions specified in subsection (3) of this section do not apply to the provider related to the child, the provider related to the child may be eligible for payment from CCAP if the

requirements of 922 KAR 2:180 are met.~~[(5) A child in foster care shall not be eligible for CCAP.]~~

Section 4. Requirements for Low Income Working Family Eligibility Determination. (1) A child shall be eligible to receive CCAP if the child meets the requirements specified in Section 3 of this administrative regulation and resides with:

(a) An applicant who has employment an average twenty (20) hours per week;

(b) An applicant and a responsible adult who have employment an average of forty (40) hours per week combined, if the individual with the least employment has an average of at least five (5) hours of employment per week;

(c) An applicant and a responsible adult if either the applicant or the responsible adult has employment an average of twenty (20) hours per week, and the other is physically or mentally unable to provide adequate care or supervision as documented by a written statement from a health professional;

(d) A relative caregiver pursuant to the conditions of a program established by KRS 605.120(5), who meets:

1. All requirements in this section; and

2. Income eligibility standards in Section 8[7] of this administrative regulation;~~[or]~~

(e) A teen parent attending high school or pursuing a general equivalency degree (GED), including a period of recess or temporary break not to exceed three (3) months; or

(f) An applicant who meets the eligibility requirements specified in Section 7 of this administrative regulation.

(2) A child shall be eligible to receive CCAP for up to three (3) months or in accordance with Section 9[8] of this administrative regulation if the child meets the requirements specified in Section 3 of this administrative regulation and resides with:

(a) An applicant who is homeless;

(b) An applicant who:

1. Is engaged in job search; and

2. Submits a completed DCC-90P, CCAP Job Search Documentation, within the three (3) months of job search verifying a minimum of ten (10) contacts with prospective employers;

(c) A recipient after the loss of employment, a reduction in the required number of employment hours, or cessation of attendance at a job training or educational program in accordance with 42 U.S.C. 9858c(c)(2)(N)(iii), to allow for job search or resumption of work or attendance at job training or educational program; or

(d) A recipient on maternity leave or other medical leave from employment as verified by a health professional, unless a temporary disability as verified by a health professional necessitates longer than three (3) months of CCAP eligibility.

(3) Compliance with subsection (1) of this section for an applicant or a responsible adult who is self-employed shall be determined by dividing income calculated in accordance with Section 8(6)(d)[7(6)(d)] of this administrative regulation by an hourly pay rate of no less than minimum wage established in accordance with KRS 337.275.

Section 5. Requirements for Protection and Permanency Eligibility Determination.

(1) A child shall be eligible to receive CCAP if the child:

(a) Resides with an applicant who:

1. Receives child protective or preventive services; or

2. Needs to receive child protective or preventive services based upon an assessment conducted by child protective services staff pursuant to 922 KAR 1:330; and

(b) Meets the requirements listed in Section 3 of this administrative regulation.

(2) A child shall be approved for child care assistance by the cabinet in accordance with subsection (1) of this section without a separate application, as an integral part of a protective or preventive services plan in accordance with 922 KAR 1:430.

(3)(a) Based on the assessment in accordance with 922 KAR 1:330, the cabinet may waive the family copayment required by Section 11[10] of this administrative regulation for a child who participates in CCAP as a result of child protective services authorization.

(b) If the cabinet waives the family copayment in accordance with paragraph (a) of this subsection, the cabinet shall document the reason for the waiver in the child's protective services case plan.

Section 6. State-Funded Workforce Training~~[Kentucky Works]~~ Child Care Eligibility Determination.~~[(4)]~~ A child shall be eligible for CCAP if the child:

- (1)~~[(a)]~~ Resides with an applicant who is participating in the:
 - ~~(a)~~ Kentucky Works Program described in 921 KAR 2:370; or
 - ~~(b)~~ Supplemental Nutrition Assistance Program Employment and Training Program (SNAP E&T) pursuant to 921 KAR 3:042; and
- ~~(2)~~~~[(b)]~~ Meets the requirements listed in Section 3 of this administrative regulation.

Section 7. Education and Job Training Child Care Eligibility Determination. (1) Effective June 28, 2019, to the extent funds are available, a child shall be eligible for CCAP if the child:

- (a) Resides with an applicant who:
 1. Is enrolled in:
 - a. (i) A certified trade school or an accredited college or university;
 - (ii) A full-time program that leads to a general educational development (GED); or**
 - (iii) [(b.)] A program that leads to a degree or certification; and**
 - b. [(c.)] Accordance with subsection (2) of this section:**
 2. Is in good academic standing with the trade school, college, or university in which the applicant is enrolled;
 3. Provides verification of enrollment and good academic standing from the trade school, college, or university in which the applicant is enrolled;
 4. Meets income eligibility criteria of Section 8 of this administrative regulation; and
 5. Has not received CCAP for more than sixty (60) months due to enrollment in a certified trade school or an accredited college or university; and
 - (b) Meets the requirements established in Section 3 of this administrative regulation.
 - (2) While an applicant is enrolled in a certified trade school or an accredited college or university:
 - (a) The applicant's coursework shall be completed in-person or online; and
 - (b) The applicant shall be classified as a full-time student as defined by the trade school, college, or university.
 - (3) An applicant who does not complete a term at a trade school, college, or university [in good academic standing] shall be responsible for the cost of child care tuition for the term. [(2) A child shall be approved for child care assistance by the cabinet in accordance with subsection (1) of this section without a separate application as an integral part of a Kentucky Works Program self-sufficiency plan.]

Section 8~~[7]~~. Income Eligibility. (1) A child shall be eligible for CCAP if the family's income is less than or equal to:

- (a) 160 percent of the federal poverty level as adjusted annually by the U.S. Department of Health and Human Services through calendar year 2018 at initial application; or
 - (b) ~~200~~~~[165]~~ percent of the federal poverty level as adjusted annually by the U.S. Department of Health and Human Services through calendar year 2018 at recertification or recalculation.
- (2) Except for a child who is eligible as specified in Section 5 of this administrative regulation, gross income received or anticipated to be received by the applicant and responsible adult shall be considered when the cabinet or its designee determines the family's eligibility for the CCAP.
- (3) A child who is eligible for CCAP as specified in Section 5 of this administrative regulation shall be eligible without regard to the family's income.
- (4) Excluded income shall be:
- (a) K-TAP child only payments, including back payment;
 - (b) A payment received from the Kinship Care Program, pursuant to 922 KAR 1:130, including back payment;

- (c) Educational grant, loan, scholarship, and work study income;
- (d) The value of a:
 1. Kentucky Works supportive services payment pursuant to 921 KAR 2:017; or
 2. SNAP E&T transportation payment pursuant to 921 KAR 3:042;
- (e) The value of United States Department of Agriculture program benefits including:
 1. Donated food;
 2. Supplemental food assistance received pursuant to 42 U.S.C. 1771;
 3. Special food service program for a child pursuant to 42 U.S.C. 1775;
 4. Nutrition program for the elderly pursuant to 42 U.S.C. 3001; and
 5. The monthly allotment under SNAP;
- (f) Payment made directly to a third party on behalf of the applicant or recipient by a nonresponsible person;
- (g) In-kind income;
- (h) Reimbursement for transportation in performance of an employment duty, if identifiable;
- (i) Nonemergency medical transportation payment;
- (j) Highway relocation assistance;
- (k) Urban renewal assistance;
- (l) Federal disaster assistance and state disaster grant;
- (m) Home produce utilized for household consumption;
- (n) Housing subsidy received from federal, state, or local governments;
- (o) Receipt distributed to a member of certain Indian tribes by the federal government pursuant to 25 U.S.C. 1261, 1401, and 5501;
- (p) Funds distributed per capita to or held in trust for a member of an Indian tribe by the federal government pursuant to 25 U.S.C. 1261, 1401, and 5501;
- (q) Payment for supporting services or reimbursement of out-of-pocket expense made to an individual volunteering as:
 1. Senior health aide; or
 2. Member of the:
 - a. Service Corps of Retired Executives; or
 - b. Active Corps of Executives;
- (r) Payment made to an individual from a program pursuant to 42 U.S.C. 4950 to 5085 if less than the minimum wage under state or federal law, whichever is greater, including:
 1. Volunteers in Service to America (VISTA);
 2. Foster Grandparents;
 3. Retired and Senior Volunteer Program; or
 4. Senior Companion;
- (s) Payment from the cabinet for:
 1. Child foster care; or
 2. Adult foster care;
- (t) Energy assistance payment made under:
 1. The Low Income Home Energy Assistance Program pursuant to 42 U.S.C. 8621; or
 2. Other energy assistance payment made to an energy provider or provided in-kind;
- (u) The principal of a verified loan;
- (v) Up to \$12,000 to Aleuts and \$20,000 to an individual of Japanese ancestry for payment made by the United States Government to compensate for a hardship experienced during World War II;
- (w) The advance payment or refund of earned income tax credit;
- (x) Payment made from the Agent Orange Settlement Fund;
- (y) Payment made from the Radiation Exposure Compensation Trust Fund;
- (z) Up to \$2,000 per year of income received by individual Indians denied from a lease or other use of individually-owned trust or restricted lands;
- (aa) Payment made to an individual because of the individual's status as a victim of Nazi persecution;
- (bb) Income received from temporary employment from the United States Department of Commerce, Bureau of the Census;

(cc) A payment received from the National Tobacco Growers Settlement Trust;

(dd) A Tobacco Loss Assistance Program payment pursuant to 7 C.F.R. 1463;

(ee) A payment received from a crime victim compensation program according to the Antiterrorism and Effective Death Penalty Act of 1996 pursuant to 34 U.S.C. 20102(c);

(ff) A payment made, pursuant to 38 U.S.C. 1815 by the Veteran's Administration, to children of female Vietnam veterans;

(gg) A discount or subsidy provided to Medicare beneficiaries pursuant to 42 U.S.C. 1395w-141;

(hh) Any cash grant received by the applicant under the Department of State or Department of Justice Reception and Placement Programs pursuant to 45 C.F.R. 400.66(d);

(ii) Reimbursement payment for a vocational rehabilitation individual participating in Preparing Adults for Competitive Employment pursuant to 29 U.S.C. 723(a)(5);

(jj) Income or earnings from a program funded under the Workforce Innovation and Opportunity Act pursuant to 20 C.F.R. Parts 676-678 or 34 C.F.R. Part 361 or 463;

(kk) Waiver reimbursement in accordance with 907 KAR 1:170, 907 KAR 1:835, or 907 KAR 7:015 to a parent for the care of a child in the home; or

(ll) Supplemental Security Income (SSI) for a child.

(5) Deductions from gross income shall be:

(a) Actual, legally obligated child support payment made by the applicant or responsible adult to a party not living in the family's residence; and

(b) Operating costs to determine adjusted gross income from self-employment.

(6) Best estimate.

(a) Gross income shall be computed by using a best estimate of income that may exist in the benefit month.

(b) The following method shall be used to calculate a best estimate of earned income other than earned self-employment:

1. Cents shall:

a. Not be rounded to the nearest dollar before adding or multiplying hourly or daily earnings; and

b. Be rounded to the nearest dollar before adding or multiplying weekly, biweekly, semi-monthly, monthly, quarterly, or annual earnings;

2. Unless it does not represent the ongoing situation, income from all pay periods in the preceding two (2) calendar months shall be used;

3. A monthly amount shall be determined by adding gross income from each pay period, dividing by the total number of pay periods considered, and converting the pay period figure to a monthly figure by multiplying a:

a. Weekly amount by four and one-third (4 1/3);

b. Biweekly amount by two and one-sixth (2 1/6); or

c. Semimonthly amount by two (2); and

4. If income has recently begun and the applicant or recipient has not received a calendar month of earned income, the anticipated monthly income shall be computed by:

a. Multiplying the:

(i) Hourly rate by the estimated number of hours to be worked in a pay period; or

(ii) Daily rate by the estimated number of days to be worked in the pay period;

b. Converting the resulting pay period figure to a monthly amount pursuant to subparagraph 3.c. of this paragraph; and

c. Rounding to the nearest dollar.

(c) For a case with unearned income, other than unearned self-employment income, a monthly amount shall be determined by:

1. Using the gross monthly amount of continuing, stable unearned income received on a monthly basis; and

2. Averaging the amount of unstable unearned income received in the three (3) prior calendar months, unless it does not represent the ongoing situation.

(d) For a case with self-employment income, a monthly amount shall be determined as follows:

1. If the self-employment enterprise has been in operation for at least a year, the income shall be prorated by dividing the income

from the last calendar year by twelve (12);

2. If the self-employment enterprise has been in operation for less than a year, the income shall be prorated by dividing by the number of months the business has been in existence; and

3. Profit shall be determined by:

a. Rounding the total gross income to the nearest dollar;

b. Rounding the total amount of allowable expenses to the nearest dollar;

c. Dividing total gross income and total amount of allowable expenses separately by twelve (12) or the appropriate number of months, and rounding the quotients to the nearest dollar; and

d. Subtracting the rounded monthly allowable expense quotient from the rounded monthly gross income quotient.

(e) If the cabinet or its designee becomes aware of a change in circumstance, the best estimate shall be recalculated.

Section 9[8]. Continuing Eligibility. (1) Continued eligibility under the CCAP shall be recertified at least every twelve (12) months.

(2) Eligibility shall be reviewed at each twelve (12) month recertification for a child who is placed with a relative or fictive kin caregiver. A child who is placed with a relative or fictive kin caregiver shall remain eligible pursuant to Section 5 of this administrative regulation for as long as the cabinet determines that child care is necessary in order to prevent child maltreatment or entry into the foster care system.

(3)[(2)] Eligibility shall be reviewed and recalculated if necessary due to a known or reported change in circumstance.

(4)[(3)] Unless a nonrelative is approved as fictive kin pursuant to [under] 922 KAR 1:140 or 922 KAR 1:565 and Section 5 of this administrative regulation, a nonrelative who is acting in loco parentis for a child shall be required to show proof of efforts to seek permanent custody of the child or adopt the child within one (1) year of initial application as a condition of continued eligibility for CCAP.

(5)[(4)] In accordance with 42 U.S.C. 9858c(c)(2)(N), if a family's income does not exceed eighty-five (85) percent of Kentucky's SMI, the family shall remain eligible for CCAP until recertification in accordance with this section.

Section 10[9]. Payment Rates and Policy. (1)(a) To the extent funds are available, the cabinet shall make payments as listed in the DCC-300, Kentucky Child Care Maximum Payment Rate Chart, effective December 1, 2018.

(b) The rates in the DCC-300 shall represent the maximum payment rates on a per day, per child, per child care provider basis.

(c) The maximum payment rates shall include the following categories:

1. Full day;

2. Part day;

3. Licensed Type I;

4. Licensed Type II;

5. Certified;

6[5]. Registered;

7[6]. Infant/Toddler;

8[7]. Preschool child; and

9[8]. School-age child.

(2) To the extent funds are available, a licensed or certified provider shall receive:

(a) Two (2) dollars per day beyond the maximum rate if the provider is accredited by the:

1. National Association for the Education for Young Children;

2. National Early Childhood Program Accreditation;

3. National Association for Family Child Care;

4. Council on Accreditation; or

5. Other accrediting body approved by the Early Childhood Advisory Council or the cabinet; or

(b) One (1) dollar per day beyond the maximum rate for nontraditional care for providing child care assistance based on the parent's schedule between:

1. 7 p.m. to 5 a.m. daily; or

2. Friday, 7 p.m. through Monday, 5 a.m.

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(3) To the extent funds are available, a licensed, certified, or registered provider shall receive a special care rate of one (1) additional dollar per day beyond the maximum rate for care of a child:

- (a) With a special need; or
- (b) Who is age thirteen (13), but under age nineteen (19) at application or recertification, and is:

- 1. Physically or mentally incapable of caring for himself as determined by a health professional; or
- 2. Under court supervision.

(4) The cabinet or its designee shall determine the maximum daily reimbursement rate not to exceed the amount charged to the general public.

(5) A child care provider registered according to 922 KAR 2:180 shall not be paid for more than:

- (a) Three (3) children receiving CCAP per day; or
- (b) Six (6) children receiving CCAP per day, if those children are:

- 1. A part of a sibling group; and
 - 2. Related to the provider.
- (6) A family meeting the requirements of Section 4 or 6 of this

administrative regulation shall be eligible for payment to cover child care needs due to full-time or part-time enrollment in an educational program.

(7) To the extent funds are available, required enrollment fees shall be paid no more than three (3) times in a twelve (12) month period for a family meeting the requirements in Section 5 or 6 of this administrative regulation.

Section 11[49]. Family Copayment. (1) Unless a family copayment has been waived in accordance with Section 5(3) of this administrative regulation, a family of a child served by the CCAP shall be responsible for a copayment in accordance with the family copayment table in subsection (3) of this section.

(2) If a court orders a parent of a CCAP-eligible child to pay a portion of the child's child care expenses, the court-ordered payment shall be in lieu of the family copayment required by subsection (3) of this section.

(3) (a) The cabinet or its designee shall determine a copayment that a family shall pay to the provider for the cost of child care, based on the following table:

Family Co-Payment Per Day									
Income Range Monthly		Family Size 2 Family Co-Pay With 1 Child		Family Size 3 Family Co-Pay With 1 Child With 2 or more		Family Size 4 Family Co-Pay With 1 Child With 2 or more		Family Size 5 or More Family Co-Pay With 1 Child With 2 or more	
0	899	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
900	999	\$2	\$2	\$3	\$3	\$2	\$2	\$2	\$2
1,000	1,099	\$3	\$3	\$3	\$3	\$2	\$3	\$2	\$3
1,100	1,199	\$4	\$4	\$4	\$4	\$3	\$3	\$2	\$3
1,200	1,299	\$4	\$4	\$5	\$5	\$4	\$4	\$3	\$3
1,300	1,399	\$5	\$5	\$5	\$5	\$5	\$5	\$3	\$4
1,400	1,499	\$6	\$5	\$6	\$6	\$5	\$6	\$4	\$4
1,500	1,599	\$7	\$6	\$6	\$6	\$6	\$6	\$5	\$5
1,600	1,699	\$8	\$6	\$7	\$7	\$6	\$7	\$6	\$6
1,700	1,799	\$9	\$7	\$8	\$8	\$7	\$8	\$6	\$7
1,800	1,899	\$10	\$8	\$9	\$9	\$7	\$8	\$7	\$8
1,900	1,999	\$10	\$9	\$10	\$10	\$8	\$9	\$8	\$9
2,000	2,099	\$11	\$10	\$11	\$11	\$8	\$9	\$8	\$9
2,100	2,199.99	\$12	\$10	\$11	\$11	\$9	\$10	\$9	\$10
2,200	2,299.99	\$12	\$11	\$12	\$12	\$10	\$11	\$9	\$10
2,300	2,399.99	\$12	\$12	\$13	\$13	\$11	\$12	\$9	\$10
2,400	2,499.99	\$12	\$12	\$13	\$13	\$12	\$13	\$10	\$11
2,500	2,599.99	\$12	\$13	\$14	\$14	\$12	\$13	\$10	\$11
2,600	2,699.99	\$12	\$13	\$14	\$14	\$13	\$14	\$12	\$13
2,700	2,799.99	\$12	\$13	\$14	\$14	\$13	\$14	\$13	\$14
2,800	2,899.99	\$12	\$13	\$14	\$14	\$14	\$15	\$14	\$15
2,900	2,999.99	\$12	\$13	\$14	\$14	\$14	\$15	\$16	\$17
3,000	3,099.99	\$12	\$13	\$14	\$14	\$15	\$16	\$18	\$19
3,100	3,199.99	\$12	\$13	\$14	\$14	\$15	\$16	\$20	\$21
3,200	3,299.99	\$12	\$13	\$14	\$14	\$15	\$16	\$20	\$21
3,300	3,399.99	\$12	\$13	\$14	\$14	\$15	\$16	\$22	\$23
3,400	3,499.99	\$12	\$13	\$14	\$14	\$15	\$16	\$22	\$23
3,500	3,599.99	\$12	\$13	\$14	\$14	\$15	\$16	\$24	\$25
3,600	3,699.99	\$12	\$13	\$14	\$14	\$15	\$16	\$25	\$25

(b) The maximum copayment for an eligible family with more than five (5) members shall be twenty-five (25) dollars.

(c) In accordance with 45 C.F.R. 98.21, a copayment for an eligible family shall:

- 1. Be determined at initial application or recertification; and
- 2. Not increase during the twelve (12) month eligibility period.

Section 12[44]. Family Rights and Responsibilities. (1) The family of a child served by the CCAP shall have rights pursuant to KRS 199.898(1) and (2).

(2) Unless an alternative program such as Head Start, state preschool, or state kindergarten is available and accessible during the time child care is needed, an applicant for a child who receives or has been approved to receive CCAP benefits shall:

(a) Be offered choice of child care assistance subject to the availability of state and federal funds; and

(b) Receive a DCC-94, Child Care Service Agreement and Certificate.

(3) Upon enrollment or reenrollment with a provider, an applicant approved in accordance with Section 4 of this administrative regulation shall sign and return the:

- (a) DCC-94; or
- (b) DCC-90.

(4) Notification of action. (a) A DCC-94C, Provider Notification Letter, shall provide notice to a provider of a child's discontinuation from CCAP or disenrollment with a provider.

(b) A DCC-94.1, CHILD CARE Approval/Change Notice, shall provide notice of:

1. A change in the certification period of child;
2. Approval of an application; or
3. Continued eligibility.

(c) A DCC-105, Child Care Denial/Discontinuance Notice, shall provide notice of:

1. Denial of an application;
2. Discontinuance of a CCAP benefit;
3. Reason for adverse action;
4. Citation from an applicable state administrative regulation;

and

5. Information regarding the opportunity to request an administrative hearing in accordance with Section ~~18~~[47] of this administrative regulation.

(d) The language on the form shall differ according to the purpose of the notice described in paragraphs (a) through (c) of this subsection.

(5) An applicant for a child served by CCAP shall advise the cabinet or its designee of a change in a circumstance within ten (10) calendar days of the day the change is known.

(6) Failure to report a change in a circumstance may result in a:

(a) Decrease or discontinuance of CCAP benefits based on the type of change; or

(b) Claim in accordance with 922 KAR 2:020.

(7) An applicant for a child served by CCAP who fails to cooperate with a cabinet quality control or case review shall be:

(a) Discontinued from CCAP benefits; and

(b) Unable to participate in CCAP until the applicant meets the requirements of the quality control or case review.

(8) An applicant for a child served by CCAP shall report to the cabinet or its designee a provider whom the applicant suspects is not fulfilling requirements in accordance with Section ~~14(1)(c)~~[43(4)(e)] of this administrative regulation.

Section ~~13~~[42]. Cabinet Requirements. (1) The DCC-94 shall:

(a) Be used for child care assistance provided by a licensed, certified, or registered provider; and

(b) Not be considered a contract, employment, or grant to the child care provider, but shall be considered assistance to the applicant pursuant to 45 C.F.R. 98.30(c)(6).

(2) The cabinet or its designee shall provide consumer information regarding conditions for termination of the DCC-94 pursuant to KRS 199.8994(6)(b).

(3) The cabinet or its designee shall assure that a provider of child care assistance funded under the CCDF and other local, state, or federal funds shall comply with the applicable regulatory requirements pursuant to:

(a) 922 KAR 2:020, Child Care Assistance Program (CCAP) improper payments, claims, and penalties;

(b) 922 KAR 2:090, Child-care center licensure;

(c) 922 KAR 2:100, Certification of family child-care homes;

(d)~~922 KAR 2:110, Child-care center provider requirements;~~

~~(e)~~ 922 KAR 2:120, Child-care center health and safety standards;

~~(e)~~[~~(f)~~] 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program;

~~(f)~~[~~(g)~~] 922 KAR 2:190, Civil penalties;

~~(g)~~[~~(h)~~] 922 KAR 2:270, Kentucky All STARS quality-based graduated early childhood rating system for licensed child-care centers and certified family child-care homes, upon its adoption; and

~~(h)~~[~~(i)~~] 922 KAR 2:280, Background checks for child care staff members, reporting requirements, and appeals~~[, upon its adoption]~~.

(4) The cabinet or its designee shall complete a home inspection of a registered child care provider in CCAP in accordance with 42 U.S.C. 9858(c)(2)(K)(i)(IV) and 922 KAR 2:180.

(5) If CCAP benefits are reduced or discontinued due to the shortage of funding, the cabinet shall provide a minimum thirty (30) calendar day notice to each family receiving child care assistance.

(6) If the daily maximum payment rate is reduced due to the shortage of funding, the cabinet shall provide a minimum thirty (30)

calendar day notice to licensed, certified, or registered providers.

(7) The cabinet shall send a notice of adverse action at least ten (10) calendar days in advance of taking adverse action.

(8) In accordance with 45 C.F.R. 98.46, the cabinet shall prioritize child care assistance benefits as determined by the available funds as follows:

(a) Child protective or preventive services authorization;

(b) A child with a special need;

(c) A child experiencing homelessness as defined by 45 C.F.R. 98.2;

~~(d)~~ A child in the custody of the cabinet;

~~(e)~~ K-TAP recipients participating in the Kentucky Works Program established in 921 KAR 2:370;

~~(f)~~[~~(g)~~] Teen parents attending high school or pursuing a general equivalency degree (GED);

~~(g)~~[~~(h)~~] A K-TAP recipient attempting to transition off assistance through employment;

~~(h)~~[~~(g)~~] A parent whose K-TAP case has been discontinued during the previous twelve (12) months and who needs child care assistance in order to accept or retain employment;

~~(i)~~[~~(h)~~] A low income working parent; or

~~(j)~~[~~(i)~~] A parent in education or training programs leading to self-sufficiency.

Section ~~14~~[43]. Provider Requirements. (1) A licensed child-care center, certified family child-care home, or registered child care provider that serves a child who participates in the CCAP shall:

(a) Sign and give to the parent for submission to the cabinet or its designee, upon a child's enrollment or reenrollment with the provider and prior to receiving payment from the CCAP, the DCC-94;

(b) Report all absences on the DCC-97, Provider Billing Form, submitted to the cabinet or its designee;

(c)1. Maintain the DCC-94E, Child Care Daily Attendance Record, in which the attendance is:

a. Recorded legibly each time the child arrives and each time the child departs the provider's care; and

b. Signed by the parent or applicant for the child served by CCAP; and

2. Submit the DCC-94E upon request of the cabinet or its designee;

(d) Comply with the applicable regulatory requirements pursuant to:

1. 922 KAR 2:020, Child Care Assistance Program (CCAP) improper payments, claims, and penalties;

2. 922 KAR 2:090, Child-care center licensure;

3. 922 KAR 2:100, Certification of family child-care homes;

4.~~922 KAR 2:110, Child-care center provider requirements;~~

5.~~]~~ 922 KAR 2:120, Child-care center health and safety standards;

5~~[6]~~. 922 KAR 2:180, Requirements for registered child care providers in the Child Care Assistance Program;

6~~[7]~~. 922 KAR 2:190, Civil penalties;

7~~[8]~~. 922 KAR 2:270, Kentucky All STARS quality-based graduated early childhood rating system for licensed child-care centers and certified family child-care homes, upon its adoption; and

8~~[9]~~. 922 KAR 2:280, Background checks for child care staff members, reporting requirements, and appeals~~[, upon its adoption]~~; and

(e) Complete the cabinet approved training on billing and the DCC-94E prior to receiving an initial payment from CCAP.

(2) A licensed or certified child care provider shall complete and submit the DCC-94B, Licensed or Certified Provider Agreement Form, prior to receiving payment from CCAP.

(3) A licensed child care provider shall maintain written documents with attendance records stating the reason for any absence of a child receiving CCAP in excess of five (5) absences per month per child.

(4)(a) If CCAP records indicate that a certified family child-care home or a licensed child-care center is operating over capacity, as specified in 922 KAR 2:100 or 922 KAR 2:120 respectively, by

having two (2) or more shifts, the cabinet shall request an operating plan from the provider.

(b) An operating plan in accordance with paragraph (a) of this subsection shall specify:

1. Each employee of each shift;
2. The work hours for each employee of each shift;
3. The management for each shift;
4. The work hours for each management employee of each shift; and
5. The children enrolled for each shift.

(c) The cabinet shall approve a provider for overcapacity if:

1. The operating plan meets all requirements of:
 - a. For a licensed child-care center, 922 KAR 2:090, ~~922 KAR 2:110,~~ and 922 KAR 2:120; or
 - b. For a certified family child-care home, 922 KAR 2:100; and
2. The provider has had less than two (2) health, safety, or welfare deficiencies or violations within the previous twenty-four (24) month period, even if deficiencies were corrected.

(5) A registered child care provider in CCAP shall comply with an inspection in accordance with 42 U.S.C. 9858(c)(2)(K)(i)(IV) and 922 KAR 2:180 conducted by the cabinet or its designee.

(6) A provider shall be ineligible for CCAP if the provider:

(a) Was discontinued or disqualified from participation in a governmental assistance program due to fraud or abuse of the program;

(b) Has had a previous ownership interest in a child-care provider, which had a prior certification, license, registration, or permit to operate denied, suspended, revoked, or voluntarily relinquished as a result of an investigation or pending adverse action; or

(c) Is a parent, spouse, sibling, or child of a previous provider described in paragraphs (a) and (b) of this subsection, and the previous provider will be involved in the new provider's operations in any capacity.

Section 15[14]. Other Family Services. To the extent funds are available, a child whose family's income is over the income limits for the CCAP described in Section 8[7] of this administrative regulation may be eligible for:

- (1) Child care payments;
- (2) Enrollment fees;
- (3) Activity or day trip fees;
- (4) Material fees;
- (5) Transportation fees; or
- (6) Other items relating to child care services with prior approval of the cabinet.

Section 16[45]. An improper payment, claim, or penalty in CCAP shall be handled in accordance with 922 KAR 2:020.

Section 17[46]. Criteria for Nonpayment. (1) Payment under the CCAP shall:

(a) Not be made to a licensed provider for more than five (5) absences per child during a month if the provider fails to verify in writing, and maintain attendance records verifying, that the additional absences were related to:

1. A death in the family;
2. An illness of the:

- a. Child; or
- b. Applicant; or

3. A disaster verified by utility provider, local, state, or federal government;

(b) Not be made to a certified provider for more than five (5) absences per child during a month;

(c) Not be made to a registered provider for any absences;

(d) Be denied in accordance with KRS 199.8994(6);

(e) Cease if a family or provider defaults on a payment in accordance with Section 11[49] of this administrative regulation or 922 KAR 2:020;

(f) Not be made if a family no longer meets the technical or financial eligibility requirements under the CCAP;

(g) Not be made to a provider for payment requests ninety (90) days after the date of service;

(h) Not be made to a licensed or certified provider for more than ten (10) holidays per calendar year;

(i) Cease if a provider denies:

1. A parent of a child in care, the cabinet, the cabinet's designee, or a representative of an agency with regulatory authority:

- a. Entry into the provider's premises during operating hours; or
- b. Access to a child in care; or

2. The cabinet, the cabinet's designee, or a representative of an agency with regulatory authority access to the provider's records relevant to a:

a. Cabinet review, including CCAP quality control or case review; or

b. Review by another agency with regulatory authority;

(j) Not be made to a provider if the provider's DCC-94E in accordance with Section 14(1)(c)[13(1)(e)] of this administrative regulation does not support billing for a child reported as served for the same period of time on the DCC-97;

(k) Not be made if a licensed or certified provider cares for a child served by CCAP at a location not specified on the DCC-94; or

(l) Not be made to a provider for a child in care over the capacity of the provider, as governed by 922 KAR 2:100 or 922 KAR 2:120, unless an operating plan is approved in accordance with Section 14(4)[13(4)] of this administrative regulation.

(2) Subject to the availability of state or federal funds, the cabinet may suspend approval of initial application for benefits under the CCAP following the priorities established in Section 13(8)[12(8)] of this administrative regulation.

Section 18[47]. Administrative Hearings. (1) A CCAP applicant or recipient may request an administrative hearing regarding eligibility determination, recalculation, or recertification in accordance with 921 KAR 2:055.

(2) An administrative hearing pertaining to a matter not specified in subsection (1) of this section may be requested in accordance with:

- (a) 922 KAR 2:260; or
- (b) 922 KAR 2:020.

Section 19[48]. Records. Records of CCAP shall be maintained and disclosed in accordance with:

- (1) KRS 194A.060;
- (2) 45 C.F.R. 98.90(e); and
- (3) 45 C.F.R. 205.50(a)(1)(i).

Section 20[49]. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "DCC-90, Subsidized Child Care Assistance Application Summary", 7/2019[12/18] [10/17];

(b) "DCC-90P, CCAP Job Search Documentation", 10/17;

(c) "DCC-94, Child Care Service Agreement and Certificate", 10/17;

(d) "DCC-94.1, CHILD CARE Approval/Change Notice", 10/17;

(e) "DCC-94B, Licensed or Certified Provider Agreement Form", 04/17;

(f) "DCC-94C, Provider Notification Letter", 10/17;

(g) "DCC-94E, Child Care Daily Attendance Record", 7/13;

(h) "DCC-97, Provider Billing Form", 04/13;

(i) "DCC-105, Child Care Denial/Discontinuance Notice", 10/17; and

(j) "DCC-300, Kentucky Child Care Maximum Payment Rate Chart", 12/18[10/17].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ERIC T. CLARK, Commissioner

ADAM M. MEIER, Secretary

APPROVED BY AGENCY: March 7, 2019

FILED WITH LRC: March 15, 2019 at 11 a.m.

CONTACT PERSON: Chase Coffey, Executive Administrative

Assistant, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Laura Begin, Laura.Begin@ky.gov; and Chase Coffey

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation enables the cabinet to qualify for federal funds under the Child Care and Development Fund (CCDF) and establishes procedures for the implementation of the Child Care Assistance Program (CCAP) to the extent that funding is available.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to qualify for federal funds under CCDF and for the proper administration of CCAP.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorized statutes by allowing the cabinet to qualify for federal funds and establishing procedures for the implementation of CCAP.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the administration of the CCAP in a manner which is consistent with federal and state requirements, including available funding, and the interests of the clients to be served, child care providers, and taxpayers.

(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 improves child care provider participation in CCAP and parental access to safe and affordable child care by increasing child care provider rates to no less than the 40th percentile of current market rates. In addition, the amendment qualifies a child for CCAP if the parent participates in the Supplemental Nutrition Assistance Program Employment and Training Program, or if the parent is a full-time postsecondary education student without work requirement. The amendment allows a higher income threshold, 200 percent of the 2018 federal poverty level, at redetermination to allow for greater parental earnings prior to CCAP ineligibility. The amendment gives the state administering agency ability to use CCDF to support child care for children in foster care, providing a necessary support to foster parents. Lastly, the amendment to this administrative regulation makes technical corrections in accordance with KRS Chapter 13A.

The administrative regulation is being further amended in response to comments received during the public comment period to include that a child who resides with a person who is enrolled in a full-time program that leads to a general educational development (GED) is also eligible for the Child Care Assistance Program (CCAP). Also, the amendment includes that CCAP eligibility shall be reviewed at each twelve month recertification for a child who is placed with a relative or fictive kin caregiver.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to obligate additional federal CCDF funds awarded to Kentucky in a timely manner and to offer programmatic improvements promoting child care provider participation in CCAP and parental access to safe and affordable child care. The amendment preserves the health, safety, and welfare of the vulnerable populations served by CCAP. Further amendments were necessary to provide clarification in response to comments received during the public comment period.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by aligning policy with more efficient operations, promoting parents' efforts to achieve self-sufficiency and the provision of quality child care, enhancing program integrity, and preserving the health and welfare of vulnerable children.

(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 refinement of CCAP in accordance with federal laws and the interests of households and children served.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: As of October 29, 2018, there were 21,077 families and 38,533 children enrolled in CCAP, and over 2,300 providers participating in CCAP.

(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 will be no new action required on the part of regulated entities; rather regulated entities will realize enhanced provider reimbursement rates, a higher federal poverty level used for CCAP eligibility redetermination, and ability to qualify for CCAP if an applicant is enrolled full-time in a certified trade school or accredited college or university. In addition, the state administering agency will be able to access CCDF for foster children's child care needs.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The amendment to this administrative regulation will create no new or additional costs to regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Regulated entities will benefit from enhanced provider reimbursements, higher federal poverty level used for eligibility redeterminations, and opportunity to qualify for CCAP based upon full-time enrollment and good academic standing in a certified trade school or accredited college or university without work requirement.

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

(a) Initially: The amendment to this administrative regulation will be implemented within available federal and state appropriations for CCAP. An additional federal award of discretionary CCDF funds has been received by the state, and similar award is anticipated in future years. In total, the projected impact of this amendment is approximately \$42 million annually.

(b) On a continuing basis: The administrative regulation will be implemented within available federal and state appropriations for CCAP. The administrative body will continually monitor its costs to make any adjustments necessary to maintain CCAP and related services within available funding.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of funding to be used for implementation and enforcement of this administrative regulation are the federal Child Care and Development Fund Block Grant, state match, state maintenance of effort funds, and state general 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: The administrative regulation requires no increase in fees or funding.

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

(9) TIERING: Is tiering applied? The Child Care Assistance Program is implemented in a like manner statewide. However, provider payment rates are tiered to recognize the higher operating costs of certain geographical, more populated areas. The provider payment rates were originally established based on the classification of cities. The rates are further supported by the analysis of the market rate survey results specified in KRS 199.899.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

45 C.F.R. 98, 42 U.S.C. 601-619, 9857-9858q

2. State compliance standards. KRS 194A.050(1), 199.892, 199.8994

3. Minimum or uniform standards contained in the federal mandate. 45 C.F.R. 98, 42 U.S.C. 601-619, 9857-9858q

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. Any local government or school district operating a child care program that receives CCAP 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, 199.892, 199.8994, 45 C.F.R. 98, 42 U.S.C. 601-619, 9857-9858q

(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 additional revenue.

(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 additional revenue.

(c) How much will it cost to administer this program for the first year? The amendment to this administrative regulation will be implemented within available federal and state appropriations for CCAP. An additional federal award of discretionary CCDF funds has been received by the state, and like award is anticipated in future years. In total, the projected impact of this amendment is approximately \$42 million annually. The amendment in response to comments received has no fiscal impact.

(d) How much will it cost to administer this program for subsequent years? The amendment to this administrative regulation will be implemented within available federal and state appropriations for CCAP. In total, the projected impact of this amendment is approximately \$42 million annually.

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:

PROPOSED AMENDMENTS

PERSONNEL CABINET
(Amendment)**101 KAR 2:034. Classified compensation administrative regulations.**

RELATES TO: KRS 18A.030(2), 18A.110, 18A.165

STATUTORY AUTHORITY: KRS 18A.110(1)(c), (d), (g), (7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110 requires the Secretary of Personnel to promulgate administrative regulations which govern the pay plan for all employees in the classified service. This administrative regulation establishes requirements to assure uniformity and equity in administration of the pay plan in accordance with statutory requirements.

Section 1. New Appointments. (1) An appointing authority shall appoint a new employee at a salary not to exceed the midpoint of the pay grade.

(2) The appointing authority shall adjust to that salary an employee who is earning less than the new appointee's salary, if the appointing authority determines that the incumbent employee:

(a) Is in the same job classification;

(b) Is in the same department or office;

(c) Is in the same work county; and

(d)(e)] Has a similar combination of education and experience relating to the relevant job class specification.

Section 2. Reentrance to Classified Service. (1) Returning retirees. An employee who was formerly employed under KRS Chapter 18A and who is appointed to a position covered by the provisions of KRS Chapter 18A while receiving retirement payments through the Kentucky Retirement Systems or Kentucky Teachers Retirement System shall be appointed in accordance with the provisions for new appointments in this administrative regulation.

(2) Other reentering employees.

(a) Former classified employees. An appointing authority shall set the salary of a former classified employee, other than a returning retiree, who is being reemployed, reinstated, or probationarily appointed in one (1) of the following ways:

1. In accordance with the standards used for making new appointments in this administrative regulation; ~~or~~

2. Up to the same salary as that paid at the time of separation from the classified service, if that salary does not exceed the midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary; or

3. The same salary as that paid at the time of separation from the classified service provided the employee is returning to the same pay grade or same job classification held at the time of separation from the classified service.

(b) Former unclassified employees with prior classified service. An appointing authority shall set the salary of a former classified employee who moved to the unclassified service and who is reinstated, reemployed or probationarily appointed to a position in the classified service in one (1) of the following ways:

1. In accordance with the standards for making new appointments;

2. Up to the same salary as that paid at the time of separation from the classified service, if that salary does not exceed the pay grade midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary;

3. At a salary that is the same as the salary the employee last received in the classified service with adjustments for increases that would have been received if the employee had remained in the classified service prior to resignation if the salary does not exceed the pay grade midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary; or

4. At a salary up to five (5) percent above the pay grade entry level wage for each year of service in the KRS Chapter 18A system, if the salary does not exceed the pay grade midpoint

salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary. Salary shall be calculated using whole percentages.

(c) Former unclassified employees with no previous classified service. An appointing authority shall set the salary of a former unclassified employee with no previous classified service, who is probationarily appointed or reemployed, in one (1) of the following ways:

1. In accordance with the standards for making new appointments; or

2. At a salary up to five (5) percent above the minimum salary for each year of service in the unclassified service, if the salary does not exceed the pay grade midpoint salary plus the difference, in dollars, between the job class entry level salary and the pay grade midpoint salary. Salary shall be calculated using whole percentages.

(d) Laid off employees. A former employee, separated from the classified service by layoff and reinstated or reemployed in the same or similar job classification within five (5) years from the date of layoff, may receive the salary the employee was receiving at the time of layoff, even if the salary is above the maximum of the pay grade.

(3) Probationary increments upon reentrance to state service. A former employee who is probationarily appointed at a salary at or below the midpoint of the pay grade shall receive a probationary increment upon successful completion of the probationary period.

Section 3. Salary Adjustments. (1) Promotion.

(a) An employee who is promoted shall receive the greater of five (5) percent for each grade, or an increase to the minimum of the new grade except as provided under subsection (2)(b) of this section; or

(b) If sufficient funds are available and except as provided under subsection (2)(b) of this section, an appointing authority may adjust the employee's salary up to the midpoint of the pay grade as long as the increase is greater than the increase specified in subsection (1)(a) of this section.

(2) Demotion.

(a) If an employee is demoted, the appointing authority shall determine the salary in one (1) of the following ways:

1. The employee's salary shall be reduced by five (5) percent for each grade the employee is reduced; or

2. The employee shall retain the salary received prior to demotion. If the employee's salary is not reduced upon demotion, the appointing authority shall explain the reason in writing and place the explanation in the employee's personnel files.

(b) An employee whose salary is not reduced by five (5) percent per grade upon demotion shall not be eligible for a salary increase upon promotion, reclassification, detail to special duty, reallocation, pay grade change, or successful completion of promotional probation until the employee is moved to a job classification with a higher pay grade than that from which he was demoted. If a promotion, reclassification, detail to special duty, reallocation, or pay grade change occurs, it shall be deemed as having been made from the grade from which the employee had been demoted.

(c) In the event of a salary schedule adjustment of an entry level wage of a pay grade, if an employee demoted to a lower pay grade, retained his or her salary, and was subsequently promoted and on promotional probation on the effective date of the new salary schedule, if the employee's salary is less than five (5) percent above the new entry level salary of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

(3) Reclassification.

(a) An appointing authority shall adjust the salary of an employee who is advanced to a higher pay grade through reclassification in one (1) of the following ways:

1. The greater of five (5) percent for each grade or the new grade minimum except as provided under subsection (2)(b) of this

section; or

2. If sufficient funds are available and except as provided under subsection (2)(b) of this section, up to the midpoint of the pay grade as long as the increase is greater than the increase specified in subparagraph 1. of this paragraph.

(b) An employee who is placed in a lower pay grade through reclassification shall receive the same salary received prior to reclassification, but shall not be eligible for a salary increase upon promotion, reclassification, detail to special duty, reallocation, pay grade change, or successful completion of promotional probation until the employee is moved to a job classification with a higher pay grade than that from which he was reclassified. If a promotion, reclassification, detail to special duty, reallocation, or pay grade change occurs, it shall be deemed as having been made from the grade from which the employee had been reclassified.

(c) If sufficient funds are available, an appointing authority may adjust up to the midpoint of the pay grade the salary of an employee who is placed in the same pay grade through reclassification.

(d) An employee shall not be reclassified from a job classification that does not require the supervision of employees to a job classification that requires the supervision of employees as mandated within the job class specification.

(4) Reallocation.

(a) An employee who is advanced to a higher pay grade through reallocation shall receive the greater of five (5) percent for each grade or the new grade minimum except as provided under subsection (2)(b) of this section.

(b) An employee who is placed in a lower pay grade through reallocation shall receive the same salary received prior to reallocation, but shall not be eligible for a salary increase upon promotion, reclassification, detail to special duty, reallocation, pay grade change, or successful completion of promotional probation until he is moved to a job classification with a higher pay grade than that from which he was reallocated. If a promotion, reclassification, detail to special duty, reallocation, or pay grade change occurs, it shall be deemed as having been made from the grade from which the employee had been reallocated.

(5) Detail to special duty.

(a) An employee who is approved for detail to special duty shall receive, during the period of detail, the greater of five (5) percent for each grade or the new grade minimum except as provided under subsection (2)(b) of this section.

(b) An employee who is approved for detail to the same or lower pay grade shall receive the same salary received prior to detail.

(6) Reversion.

(a) The salary of an employee who is reverted while serving a promotional probationary period, or following detail to special duty in a higher pay grade, shall be adjusted to:

1. The salary received prior to the promotion or detail; and

2. All salary advancements and adjustments which would have been awarded if the promotion or detail had not occurred.

(b) The salary of an employee who is reverted from a position in the unclassified service to a position in the classified service shall be adjusted to:

1. The salary received prior to leaving the classified service; and

2. All salary advancements and adjustments which would have been awarded if the individual had remained in the classified service.

(c) The increment date of an employee who is reverted from a position in the unclassified service to a position in the classified service shall be restored to the increment date set prior to leaving the classified service.

(7) Pay grade changes.

(a) If a job classification is assigned to a higher pay grade, the appointing authority shall raise the salary of an employee below the new grade minimum to the new grade minimum. If sufficient funds are available, an appointing authority may uniformly adjust the salary of all employees in that agency in that job classification to:

1. The greater of the new grade minimum or five (5) percent; or

2. The greater of the new grade minimum or ten (10) percent.

(b) If a job classification is assigned to a lower pay grade, an employee in that job classification shall retain his current salary.

(8) Special entrance rates. If a special entrance rate is established for a job classification, an appointing authority shall adjust the salary of an employee in that job classification who is below the special entrance rate to the new rate. If sufficient funds are available, on the same date as the establishment of the special entrance rate, an appointing authority may uniformly grant to all employees in that job classification, except those employees who are on initial probation, a salary adjustment equal to the difference between the entrance of the pay grade[former entrance rate] and the new entrance rate.

(9) Other salary adjustments. On the 16th of a month, an appointing authority may grant a salary adjustment to all employees in a job classification within an agency who were eligible for, but did not receive, a five (5) percent or ten (10) percent salary adjustment as a result of a grade change applicable to the job classification, on or after January 1, 1999. The total adjustment granted at the time of the grade change and under this paragraph shall equal five (5) percent or ten (10) percent of the employee's salary immediately prior to the grade change. Such adjustment shall not be retroactive.

(10) Conversion rule. The salary of an employee whose position changes from a thirty-seven and five-tenths (37.5) hour workweek to a forty (40) hour workweek, or vice versa, shall be converted to accurately reflect the employee's hourly rate of base pay. This conversion shall be applied before applying any other salary adjustment to which the employee is entitled pursuant to this section.

Section 4. Salary Advancements. (1) Initial probation increase. A full-time or part-time employee who completes an initial probationary period shall be granted a five (5) percent salary advancement on the first of the month following completion of the probationary period.

(2) Promotional probation increase. An employee shall receive a five (5) percent salary advancement on the first of the month following completion of the promotional probationary period except as provided under Sections 3(2)(b), 3(3)(b), and 3(4)(b) of this administrative regulation.

(3) Annual increment dates shall be established as follows:

(a) Upon completion of an initial probationary period;

(b) When a former employee has been probationarily appointed and has received compensation in any twelve (12) months without receiving an increment; or

(c) When an employee returns from leave without pay under the provisions of subsection (5) of this section.

(4) Annual increment dates shall not change if an employee:

(a) Is in a position which is assigned a new or different pay grade;

(b) Receives a salary adjustment as a result of a reallocation;

(c) Is promoted;

(d) Is transferred;

(e) Is demoted;

(f) Is detailed to special duty;

(g) Receives an educational achievement award;

(h) Returns from military leave;

(i) Is reclassified;

(j) Receives a promotional increase after completion of a promotional probationary period; or

(k) Is reemployed after layoff.

(5) Return from leave without pay. An employee returning to duty from leave without pay shall receive an annual increment on the first of the month after receiving compensation in any twelve (12) months since the last increment was received.

(6) Service computation. Full-time and part-time service shall be counted in computing service for the purpose of determining increment eligibility.

(7) Order of calculating increments and other salary increases which occur at the same time. If an employee's increment date occurs on the same date that a salary adjustment or advancement is granted, the increment shall be applied before the adjustment or

advancement is added to the employee's salary, except if the adjustment is based on a reversion, pay grade change, a salary schedule change, or establishment of a special entrance rate.

Section 5. Educational Achievement Award. (1) On the 16th of a month, an appointing authority may grant a five (5) percent increase to an employee's base salary based on educational achievement as specified in this section.

(2) An agency may elect not to participate in the educational achievement program if sufficient funds are not available.

(3) An employee shall not receive more than one (1) educational achievement award in a fiscal year.

(4) An employee shall not receive an educational achievement award and an adjustment for continuing excellence (ACE) based on the same training.

(5) By submitting a personnel action to grant an educational achievement award, the appointing authority shall certify that all of the qualifying conditions established by this section for the appropriate type of educational achievement award have been met.

(a) For a high school diploma, high school equivalency certificate, or a passing score on the GED test, the qualifying conditions shall be met if:

1. The employee has obtained the high school diploma, equivalency certificate, or passing score on the GED test:

- a. Outside of work hours;
- b. While in state service; and
- c. After establishing an increment date;

2. The employee has not previously attained a high school diploma, equivalency certificate, or passing score on the GED test; and

3. The employee has not completed college coursework on the undergraduate or graduate level prior to obtaining the high school diploma, equivalency certificate, or a passing score on the GED test.

(b) For postsecondary education or training, the qualifying conditions shall be met if:

1. The employee has completed 260 hours of job-related instruction, or the equivalent;

2. The employee began the course work after becoming a state employee and completed the course work after establishing an increment date;

3. The employee has completed the course work within five (5) years of the date on which it was begun;

4. The course work has not previously been applied toward an educational achievement award;

5. The agency has not paid for the course work or costs associated with it, in whole or in part; and

6. The employee was not on educational or extended sick leave when the courses were taken.

Section 6. Salary Schedule Adjustment. (1) If the secretary authorizes an adjustment of the salary schedule, an appointing authority shall adjust the salaries of all employees below the new schedule entry level wage for the pay grade[minimum-rate] to the new schedule entry level wage for the pay grade[minimum-rate]. If sufficient funds are available, the secretary may authorize an appointing authority to grant a salary increase for all employees equal to the difference in the old schedule entry level wage[minimum] for the grade and the new schedule entry level wage[minimum] for the grade.

(2) After consultation with the state budget director, if sufficient funds are available, and the Secretary of Personnel determines that an increase in the entry level wage of one (1) or more pay grades is warranted, the Personnel Cabinet shall identify each currently active employee in the pay grade(s), other than an interim employee, who is not on initial or promotional probation at the time the revised salary schedule becomes effective. For an employee whose salary is less than five (5) percent above the new entry level wage of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

Section 7. Paid Overtime. (1) Overtime for which pay is authorized shall be in accordance with 101 KAR 2:102, Section 5, and the Fair Labor Standards Act, 29 U.S.C. Section 201, et seq., as amended.

(2) Eligibility for overtime pay shall be approved by the appointing authority, and shall be subject to review by the Secretary of Personnel.

(3) An employee who is eligible for overtime shall request permission from or be directed in advance by the supervisor to work overtime.

(4) An overtime payment shall not be added to base salary or wages.

Section 8. Maintenance and Maintenance Allowance. If an employee, or the employee and family, is provided with full or partial maintenance, consisting of one (1) or more meals per day, lodging or living quarters, and domestic or other personal services, the maintenance shall be treated as partial payment of wages. The value of those services shall be deducted from the employee's salary in accordance with a maintenance schedule developed by the appropriate appointing authority after consultation with the Secretary of the Finance and Administration Cabinet.

Section 9. Supplemental Premiums. (1) Locality premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a locality premium for an employee who is regularly or temporarily assigned to work in a job classification, work county, and organizational unit where the agency can demonstrate sustained recruitment and retention issues impacting the mission of the agency.

(b) Once authorized, this premium shall apply to all employees in that organizational unit who are regularly or temporarily assigned to work in the job classification and work county for which the locality premium is approved.

(c) An employee shall not receive a locality premium after transfer, reclassification, reallocation, detail to special duty, promotion or demotion to a position in a job classification, organizational unit, or work county that is ineligible for a locality premium.

(d) The secretary may rescind authorization to pay a locality premium for a job classification at any time.

(e) Locality premium pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(2) Shift premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental premium for an employee who is regularly assigned to work an evening or night shift in that agency.

(b) Once authorized, this premium shall apply to all employees in that agency who are regularly assigned to work an evening or night shift in a job classification for which the shift premium is approved.

(c) An employee shall not receive a shift premium after shift reassignment, transfer, promotion or demotion to a position that is ineligible for a shift differential premium.

(d) The secretary may rescind authorization to pay shift premium for a job classification at any time.

(e) Shift differential pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(3) Weekend premium.

(a) Upon request by an appointing authority, the secretary shall authorize the payment of a weekend premium for an employee in a specific job classification who is regularly assigned to work on Saturdays, Sundays, or state holidays as part of the usual work week.

(b) Once authorized, the premium shall apply to all employees in the specified job classifications in that agency who are regularly assigned to work Saturdays, Sundays, or state holidays as part of their usual work week.

(c) An employee shall not receive a weekend premium after reassignment, transfer, promotion, or demotion to a position that is ineligible for weekend premium.

(d) The secretary may rescind authorization to pay weekend

premium at any time.

(e) Weekend premium pay shall not be considered part of the employee's base salary or wages and shall not be applied to any leave time usage.

(f) An agency may request, and be authorized for, both shift premium and weekend premium for the same job classifications.

(4) Multilingual hourly premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental multilingual hourly premium for an employee who is assigned to complete work duties in a specified foreign language. An employee completing work duties in a specified foreign language shall receive a multilingual hourly premium based on the percentage of time multilingual skills are performed. An employee in a job classification that includes interpreting services as a characteristic of the job on the job class specification shall not be eligible for this premium.

(b) Language proficiency testing shall be completed prior to an employee receiving the multilingual hourly premium. Testing shall indicate a standard level of multilingual proficiency as required by the appointing authority.

(c) An appointing authority shall submit the multilingual premium request to the Personnel Cabinet in writing. The request shall contain, at a minimum:

1. An explanation of the reason or reasons for granting the multilingual premium;

2. The percentage of time the employee will use multilingual skills; and

3. Certification by the appointing authority that the employee has completed multilingual testing and received a standard level of multilingual proficiency rating. This certification shall include the name of the testing facility or organization, the format of the test taken (oral, written, or a combination of oral and written), and the level of proficiency granted in the request for the multilingual premium.

(d) Once authorized, the multilingual hourly premium shall apply to all employees in that agency who are regularly assigned to complete work in a specified foreign language once the employees are individually approved in accordance with this subsection.

(e) An employee shall not receive a multilingual hourly premium after reassignment, reclassification, transfer, promotion, reallocation, or demotion to a position which no longer requires work in a specified foreign language.

(f) An employee who ceases to perform work duties in a specified foreign language shall not be eligible to receive a multilingual hourly premium.

(g) The secretary may rescind the multilingual hourly premium authorization provided to an agency or individual employee at any time.

(h) The multilingual hourly premium shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(5) Critical position premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a premium for a position held by an employee who has established an annual increment date and is regularly assigned to perform job duties that are deemed critical to the operation of the agency.

(b) A critical position premium may be authorized for at least one (1) full-time filled position in an office or department. The premium may be authorized for additional full-time filled positions if the total number of premiums does not exceed one (1) percent of the total number of full-time filled positions in an office or department.

(c) The premium shall not exceed twenty-five (25) percent of the employee's hourly rate.

(d) The critical position designation shall expire when the position becomes vacant.

(e) An employee shall not receive a critical position premium after transfer, reclassification, reallocation, detail to special duty, promotion or demotion to a position in a different job classification, organizational unit, or work county, unless the appointing authority submits a new request, for approval by the secretary, to designate the position in the different job classification, organizational unit, or

work county as critical prior to the personnel action at issue.

(f) The appointing authority or the secretary may rescind authorization to pay a critical position premium at any time.

(g) A critical position premium shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

Section 10. Employee Recognition Award (ERA). (1) On the 16th day of a month, an appointing authority may grant an employee an ERA in the form of a lump sum payment of any whole percentage from one (1) to ten (10) percent of the grade midpoint under the following conditions:

(a) The employee has established an annual increment date and has worked at least twenty-four (24) consecutive months in KRS Chapter 18A state service, twelve (12) consecutive months of which is in the department or office granting the award;

(b) The employee has not received an ERA in the preceding twenty four (24) months, nor an Adjustment for Continuing Excellence (ACE) award in the preceding twelve (12) months; and

(c)1. The appointing authority determines that the employee's acts or ideas have resulted in significant financial savings or improvements in services to the Commonwealth and its citizens;

2. The employee has exhibited distinguished performance during participation in special projects that have had a significant beneficial impact on the department, office, or governmental operations; or

3. The employee has demonstrated a sustained level of exceptional job performance.

(2) An employee shall not be eligible for an ERA under this section for an act or idea that has been approved or submitted for consideration as an Employee Suggestion System Award. An employee who has received an ERA shall not be eligible to be considered for an Employee Suggestion System Award for those acts or ideas upon which the ERA is based.

(3) The granting of an ERA shall be within the sole discretion of the appointing authority.

(4) If an appointing authority grants an ERA, the justification for the award shall be stated in writing, and placed in the employee's personnel files.

(5) An appointing authority shall not grant an ERA to more than twenty-five (25) percent of the total number of full-time employees in a department or office in a calendar year.

(6) An appointing authority shall submit a written justification to the Personnel Cabinet to award an ERA. The justification shall:

(a) Explain the reason or reasons for the granting of the award; and

(b) Include a certification by the appointing authority that:

1. Sufficient funds are available within the department or office; and

2. The criteria and limitations established in this section have been met.

Section 11. Adjustment for Continuing Excellence (ACE) Award. (1) On the 16th day of a month, an appointing authority may grant a salary adjustment of any whole percentage from one (1) to ten (10) percent of the grade midpoint of the position in which the employee holds status to a full-time employee's base pay as an ACE award under the following conditions:

(a) The employee has an established annual increment date;

(b) The employee has worked at least twenty-four (24) consecutive months in KRS Chapter 18A state service, twelve (12) consecutive months of which shall have been served in the department or office granting the award;

(c) The employee has not received an ACE award in the preceding twenty-four (24) months or an ERA in the preceding twelve (12) months; and

(d)1. The employee has demonstrated a sustained level of exceptional job performance;

2. The employee has assumed a significant level of additional job responsibilities or duties consistent with the assigned job classification, and has performed them in an exceptional manner; or

3. The employee has acquired professional or technical skills

or knowledge through department or office directed or authorized attainment of a job related licensure, certification, or formal training that will substantially improve job performance.

(2) An employee shall not be eligible for an ACE award under this section if an educational achievement award has been granted for the same training.

(3) The granting of an ACE award shall be within the sole discretion of the appointing authority.

(4) An appointing authority shall not grant an ACE award to more than twenty-five (25) percent of the total number of full-time employees in a department or office in a calendar year.

(5) An appointing authority shall submit a written justification to the Personnel Cabinet to grant an ACE award. The justification shall:

(a) Explain the reason or reasons for the granting of the award; and

(b) Include a certification by the appointing authority that:

1. The criteria and limitations established in this section have been met; and

2. Sufficient funds are available within the department's or office's current recurring base budget to support the award.

Section 12. Voluntary actions. An employee request for transfer, demotion, or promotion shall be documented on the Voluntary Transfer/Demotion/Promotion Employee Agreement Form in Accordance with 101 KAR 1:335 and 101 KAR 1:400.

Section 13. Incorporation by Reference. (1) "Voluntary Transfer/Demotion/Promotion Employee Agreement Form", September 2017, 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 a.m. to 4:30 p.m.

THOMAS B. STEPHENS, Secretary

APPROVED BY AGENCY: March 8, 2019

FILED WITH LRC: March 15, 2019 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 22, 2019 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 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 April 30, 2019. 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: Rosemary Holbrook, Executive Director, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone: (502) 564-7430, fax: (502) 564-0224, email: RosemaryG.Holbrook@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rosemary Holbrook

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes requirements for administration of the pay plan for classified employees.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to assure uniformity and equity for administration of the pay plan for classified employees.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 18A.110 requires the secretary to promulgate administrative regulations which govern the pay plan

for all employees in the classified service.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation ensures the consistent application and handling of classified compensation.

(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 amendments to this administrative regulation clarify salary review requirements when a new appointee is hired at a salary above entry level; provide an additional option to set the salary of an employee returning to the classified service; clarify salary options for reclassification; clarify requirements for salary adjustments due to establishment of a special entrance rate; add language to ensure consistency for optional adjustments due to pay grade changes; establish methods for adjusting employee salaries in conjunction with adjustment to the salary schedule; establish a supplemental premium for filled positions with job duties deemed critical to the operation of the agency; and clarify that a salary adjustment for an ACE award is based on the position in which an employee holds status.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to clarify requirements and promote consistency for classified compensation.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 18A.110 requires the secretary to promulgate administrative regulations which govern the pay plan for all employees in the classified service.

(d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies requirements and promotes consistency for classified compensation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All KRS Chapter 18A employees in classified positions are subject to the provisions of 101 KAR 2:034.

(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 additional action is required.

(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 additional costs anticipated to any entity identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No additional benefits will accrue.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, is not anticipated to generate any new or additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This regulation, as amended, is not anticipated to generate any new or additional costs.

(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 regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted entities 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? All state agencies with classified employees covered under KRS Chapter 18A.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.110(1)(c), (d), (g), and (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.

(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? There are no estimated additional costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no estimated additional costs to administer the amendments to 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:

PERSONNEL CABINET (Amendment)

101 KAR 3:045. Compensation plan and pay incentives for unclassified service.

RELATES TO: KRS 18A.110, 18A.155, 18A.202, 199.555

STATUTORY AUTHORITY: KRS 18A.030(2), 18A.155(1)(b), (e), 18A.110(2), 18A.202(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.155 requires the Secretary of Personnel to promulgate administrative regulations for persons in positions enumerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (t) and (u). KRS 18A.110 requires the secretary to promulgate comprehensive administrative regulations for the unclassified service. KRS 18A.202 authorizes the secretary to implement work-related incentive programs for state employees. This administrative regulation establishes the compensation plan and pay incentives for employees in unclassified service.

Section 1. New Appointments. An appointing authority shall appoint a new employee at a salary not to exceed the midpoint of the pay grade.

Section 2. Reentrance to State Service. (1) Returning retirees. An employee who was formerly employed under KRS Chapter 18A and who is appointed to a position covered by the provisions of KRS Chapter 18A, while receiving retirement payments through the Kentucky Retirement Systems or Kentucky Teachers Retirement System, shall be appointed in accordance with the provisions for new appointments in this administrative regulation.

(2) Other reentering employees. An appointing authority shall set the salary of a former classified or unclassified employee, other than a returning retiree:

(a) In accordance with the standards used for making new appointments in this administrative regulation; or

(b) Up to a salary formerly paid in the classified or unclassified service, if that salary is within the current pay grade.

Section 3. Salary Adjustments. (1) Promotion.

(a)1. An employee who is promoted shall receive a five (5)

percent increase or an increase to the minimum of the new grade, whichever is greater; or

2. An appointing authority may grant a salary increase of five (5) percent per grade upon promotion.

(b) If sufficient funds are available, an appointing authority may adjust the employee's salary up to the midpoint of the pay grade as long as the increase is greater than the increase specified in subparagraph 1. of subsection (1)(a) of this section.

(2) Demotion. If an employee is demoted, the appointing authority shall determine the salary in one (1) of the following ways:

(a) The employee's salary shall be reduced to a rate that is not below the minimum for the job classification to which the demotion is made;[or]

(b) The employee shall retain the salary received prior to the demotion. If the employee's salary is not reduced upon demotion, the appointing authority shall explain the reason in writing and place the explanation in the employee's personnel files; or

(c) In the event of a salary schedule adjustment of an entry level wage of a pay grade, if an employee demoted to a lower pay grade, retained his or her salary, and was subsequently promoted and on promotional probation on the effective date of the new salary schedule, if the employee's salary is less than five (5) percent above the new entry level salary of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

(3) Reclassification.

(a) An appointing authority shall adjust the salary of an employee who is advanced to a higher pay grade through reclassification in one (1) of the following ways:

1. The greater of five (5) percent or the new grade minimum;

2. The greater of five (5) percent for each grade or the new grade minimum; or

3. If sufficient funds are available, up to the midpoint of the pay grade as long as the increase is greater than the increase specified in subparagraph 1. of this paragraph.

(b) An employee who is placed in a lower pay grade through reclassification shall receive the same salary received prior to reclassification.

(c) If sufficient funds are available, an appointing authority may adjust up to the midpoint of the pay grade the salary of an employee who is placed in the same pay grade through reclassification.

(d) An employee shall not be reclassified from a job classification that does not require the supervision of employees to a job classification that requires the supervision of employees as mandated within the job class specification.

(4) Reallocation.

(a) An employee who is advanced to a higher pay grade through reallocation shall receive a five (5) percent increase or an increase to the new grade minimum, whichever is greater. An appointing authority may grant a five (5) percent increase per grade upon reallocation to a higher grade.

(b) An employee who is placed in a lower pay grade through reallocation shall receive the same salary received prior to reallocation.

(5) Detail to special duty.

(a) An employee who is detailed to special duty in a higher grade shall receive a five (5) percent increase or an increase to the minimum of the grade, whichever is greater, for the duration of the period of the detail. An appointing authority may grant a salary increase of five (5) percent per grade for the duration of the detail.

(b) An employee who is detailed to special duty to the same or lower grade shall continue to receive the same salary.

(6) Reversion.

(a) The salary of an employee who is reverted following detail to special duty in a higher pay grade shall be adjusted to:

1. The salary received prior to the detail; and

2. All salary advancements and adjustments which would have been awarded if the detail had not occurred.

(b) The salary of an employee who is reverted from a position in the unclassified service to a position in the classified service

shall be adjusted to:

1. The salary received prior to leaving the classified service; and

2. All salary advancements and adjustments which would have been awarded if the individual had remained in the classified service.

(7) Pay grade changes.

(a) If a job classification is assigned to a higher pay grade, the appointing authority shall raise the salary of an employee below the new grade minimum to the new grade minimum. If sufficient funds are available, an appointing authority may uniformly adjust the salary of all employees in that agency in that job classification to:

1. The greater of the new grade minimum or five (5) percent; or
2. The greater of the new grade minimum or ten (10) percent.

(b) If a job classification is assigned to a lower pay grade, an employee in that job classification shall retain his current salary.

(8) Special entrance rates. If a special entrance rate is established for a job classification, an appointing authority shall adjust the salary of an employee in that job classification, who is below the special entrance rate, to the new rate. If sufficient funds are available, on the same date as the establishment of the special entrance rate, an appointing authority may also grant a salary adjustment equal to the difference between the entrance of the pay grade~~former entrance rate~~ and the new special entrance rate to other employees in that job classification, except those employees who are on initial probation.

(9) Other salary adjustments.

(a) On the 16th of a month, an appointing authority may grant a five (5) percent salary adjustment to an employee who was eligible for, but did not receive an increase upon the completion of six (6) months service following promotion.

(b) On the 16th of a month, an appointing authority may grant a salary adjustment to an employee within an agency who was eligible for, but did not receive at least a five (5) percent or ten (10) percent advancement as a result of a grade change on or after January 1, 1999. The total adjustment under this provision when combined with an increase at the time of the grade change shall equal five (5) percent or ten (10) percent of the employee's salary immediately prior to the grade change. Such adjustment shall not be retroactive.

(10) Conversion rule. The salary of an employee whose position changes from a thirty-seven and five-tenths (37.5) hour workweek to a forty (40) hour workweek, or vice versa, shall be converted to accurately reflect the employee's hourly rate of base pay. This conversion shall be applied before applying any other salary adjustment to which the employee is entitled pursuant to this section.

Section 4. Salary Advancements. (1) Initial appointment increase. An appointing authority may grant a five (5) percent increase to an employee, except an interim employee, on the first day of the month following completion of the greater of six (6) months of service or the months of service required by 101 KAR 1:325 Section 1 (2).

(2) Six (6) month promotional increase. An employee may receive a five (5) percent increase following the completion of the greater of six (6) months service after promotion or the months of service required by 101 KAR 1:325 Section 1 (2).

(3) Annual increment dates shall be established as follows:

(a) On the first day of the month following completion of the initial probation period; or

(b) On the first day of the month following completion of twelve (12) months service since receiving the last annual increment for an employee, other than an interim employee, who returns from leave without pay.

(4) Annual increment dates shall not change if an employee:

(a) Is in a position which is assigned a new or different pay grade;

(b) Receives a salary adjustment as a result of his position being reallocated;

(c) Is promoted;

(d) Is transferred;

(e) Is demoted;

(f) Is detailed to special duty;

(g) Receives an educational achievement award;

(h) Returns from military leave;

(i) Is reclassified; or

(j) Receives an increase six (6) months following promotion.

(5) Return from leave without pay. An employee, other than an interim employee, returning to duty from leave without pay shall receive an annual increment on the first of the month after receiving compensation in any twelve (12) months since the last increment was received.

(6) Service computation. Full-time and part-time service shall be counted when computing service for purposes of determining increment eligibility. Service as an interim employee, or in the former seasonal, temporary, or emergency categories shall not be considered.

(7) Order of calculating increments and other salary increases which occur at the same time. If an employee's increment date occurs on the same date that a salary adjustment or advancement is granted, the increment shall be applied before the adjustment or advancement is added to the employee's salary, except if the adjustment is based on a reversion, pay grade change, a salary schedule change, or establishment of a special entrance rate.

Section 5. Educational Achievement Award. (1) On the 16th of a month, an appointing authority may grant a five (5) percent increase to an employee's base salary based on educational achievement as specified in this section.

(2) An agency may elect not to participate in the educational achievement program if sufficient funds are not available.

(3) An employee shall not receive more than one (1) educational achievement award in a fiscal year.

(4) An employee shall not receive an educational achievement award and an adjustment for continuing excellence (ACE) based on the same training.

(5) By submitting a personnel action to grant an educational achievement award, the appointing authority shall certify that all of the qualifying conditions established by this section for the appropriate type of educational achievement award have been met.

(a) For a high school diploma, high school equivalency certificate, or a passing score on the GED test, the qualifying conditions shall be met if:

1. The employee has obtained the high school diploma, equivalency certificate, or passing score on the GED test:

- a. Outside of work hours;
- b. While in state service; and
- c. After establishing an increment date.

2. The employee has not previously attained a high school diploma, equivalency certificate, or passing score on the GED test; and

3. The employee has not completed college coursework on the undergraduate or graduate level prior to obtaining the high school diploma, equivalency certificate, or a passing score on the GED test.

(b) For postsecondary education or training, the qualifying conditions shall be met if:

1. The employee has completed 260 hours of job-related instruction, or the equivalent;

2. The employee began the course work after becoming a state employee and completed the course work after establishing an increment date;

3. The employee has completed the course work within five (5) years of the date on which it was begun;

4. The course work has not previously been applied toward an educational achievement award;

5. The agency has not paid for the course work or costs associated with it, in whole or in part; and

6. The employee was not on educational or extended sick leave when the courses were taken.

Section 6. Salary Schedule Adjustment. (1) If the secretary authorizes an adjustment of the salary schedule, an appointing

authority shall adjust the salaries of all employees below the new schedule entry level wage for the pay grade[minimum rate] to the new schedule entry level wage for the pay grade[minimum rate]. If sufficient funds are available, the secretary may authorize an appointing authority to grant a salary increase for all employees equal to the difference in the old schedule entry level wage[minimum] for the grade and the new schedule entry level wage[minimum] for the grade.

(2) After consultation with the state budget director, if sufficient funds are available, and the Secretary of Personnel determines that an increase in the entry level wage of one (1) or more pay grades is warranted, the Personnel Cabinet shall identify each currently active employee in the pay grade(s), other than an interim employee, who is not on initial or promotional probation at the time the revised salary schedule becomes effective. For an employee whose salary is less than five (5) percent above the new entry level salary of the pay grade assigned to that employee on the effective date, the Personnel Cabinet shall adjust that employee's salary to five (5) percent above the new entry level wage.

Section 7. Maintenance and Maintenance Allowance. If an employee, or the employee and family, is provided with full or partial maintenance, consisting of one (1) or more meals per day, lodging or living quarters, and domestic or other personal services, the maintenance shall be treated as partial payment of wages. The value of those services shall be deducted from the employee's salary in accordance with a maintenance schedule developed by the appropriate appointing authority after consultation with the Secretary of the Finance and Administration Cabinet.

Section 8. Supplemental Premiums. (1) Locality premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a locality premium for an employee who is regularly or temporarily assigned to work in a job classification, work county, and organizational unit where the agency can demonstrate sustained recruitment and retention issues impacting the mission of the agency.

(b) Once authorized, this premium shall apply to all employees in that organizational unit who are regularly or temporarily assigned to work in the job classification and work county for which the locality premium is approved.

(c) An employee shall not receive a locality premium after transfer, reclassification, reallocation, detail to special duty, promotion or demotion to a position in a job classification, organizational unit, or work county that is ineligible for a locality premium.

(d) The secretary may rescind authorization to pay a locality premium for a job classification at any time.

(e) Locality premium pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(2) Shift premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental premium for an employee who is regularly assigned to work an evening or night shift in that agency.

(b) Once authorized, this premium shall apply to all employees in that agency who are regularly assigned to work an evening or night shift in a job classification for which the shift premium is approved.

(c) An employee shall not receive a shift premium after shift reassignment, transfer, promotion or demotion to a position that is ineligible for a shift differential premium.

(d) The secretary may rescind authorization to pay shift premium for a job classification at any time.

(e) Shift differential pay shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

(3) Weekend premium.

(a) Upon request by an appointing authority, the secretary shall authorize the payment of a weekend premium for an employee in a specific job classification who is regularly assigned to work on Saturdays, Sundays, or state holidays as part of the usual work week.

(b) Once authorized, the premium shall apply to all employees

in the specified job classifications in that agency who are regularly assigned to work Saturdays, Sundays, or state holidays as part of their usual work week.

(c) An employee shall not receive a weekend premium after reassignment, transfer, promotion, or demotion to a position that is ineligible for weekend premium.

(d) The secretary may rescind authorization to pay weekend premium at any time.

(e) Weekend premium pay shall not be considered part of the employee's base salary or wages and shall not be applied to any leave time usage.

(f) An agency may request, and be authorized for, both shift premium and weekend premium for the same job classifications.

(4) Multilingual hourly premium.

(a) Upon request by an appointing authority, the secretary may authorize the payment of a supplemental multilingual hourly premium for an employee who is assigned to complete work duties in a specified foreign language. An employee completing work duties in a specified foreign language shall receive a multilingual hourly premium based on the percentage of time multilingual skills are performed. An employee in a job classification that includes interpreting services as a characteristic of the job on the job class specification shall not be eligible for this premium.

(b) Language proficiency testing shall be completed prior to an employee receiving the multilingual hourly premium. Testing shall indicate a standard level of multilingual proficiency as required by the appointing authority.

(c) An appointing authority shall submit the multilingual premium request to the Personnel Cabinet in writing. The request shall contain, at a minimum:

1. An explanation of the reason or reasons for granting the multilingual premium;

2. The percentage of time the employee will use multilingual skills; and

3. Certification by the appointing authority that the employee has completed multilingual testing and received a standard level of multilingual proficiency rating. This certification shall include the name of the testing facility or organization, the format of the test taken (oral, written, or a combination of oral and written), and the level of proficiency granted in the request for the multilingual premium.

(d) Once authorized, the multilingual hourly premium shall apply to all employees in that agency who are regularly assigned to complete work in a specified foreign language once the employees are individually approved in accordance with this subsection.

(e) An employee shall not receive a multilingual hourly premium after reassignment, reclassification, transfer, promotion, reallocation, or demotion to a position which no longer requires work in a specified foreign language.

(f) An employee who ceases to perform work duties in a specified foreign language shall not be eligible to receive a multilingual hourly premium.

(g) The secretary may rescind the multilingual hourly premium authorization provided to an agency or individual employee at any time.

(h) The multilingual hourly premium shall not be considered a part of base pay or wages and shall not be applied to any leave time usage.

Section 9. Employee Recognition Award (ERA). (1) On the 16th day of a month, an appointing authority may grant an employee an ERA in the form of a lump sum payment of any whole percentage from one (1) to ten (10) percent of the grade midpoint under the following conditions:

(a) The employee has established an annual increment date and has worked at least twenty-four (24) consecutive months in KRS Chapter 18A state service, twelve (12) consecutive months of which is in the department or office granting the award;

(b) The employee has not received an ERA in the preceding twenty four (24) months, nor an Adjustment for Continuing Excellence (ACE) award in the preceding twelve (12) months; and

(c)1. The appointing authority determines that the employee's acts or ideas have resulted in significant financial savings or

improvements in services to the Commonwealth and its citizens;

2. The employee has exhibited distinguished performance during participation in special projects that have had a significant beneficial impact on the department, office, or governmental operations; or

3. The employee has demonstrated a sustained level of exceptional job performance.

(2) An employee shall not be eligible for an ERA under this section for an act or idea that has been approved or submitted for consideration as an Employee Suggestion System Award. An employee who has received an ERA shall not be eligible to be considered for an Employee Suggestion System Award for those acts or ideas upon which the ERA is based.

(3) The granting of an ERA shall be within the sole discretion of the appointing authority.

(4) If an appointing authority grants an ERA, the justification for the award shall be stated in writing, and placed in the employee's personnel files.

(5) An appointing authority shall not grant an ERA to more than twenty-five (25) percent of the total number of full-time employees in a department or office in a calendar year.

(6) An appointing authority shall submit a written justification to the Personnel Cabinet to award an ERA. The justification shall:

(a) Explain the reason or reasons for the granting of the award; and

(b) Include a certification by the appointing authority that:

1. Sufficient funds are available within the department or office; and

2. The criteria and limitations established in this section have been met.

Section 10. Adjustment for Continuing Excellence (ACE) Award. (1) On the 16th day of a month, an appointing authority may grant a salary adjustment of any whole percentage from one (1) to ten (10) percent of the grade midpoint to a full-time employee's base pay as an ACE award under the following conditions:

(a) The employee has an established annual increment date;

(b) The employee has worked at least twenty-four (24) consecutive months in KRS Chapter 18A state service, twelve (12) consecutive months of which shall have been served in the department or office granting the award;

(c) The employee has not received an ACE award in the preceding twenty-four (24) months or an ERA in the preceding twelve (12) months; and

(d) 1. The employee has demonstrated a sustained level of exceptional job performance;

2. The employee has assumed a significant level of additional job responsibilities or duties consistent with the assigned job classification, and has performed them in an exceptional manner; or

3. The employee has acquired professional or technical skills or knowledge through department or office directed or authorized attainment of a job related licensure, certification, or formal training that will substantially improve job performance.

(2) An employee shall not be eligible for an ACE award under this section if an educational achievement award has been granted for the same training.

(3) The granting of an ACE award shall be within the sole discretion of the appointing authority.

(4) An appointing authority shall not grant an ACE award to more than twenty-five (25) percent of the total number of full-time employees in a department or office in a calendar year.

(5) An appointing authority shall submit a written justification to the Personnel Cabinet to grant an ACE award. The justification shall:

(a) Explain the reason or reasons for the granting of the award; and

(b) Include a certification by the appointing authority that:

1. The criteria and limitations established in this section have been met; and

2. Sufficient funds are available within the department's or office's current recurring base budget to support the award.

Section 11. Adoption Benefit Program. The provisions of the Adoption Benefit Program established in 101 KAR 2:120 shall apply to an employee in the unclassified service.

THOMAS B. STEPHENS, Secretary

MATTHEW G. BEVIN, Governor

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 22, 2019 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 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 April 30, 2019. 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: Rosemary Holbrook, Executive Director, Office of Legal Services, 501 High Street, 3rd floor, Frankfort, Kentucky 40601, phone (502) 564-7430, fax (502) 564-0224, email RosemaryG.Holbrook@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Rosemary Holbrook

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the compensation plan and pay incentives for employees in unclassified service.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to assure uniformity and equity for administration of the pay plan and pay incentives for unclassified employees.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 18A.155 requires the Secretary of Personnel to promulgate administrative regulations for persons in positions enumerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (t) and (u). KRS 18A.110 requires the secretary to promulgate comprehensive administrative regulations for the unclassified service. KRS 18A.202 authorizes the secretary to implement work-related incentive programs for state employees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation ensures the consistent application and handling of compensation and pay incentives for employees in unclassified service.

(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 amendments to this administrative regulation clarify salary options for reclassification; clarify requirements for salary adjustments due to establishment of a special entrance rate; add language to ensure consistency for optional adjustments due to pay grade changes; clarify the timing of an initial appointment and promotional increases; and establish methods for adjusting employee salaries in conjunction with adjustment to the salary schedule.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to clarify requirements and promote consistency for unclassified compensation and pay incentives.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 18A.155 requires the Secretary of Personnel to promulgate administrative regulations for persons in positions enumerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (t) and (u). KRS 18A.110 requires the secretary to promulgate comprehensive administrative regulations for the unclassified

service. KRS 18A.202 authorizes the secretary to implement work-related incentive programs for state employees.

(d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies requirements and promotes consistency for unclassified compensation and pay incentives.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: KRS Chapter 18A employees in unclassified positions within executive branch agencies are subject to the provisions of 101 KAR 3:045.

(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 additional action is required.

(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 additional costs anticipated to any entity identified above.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): No additional benefits will accrue.

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

(a) Initially: This regulation, as amended, is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This regulation, as amended, is not anticipated to generate any new or additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This regulation, as amended, is not anticipated to generate any new or additional costs.

(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 regulation, as amended, is not anticipated to generate any new or additional fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation, as amended, is not anticipated to generate any new or additional fees.

(9) TIERING: Is tiering applied? No. This regulation, as amended, treats all impacted entities 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? All state agencies with unclassified employees covered under KRS Chapter 18A.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 18A.030(2), 18A.155(1)(b), (e), 18A.110(2), 18A.202(1)

(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? There are no estimated additional costs to administer the amendments to this regulation.

(d) How much will it cost to administer this program for subsequent years? There are no estimated additional costs to

administer the amendments to 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:

GENERAL GOVERNMENT CABINET Kentucky State Board of Accountancy (Amendment)

201 KAR 1:300. Rules of professional conduct.

RELATES TO: KRS 325.240, 325.340

STATUTORY AUTHORITY: KRS 325.240

NECESSITY, FUNCTION, AND CONFORMITY: ~~[Pursuant to KRS 325.240, the Kentucky State Board of Accountancy may promulgate rules of professional conduct.] This administrative regulation is necessary to establish the Kentucky State Board of Accountancy Rules of Professional Conduct. The State Board of Accountancy decided to adopt and incorporate by reference the AICPA Code of Professional Conduct [that are patterned after the Code of Professional Conduct adopted by the American Institute of Certified Public Accountants (AICPA). The function of this administrative regulation is to adopt appropriate rules of professional conduct to establish and maintain a high standard of integrity and dignity in the public accounting profession.]~~ The State Board of Accountancy may review the AICPA's interpretations of its code of professional conduct for guidance when applying the provisions of this administrative regulation.

Section 1. Definitions. (1) "AICPA" means the American Institute of Certified Public Accountants.

(2) ~~["Audit" means an examination of financial statements of an entity in accordance with standards promulgated by the American Institute of Certified Public Accountants (AICPA), including generally accepted auditing standards (GAAS) and upon which an opinion is expressed or disclaimed regarding whether the financial statements conform to generally accepted accounting principles (GAAP) or other comprehensive basis of accounting.~~

(3) ~~"Board" is defined by [in] KRS 325.220(1). [(4) "Client" means a person or entity which retains a licensee to provide public accounting services.~~

(5) ~~"Commission" means any item of value given or received by a licensee to or from any third party in return for suggesting the purchase of any product or service.~~

(6) ~~"Compilation" means presenting in the form of financial statements information that is the representation of management or owners without undertaking to express any assurance on the statements.~~

(7) ~~"Contingent fee" means a fee established for the performance of any public accounting service pursuant to a written or oral agreement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service.~~

(8) ~~"Financial statement" means a presentation of financial data, including accompanying notes, derived from accounting records and intended to communicate an entity's economic resources and obligations at a point in time, or the changes therein for a period of time, in accordance with generally accepted accounting principles (GAAP) or a comprehensive basis of accounting other than generally accepted accounting principles (GAAP).~~

(a) ~~General use financial statements, financial forecasts, projections and similar presentations are considered financial statements.~~

(b) ~~Financial presentations included in tax returns are not financial statements.~~

(9) ~~"Generally accepted accounting principles (GAAP)" means the conventions, rules, and procedures which describe accepted accounting practices at a particular time and include broad~~

~~guidelines of general applications and detailed practices and procedures that provide a standard by which to measure financial presentations.~~

~~(10) "Review" means performing inquiry and analytical procedures that provide the licensee with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements for them to be in conformity with generally accepted accounting principles (GAAP) or, if applicable, with another comprehensive basis of accounting.~~

~~Section 2. Independence. (1) A licensee or a firm shall not express an opinion on financial statements of an entity unless he and the firm are independent with respect to the entity.~~

~~(2) Prior to expressing an opinion on financial statements, the licensee shall assess his relationship with the entity to determine whether his opinion will be considered independent, objective and unbiased by a third party having knowledge of all facts referring to the relationship between the licensee and the entity.~~

~~(3) A licensee shall not be considered to be independent if during the period:~~

~~(a) Of the engagement or at the time of expressing his opinion, the licensee or his firm:~~

~~1. Had or was committed to acquire any direct or material indirect financial interest in the entity;~~

~~2. Was a trustee of any trust or executor or administrator of any estate if the trust or estate had or was committed to acquire any direct or material indirect financial interest in the entity;~~

~~3. Had any joint, closely held business investment with the entity or any officer, director or principal stockholder which was material in relation to the licensee's or his firm's net worth;~~

~~4. Had any loan to or from the entity or to or from any officer, director or principal stockholder of the entity.~~

~~(b) Covered by the financial statements, the period of the professional engagement or at the time of expressing an opinion, the licensee or his firm served as a:~~

~~1. Promoter, underwriter, voting trustee, director, officer or in any capacity equivalent to that of a member of management or an employee of the entity; or~~

~~2. Trustee for a pension or profit sharing trust of the entity.~~

~~(4) The restriction found in subsection (3)(a)4 of this section shall not apply to the following loans obtained from a financial institution prior to January 1, 1992, which are current as to all terms of the loan, were made under normal lending procedures, terms and requirements, and have not been renegotiated:~~

~~(a) Loans obtained by a licensee or his firm which are not material in relation to the net worth of the borrower;~~

~~(b) Home mortgages; and~~

~~(c) Other secured loans, except loans guaranteed by a licensee's firm which are otherwise unsecured.~~

~~Section 3. Integrity and Objectivity. A licensee engaged in the practice of public accounting shall maintain objectivity, integrity, and be free of conflicts of interest. The licensee shall not subordinate his judgment to others.~~

~~Section 4. Competence. A licensee or a firm engaged in the practice of public accounting shall:~~

~~(1) Perform, or offer to perform, only those professional services that he or his firm may reasonably expect to complete with professional competence;~~

~~(2) Exercise due professional care in the performance of professional services;~~

~~(3) Adequately plan and supervise the performance of professional services; and~~

~~(4) Obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to any professional services performed.~~

~~Section 5. Standards of Practice. When performing an audit, review, compilation, or any other professional service within the practice of public accounting, the licensee and his firm shall comply with the following appropriate practice standards and all revisions~~

~~promulgated after these dates:~~

~~(1) Generally accepted auditing standards (GAAS) as reflected in the following documents:~~

~~(a) "AICPA Professional Standards", Volume 1, U.S. Auditing Standards, Section AU, as of June 1, 2001;~~

~~(b) Government Auditing Standards, "Yellow Book", General Accounting Office, 1994 revision;~~

~~(c) "Interpretation of Continuing Education and Training Requirements", Government Auditing Standards, General Accounting Office, April, 1991; and~~

~~(2) Other applicable standards:~~

~~(a) "AICPA Professional Standards", Volume 1, Attestation Engagements, Section AT, as of June 1, 2001;~~

~~(b) "AICPA Professional Standards", Volume 2, Accounting and Review Services, Section AR, as of June 1, 2001;~~

~~(c) "AICPA Professional Standards", Volume 2, Consulting Services, Section CS, as of June 1, 2001;~~

~~(d) "AICPA Professional Standards", Volume 2, Tax Practice, Section TX, as of June 1, 2001;~~

~~(e) "AICPA Professional Standards", Volume 2, Quality Control, Section QC, as of June 1, 2001; or~~

~~(f) "AICPA Professional Standards", Volume 2, Personal Financial Planning, Section PFP, as of June 1, 2001.~~

~~Section 6. Accounting Principles. (1) A licensee who is aware that the financial statement or financial data of any entity contains a departure from GAAP that has a material effect on the financial statement or financial data taken as a whole shall not:~~

~~(a) Express an opinion or state affirmatively that the financial statement or financial data are presented in conformity with GAAP or another comprehensive basis of accounting; or~~

~~(b) State that he is unaware of any material modifications that should be made to the statements in order for them to be in conformity with GAAP.~~

~~(2) Notwithstanding subsection (1) of this section, financial statements may depart from GAAP, if the licensee:~~

~~(a) Demonstrates that due to unusual circumstances the financial statements or data would otherwise have been misleading;~~

~~(b) Describes the departure;~~

~~(c) States the approximate effects, if practicable; and~~

~~(d) Explains the reasons why compliance with GAAP would result in a misleading statement.~~

~~(3) GAAP is established by principles, practices, or guidance provided in statements, interpretations, bulletins, guides, and other documents identified in "AICPA Professional Standards", Volume 1, U.S. Auditing Standards, Section AU 411, as of June 1, 2001.~~

~~Section 7. Confidential Client Information. A licensee shall comply with the requirements of KRS 325.440 relating to the disclosure of confidential client information.~~

~~Section 8. Client Records. (1) A licensee shall comply with the requirements of KRS 325.420 relating to the ownership of accountant's working papers client records.~~

~~(2) The licensee shall not have a lien on these accounting or other records.~~

~~Section 9. Advertising and Other Forms of Solicitation. A licensee shall not seek to obtain clients by:~~

~~(1) Advertising or other forms of solicitation that are false, misleading, or deceptive; or~~

~~(2) The use of coercion, overreaching or harassing conduct.~~

~~Section 10. Commissions. (1) A licensee shall not recommend or refer to a client any product or service in exchange for a commission, recommend any product or service to be supplied by his client to a third party, or receive a commission when the licensee or the licensee's firm also performs for that client:~~

~~(a) An audit or review of a financial statement;~~

~~(b) A compilation of a financial statement when the licensee expects or reasonably might expect that a third party will use the financial statement and the licensee's report does not disclose a~~

lack of independence; or

(c) An examination of prospective financial information.

(2) The prohibition of subsection (1) of this section applies during the period in which the licensee is engaged to perform any of the services listed in subsection (1)(a), (b), and (c) of this section and the period covered by any historical financial statements involved in the listed services.

(3) A licensee who is not prohibited from receiving a commission and who is paid or expects to be paid a commission shall disclose that fact in writing to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates.

(4) A licensee who accepts a fee for recommending or referring any service of another licensee to any person or entity or who pays a fee to obtain a client shall disclose the receipt or payment of the fee to the client.

(5) This rule shall not prohibit:

(a) Payments for the purchase of an accounting practice; or

(b) Retirement payments to individuals, and their heirs or estates, who were formerly engaged in the practice of public accounting.

Section 11. Contingent Fees. (1) A licensee shall not accept or perform any public accounting services for a contingent fee or receive a contingent fee from a client for whom the licensee or the licensee's firm performs:

(a) An audit;

(b) A review;

(c) A compilation of a financial statement when the licensee expects or reasonably might expect that a third party will use the financial statement and the licensee's report does not disclose a lack of independence; or

(d) An examination of prospective financial information.

(2) The prohibition of subsection (1) of this section applies during the period of time in which the licensee is engaged to perform those services and the period covered by any historical financial statements involved in those services.

(3) A licensee in public practice shall not prepare for a contingent fee:

(a) An original or amended tax return or claim for a tax refund. Preparation of an original or amended tax return or claim for tax refund includes giving advice on events which have occurred at the time the advice is given if that advice is directly relevant to determining the existence, character, or amount of a schedule, entry, or other portion of a return or claim for refund; or

(b) An amended federal or state income tax return for a client claiming a refund of taxes because a deduction was inadvertently omitted from the return originally filed when there is no question as to the propriety of the deduction, rather the claim is filed to correct an omission.

(4) The following are examples of circumstances where a contingent fee would be permitted regardless of whether the licensee or licensee's firm is performing the services specified in subsection (1) of this section:

(a) Representing a client in an examination by a revenue agent of the client's federal or state income tax return;

(b) Filing an amended federal or state income tax return claiming a tax refund based on a tax issue that is either the subject of a test case by a different taxpayer or with respect to which the taxing authority is developing a position;

(c) Filing an amended federal or state income tax return or refund claim which claims a tax refund in an amount greater than the threshold for review by the Joint Committee on Internal Revenue Taxation (\$1,000,000 at March, 1991) or state taxing authority;

(d) Requesting a refund of either overpayments of interest or penalties charged to a client's account or deposits of taxes improperly accounted for by the federal or state taxing authority in circumstances where the taxing authority has established procedures for the substantive review of such refund requests;

(e) Requesting, by means of protest or similar document, consideration by the state or local taxing authority of a reduction in the assessed value of property under an established taxing

authority review process for hearing all taxpayer arguments relating to assessed value; or

(f) Representing a client to obtain a private letter ruling or influencing the drafting of an administrative regulation or statute.

(5) Fees shall not be considered as contingent:

(a) If fixed by courts or other public authorities; or

(b) In tax matters if determined based on the results of judicial proceedings or the findings of governmental agencies. A fee is considered determined based on the findings of governmental agencies, if the licensee can demonstrate a reasonable expectation at the time of the fee arrangement, of substantive consideration by an agency with respect to the licensee's client. The expectation is deemed not reasonable in the case of preparation of original tax returns.

(6) Fees may vary depending on the complexity of services rendered.]

Section 2. [42.] Incorporation by Reference. (1) "AICPA Code of Professional Conduct", December 2014, is incorporated by reference. [The following material is incorporated by reference:

(a) "AICPA Professional Standards", Volume 1, U.S. Auditing Standards, Section AU, as of June 1, 2001;

(b) Government Auditing Standards, "Yellow Book", General Accounting Office, 1994 revision;

(c) "Interpretation of Continuing Education and Training Requirements", Government Auditing Standards, General Accounting Office, April, 1991;

(d) "AICPA Professional Standards", Volume 1, Attestation Engagements, Section AT, as of June 1, 2001;

(e) "AICPA Professional Standards", Volume 2, Accounting and Review Services, Section AR, as of June 1, 2001;

(f) "AICPA Professional Standards", Volume 2, Consulting Services, Section CS, as of June 1, 2001;

(g) "AICPA Professional Standards", Volume 2, Tax Practice, Section TX, as of June 1, 2001;

(h) "AICPA Professional Standards", Volume 2, Quality Control, Section QC, as of June 1, 2001;

(i) "AICPA Professional Standards", Volume 2, Personal Financial Planning, Section PFP, as of June 1, 2001; and

(j) "GAAP" as established in "AICPA Professional Standards", Volume 1, U.S. Auditing Standards, Section AU 411, as of June 1, 2001.]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, Monday through Friday, 8 a.m. to 4:30 p.m.

TONI CARVER SMITH, President

APPROVED BY AGENCY: March 7, 2019

FILED WITH LRC: March 11, 2019 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 22, 2019 at 1 p.m., EST at the office of the Board located at 332 W. Broadway, Suite 310 Louisville, Kentucky 40202. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given the 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 (11:59 p.m.) April 30, 2019. 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: Richard C. Carroll, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202, phone (502) 595-3037, fax (502) 595-4281, email dick.carroll@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Richard Carroll

(1) Provide a brief summary of:

(a) What this administrative regulation does: Describes the rules of professional conduct to be followed by a CPA.

(b) The necessity of this administrative regulation: To insure that CPAs are aware of the rules of conduct to be followed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 325.240(2) authorizes the Board to establish regulations to establish and maintain a high standard of integrity and dignity in the profession of public accounting.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Notifies CPAs of the rules to be followed when representing a client.

(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: Incorporates by reference the most current version of the AICPA Rules of Professional Conduct.

(b) The necessity of the amendment to this administrative regulation: To update the current regulation to the most current version of the AICPA Rules of Professional Conduct.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 325.240(2) authorizes the Board to establish regulations to establish and maintain a high standard of integrity and dignity in the profession of public accounting.

(d) How the amendment will assist in the effective administration of the statutes: Establishes clear rules of professional conduct.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The current number of CPAs licensed in Kentucky is 8300. However, CPAs have already been complying with these standards since they were incorporated by reference into a previous 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: Comply with these accounting standards however: CPAs have already been complying with these requirements for decades.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Nothing in addition to what they already have been spending to comply with these standards.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Insure compliance with nationally recognized standards.

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

(a) Initially: No increase in current expenses.

(b) On a continuing basis: No increase in expenses.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Board operates solely on the funds contained in its trust and agency account.

(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 necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: There is no fee imposed by this regulation.

(9) TIERING: Is tiering applied? Tiering is not applied since all CPAs seeking to practice public accounting must comply with these standards.

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 State Board of Accountancy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 325.240(2).

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? Nothing.

(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? Nothing.

(c) How much will it cost to administer this program for the first year? No increase in current expenses. CPAs have for years been required to follow these requirements.

(d) How much will it cost to administer this program for subsequent years? No increase in current expenses or for future years. These are standards that CPAs must follow.

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 Medical Imaging and Radiation Therapy
(Amendment)**

201 KAR 46:010. Definitions for 201 KAR Chapter 46.

RELATES TO: KRS 311B.020

STATUTORY AUTHORITY: KRS 311B.010, 311B.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.010 and 311B.050 require the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to regulate medical imaging, radiation therapy, and related occupations. This administrative regulation establishes definitions for terms used in 201 KAR Chapter 46.

Section 1. Definitions. (1) "Accredited educational program" means an educational program accredited by the Joint Review Committee on Education in Radiologic Technology (JRCERT), [or] the Joint Review Committee on Educational Programs in Nuclear Medicine Technology (JRCNMT), or other accrediting agencies recognized by the American Registry of Radiologic Technologists (ARRT), which have been approved by the board.

(2) "Advanced imaging professional" means an individual who holds credentialing by the American Registry of Radiologic Technologists (ARRT) [(AART)] or by the Nuclear Medicine Technology Certification Board (NMTCB) as a registered radiologist assistant (R.R.A.) or nuclear medicine advanced associate (NMAA).

(3) "Alternate course of study" means an independent course of study that qualifies an individual to take an examination approved by the board.

(4) "Authorized user" is defined by KRS 311B.020(4).

(5) "Board" is defined by KRS 311B.020(5).

(6) "Clinical education" means the component of the educational program that provides for supervised, competency-based, clinical education and experience.

(7) "Computed tomography" or "CT" means the process of using specialized radiation producing equipment to create cross-sectional images of any part of the body.

(8) "Computed tomography technologist" or "CT technologist" means an individual who has obtained a post-primary certification in computerized tomography from the American Registry of Radiologic Technologists (ARRT).

(9) "Continuing education" is defined by KRS 311B.020(7).

(10) "Continuing education unit" or "CEU" means fifty (50) contact minutes of participation in a continuing education experience completed by:

- (a) Attendance at a professional meeting;
- (b) Documenting completed, approved independent study; or
- (c) Documenting completed academic courses applicable to health care, medical imaging, radiation therapy, or related courses.

(11) "Contrast procedure" means a diagnostic or therapeutic procedure performed while administering contrast media into the human body to visualize anatomy not otherwise demonstrated on an image receptor.

(12) "Course of study" means a curriculum in radiologic technology, nuclear medicine technology, the advanced imaging profession, limited x-ray machine operation, or radiation therapy approved by the board.

(13) "Didactic education" means the component of the educational program that provides formal instruction with specific objectives and methods for assessing the student's progress for entry-level competency.

(14) "Direct supervision" means supervised by, and in the physical presence of, a licensed practitioner of the healing arts.

(15) "Educational program" means a board-approved, accredited educational program or limited x-ray machine operator program.

(16) "Facility" means a hospital, outpatient department, clinic, radiology practice, mobile unit, or office of a physician or portion thereof, in which medical imaging or radiation therapy are performed.

(17) "Indirect supervision" means supervised by a licensed practitioner of the healing arts who is immediately available in the individual's place of employment.

(18) "License" means the document issued to a licensee to work as an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operator in Kentucky.

(19) "Licensed practitioner" or "licensed practitioner of the healing arts" is defined by KRS 311B.020(8).

(20) "Licensee" means an individual licensed to perform the duties of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, or a limited x-ray machine operator.

(21) "Licensure" means the process by which a license is issued by the board pursuant to 201 KAR Chapter 46 and in accordance with KRS Chapter 311B.

(22) "Limited radiographic procedures" means the following procedures:

- (a) Routine chest and thorax;
- (b) Cranium;
- (c) Extremity;
- (d) Podiatric;
- (e) Vertebral column radiography; and
- (f) Bone densitometry procedures.

(23) "Limited x-ray machine operator" is defined by KRS 311B.020(9).

(24) "Medical Imaging" means producing visual images of the human body utilizing various types of energy and technologies to determine the presence of disease and injury. Medical imaging is used[and includes uses] for diagnostic, screening, treatment[,] and monitoring purposes.

(25) "Medical imaging technologist" is defined by KRS 311B.020(10).

(26) "National organization" is defined by KRS 311B.020 (11).

(27) "Nuclear medicine advanced associate" means an individual certified by the Nuclear Medicine Technology

Certification Board (NMTCB) as a nuclear medicine advanced associate (NMAA) who works under the supervision of a radiologist or nuclear medicine physician, in accordance with practice standards.

(28) "Nuclear medicine technologist" is defined by KRS 311B.020(12).

(29) "Nuclear medicine technology" means technology applied by a nuclear medicine technologist utilizing radioactive material and with the nuclear medicine technologist being under the supervision of an authorized user.

(30) "PET" means the positron emission tomography.

(31) "Positron emission tomography" means the utilization of positron-emitting radioactive material for medical imaging under the supervision of an authorized user.

(32) "Practice standards" means the standards established by board-approved professional organizations that define the practice expectations of individuals within the professions.

(33) "Primary discipline" means radiography, nuclear medicine, and radiation therapy.

(34) "Professional educational guidelines" means curriculum and educational standards established by national organizations and approved by the board.

(35) "Program director" means an individual designated by a sponsoring institution to assure that the educational programs for an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, and a limited x-ray machine operator are properly conducted.

(36) "Provisional nuclear medicine technology license" means a license issued by the board to an individual participating in the alternate nuclear medicine course of study approved by the board.

(37) "Provisional training license" means a license issued to a nuclear medicine technologist or a radiation therapist pursuing post-primary certification in computed tomography or a license issued to a radiographer or radiation therapist pursuing post-primary certification in PET.

(38) "Radiation safety officer" means an individual who has the training, knowledge, and responsibility to apply appropriate radiation safety practices.

(39) "Radiation therapist" is defined by KRS 311B.020(15).

(40) "Radiation therapy" means the therapeutic administration of ionizing radiation by a radiation therapist.

(41) "Radioactive materials" means a solid, liquid, or gas that emits ionizing radiation spontaneously.

(42) "Radiographer" is defined by KRS 311B.020(16).

(43) "Radiography" means the utilization and administration of ionizing radiation to produce medically relevant images for the diagnosis of injury or disease and shall include[includes] a comprehensive scope of diagnostic-radiologic procedures.

(44) "Radiologist assistant" means an individual certified by the American Registry of Radiologic Technologists (ARRT) as a registered radiologist assistant (R.R.A.) who works under the supervision of a radiologist, in accordance with supervision guidelines jointly established by the American College of Radiology (ACR), the American Society of Radiologic Technologists (ASRT), and the ARRT.

(45) "Radionuclide" means a radioactive element or a radioactive isotope.

(46) "Radiopharmaceuticals" means radioactive drugs used for the diagnosis and treatment of disease.

(47) "Scope of practice" means the parameter of the specific practice.

(48) "Source of radiation" means a radioactive material, device, or equipment emitting or capable of producing ionizing radiation.

(49) "Sponsoring institution" means an institution recognized by the board to provide a post-secondary educational program in medical imaging, limited x-ray machine operation, radiation therapy, or advanced imaging professions.

(50) "Student" means an individual enrolled in a board-recognized educational program.

(51) "Supervision of students" means supervised by a licensed practitioner of the healing arts or a licensee in the appropriate field of practice who directs the activity of students.

(52) "Temporary license" means a nonrenewable license issued by the board as established in 201 KAR Chapter 46 permitting an individual to practice for a specified period of time.

(53) "Therapeutic procedures" means medical treatments that can[may] help diagnose, cure, or treat a patient's condition.

AMY ADKINS, Chair

APPROVED BY AGENCY: March 13, 2019

FILED WITH LRC: March 15, 2019 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 23, 2019, at 10:00 a.m., in the office of the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, (502) 782-5687. Individuals interested in attending this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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. Written comments shall be accepted until the end of the day on April 30, 2019. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Elizabeth Morgan, Executive Director, Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, phone (502) 782-5687; fax (502) 782-6495; email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation defines essential terms applicable to the Medical Imaging profession and regulatory process.

(b) The necessity of this administrative regulation: The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B.010 to 311B.190 to regulate licensees other than licensed practitioners of the healing arts, including but not limited to: the classification and licensure of medical imaging technologists, radiation therapists, radiologist assistants and limited x-ray machine operators; examinations; standards of education and experience; curricula standards for institutions teaching persons to perform medical imaging and radiation therapy procedures; issuance, renewal, and revocation of licenses; the establishment of a reasonable schedule of fees and charges to be paid by individuals for examinations, licenses and renewal licenses; and to set other standards as may be appropriate for the protection of health and safety. This administrative regulation defines terms used in 201 KAR Chapter 46.

(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 licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes definitions used in the requirements for practice of medical imaging, radiation therapy and related occupations.

(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 updates the definition of accredited educational program to allow additional accrediting agencies to be considered by the board.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to address other changes in the regulations filed as well as to allow more individuals to become licensed in Kentucky.

(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 establishment of definition.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will ensure all "terms of art" used in the regulation has an appropriate definition.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 7,500 licensees.

(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 action is required. The amendment merely defines the terms for 201 KAR Chapter 46.

(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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants and licensees benefit by having the definitions of terms used within the regulations to clarify the regulations and put the licensee on clear notice.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: No additional Cost will be incurred as a result of amending 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 licenses 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: NONE

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: NONE

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all licensees and applicants.

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 Medical Imaging and Radiation Therapy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 311B.010 to 311B.190

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? This regulation merely defines terms used throughout the 201 KAR Chapter 46. There is no cost associated with administering this regulation.

(d) How much will it cost to administer this program for subsequent years? This regulation merely defines terms used

throughout the 201 KAR Chapter 46. There is no cost associated with administering 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:

**GENERAL GOVERNMENT CABINET
Board of Medical Imaging and Radiation Therapy
(Amendment)**

201 KAR 46:020. Fees.

RELATES TO: KRS 311B.050, 311B.100(2), 311B.110, 311B.120, 311B.130, 311B.140, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.010, 311B.050, 311B.120

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.010 and 311B.050 require the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to regulate medical imaging, radiation therapy, and related occupations. KRS 311B.120 requires the board to promulgate administrative regulations to establish fees and penalties. This administrative regulation establishes fees for the licensure of an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, a nuclear medicine technologist, and a limited x-ray machine operator.

Section 1. Initial Application and License Fee. A non-refundable initial application and license fee shall be \$100.

Section 2. Renewal License Fee. A non-refundable renewal fee shall be fifty (50) dollars per year.

Section 3. Temporary Application and License Fee. A non-refundable fee for a temporary license shall be \$100.

Section 4. Provisional Training License Fee. A non-refundable fee for a provisional training license for a radiation therapist and a nuclear medicine technologist shall be fifty (50) dollars per twenty-four (24) month training period.

Section 5. Temporary Limited X-ray Machine Operator Application and License Fee. A non-refundable, non-transferrable fee for a license shall be \$100.

Section 6. Duplicate License Fee. A non-refundable fee for a duplicate license shall be twenty (20) dollars.

Section 7. Reinstatement Fee. A reinstatement fee shall be \$100. Reinstatement fee shall be assessed starting on day six (6) following the expiration date of license.

Section 8. Name Change Fee. A non-refundable fee for a new printed license with a name change shall be twenty (20) dollars.

Section 9. Limited X-ray Machine Operator Examination Fee. A non-refundable fee for the limited x-ray machine operator examination shall be \$165[150].

Section 10. Insufficient Funds Fee. A fee for returned check or denied online banking (ACH) payment shall be fifty (50) dollars.

Section 11. Written Verification of Qualifications Fee. The fee for completion of written verification documents shall be twenty-five (25) dollars per document.

Section 12. Continuing Education Approval Fee. (1) Individual continuing education program fee shall be ten (10) dollars.

(2) Annual sponsoring institution fee shall be \$100. [Section

~~13. Late Fee. (1) An individual who fails to renew a license by the expiration date shall be assessed a late fee according to the following schedule based upon the expiration date:~~

~~(a) One (1) to five (5) days late — no penalty;~~

~~(b) Six (6) to thirty (30) days late — twenty (20) dollars per calendar day; and~~

~~(c) More than thirty (30) days late — \$750 flat fee.~~

~~(2) The late fee, if applicable, shall be in addition to the renewal fee required by Section 2 of this administrative regulation, and the reinstatement fee required by Section 7 of this administrative regulation.]~~

AMY ADKINS, Chair

APPROVED BY AGENCY: March 13, 2019

FILED WITH LRC: March 15, 2019 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 23, 2019, at 10:00 a.m. in the office of the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, (502) 782-5687. Individuals interested in attending this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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. Written comments shall be accepted until the end of the day on April 30, 2019. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Elizabeth Morgan, Executive Director, Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, phone (502) 782-5687; fax (502) 782-6495; email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the fees to be assessed to licensees and applicants.

(b) The necessity of this administrative regulation: The necessity of this regulation is to advise the public, licensee and applicant of fees to be assessed.

(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 establishing fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the fees to be assessed from applications, renewals, reinstatement, name change, and various other programs and services provided by 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 eliminates late fees and increases the fee for the limited x-ray machine operator exam.

(b) The necessity of the amendment to this administrative regulation: This regulation is necessary since the board is eliminating the requirement of late fees. The increase for the limited x-ray machine operator exam is due to an increase in the administration fee for the exam.

(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 establishment of fees.

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

fees and increase fee for the limited scope exam due to an increase in the administrative fee.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 7,600 licensees.

(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 requirement by this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment to the administrative regulation removes the late fees established for the late renewal of a license. Those individuals that apply to take the limited scope exam will be required to pay the increased fee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The regulations place applicants and licensees on clear notice of the fees associated with licensure and procedures.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: No additional cost will be incurred as a result of amending 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 established by this regulation and paid by licensees 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: The increase in fees for the limited scope exam is due to an increase in the administrative fee.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amendment to the administrative regulation removes late fees and increases fees for the limited scope exam.

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all credential holders and applicants. 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 Medical Imaging and Radiation Therapy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311B.010 to 311B.190

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 late fees generated \$30,890 for FYE June 30, 2018. Elimination of the program will result in a decrease in the board's revenue. There will be no increase in revenue as a result of the increase in fee for limited x-ray machine operator exam, as the administrative fee is increasing the same amount.

(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? This regulation merely defines terms used throughout the 201 KAR Chapter 46. There is no cost associated with administering this regulation.

(d) How much will it cost to administer this program for subsequent years? This regulation merely defines terms used throughout the 201 KAR Chapter 46. There is no cost associated with administering 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:

GENERAL GOVERNMENT CABINET Board of Medical Imaging and Radiation Therapy (Amendment)

201 KAR 46:030. Education for medical imaging technologists, advanced imaging professionals, nuclear medicine technologists, radiographers, and radiation therapists.

RELATES TO: KRS 311B.020, 311B.050, 311B.080

STATUTORY AUTHORITY: KRS 311B.050(2), (5), 311B.080

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050(2) requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B. KRS 311B.050(6) requires the board to approve accredited educational programs and monitor compliance with educational standards established by the individual disciplines and recognized by the board. KRS 311B.080 requires the board to recognize and enforce national standards. This administrative regulation establishes uniform curricula standards for postsecondary educational institutions.

Section 1. Curricular Standards for Medical Imaging, Radiation Therapy, Radiography, Nuclear Medicine, and Advanced Imaging Programs. Educational programs shall ensure:

(1) Radiography and radiation therapy programs meet the curricular standards established by the American Society of Radiologic Technologists (ASRT);

(2) Nuclear medicine programs meet the curricular standards established by the Society of Nuclear Medicine and Molecular Imaging Technologists Section (SNMMITS); and

(3) Programs maintain accreditation by the Joint Review Committee on Education in Radiologic Technology, the Joint Review Committee on Educational Programs in Nuclear Medicine Technology, or other accrediting agencies recognized by the American Registry of Radiologic Technologists (ARRT), which have been approved by the board~~another agency that specifically evaluates the imaging or radiation therapy program based upon equivalent standards~~.

Section 2. Student Employment Outside the Academic Clinical Setting. A student shall not be employed in the operation of radiation-producing equipment or the administration of ionizing radiation for the purpose of medical imaging or radiation therapy in Kentucky.

AMY ADKINS, Chair

APPROVED BY AGENCY: March 13, 2019

FILED WITH LRC: March 15, 2019 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 23, 2019, at 10:00 a.m., in the office of the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, (502) 782-5687. Individuals interested in attending this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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. Written comments shall be accepted until the end of the day on April 30, 2019. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Elizabeth Morgan, Executive Director, Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, phone (502) 782-5687; fax (502) 782-6495; email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes uniform curricula standards for postsecondary educational institutions.

(b) The necessity of this administrative regulation: The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B.010 to 311B.190 to regulate licensees other than licensed practitioners of the healing arts, including but not limited to: the classification and licensure of medical imaging technologists, radiation therapists, radiologist assistants and limited x-ray machine operators; examinations; standards of education and experience; curricula standards for institutions teaching persons to perform medical imaging and radiation therapy procedures; issuance, renewal, and revocation of licenses; the establishment of a reasonable schedule of fees and charges to be paid by individuals for examinations, licenses and renewal licenses; and to set other standards as may be appropriate for the protection of health and safety. This administrative regulation establishes uniform curricula standards for postsecondary educational institutions.

(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 licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes uniform curricula standards for postsecondary educational institutions.

(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 updates the requirements of postsecondary educational institutions to allow additional accrediting agencies to be considered by the board.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to address other changes in the regulations filed as well as to allow more individuals to become licensed in Kentucky.

(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 accredited educational programs.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will allow additional accrediting agencies to be considered by the board.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 7,500 licensees.

(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 action is required. The amendment merely allows the board to approve additional accrediting agencies.

(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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The board would be able to approve other accrediting agencies, thereby allowing more individuals to become licensed in Kentucky.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: No additional Cost will be incurred as a result of amending 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 licenses 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: NONE

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: NONE

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all licensees and applicants.

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 Medical Imaging and Radiation Therapy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 311B.010 to 311B.190

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? There is no cost associated with administering this regulation.

(d) How much will it cost to administer this program for subsequent years? There is no cost associated with administering 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:

GENERAL GOVERNMENT CABINET Board of Medical Imaging and Radiation Therapy (Amendment)

201 KAR 46:040. Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses.

RELATES TO: KRS 311B.020, 311B.050, 311B.100(2), 311B.110, 311B.120, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.050, 311B.080, 311B.100(2), 311B.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to establish the procedures for the issuance and renewal of a license. KRS 311B.100(2) and KRS 311B.110(6) require the board to promulgate administrative regulations to establish the qualifications for an advanced imaging professional, a medical imaging

technologist, a radiographer, a radiation therapist, and a nuclear medicine technologist. This administrative regulation establishes requirements for licensure, renewal, and reinstatement.

Section 1. Eligibility for an Advanced Imaging Professional, a Medical Imaging Technologist, a Radiographer, a Radiation Therapist, and a Nuclear Medicine Technologist License. A person shall not be eligible for a license pursuant to this administrative regulation for diagnostic imaging or therapeutic purposes unless the person has:

- (1) Satisfactorily passed the national examination administered by the American Registry of Radiologic Technologists or the Nuclear Medicine Technology Certification Board examination; and
- (2) Satisfactorily completed an accredited educational~~an~~ program~~in radiography, nuclear medicine technology, radiation therapy, or advanced imaging practice that has achieved and maintained programmatic accreditation recognized by the board as described in 201 KAR 46:030~~.

Section 2. Application for Initial License. (1) An applicant shall submit:

- (a) A completed and signed application KBMIRT Form 1;
- (b) A nonrefundable initial application and license fee as established by 201 KAR 46:020, Section 1;
- (c) The results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years;
- (d) A copy of a government-issued photo ID;
- (e) Documentation of active registration or certification with the ARRT or NMTCB; and
- (f) Verification of graduation from an accredited educational~~an~~ program~~accredited by the Joint Review Committee on Education in Radiologic Technology or the Joint Review Committee on Educational Programs in Nuclear Medicine Technology~~.~~(2) Notwithstanding subsection (1)(f) of this section, if a student enters a program not under probation, and the majority of the education program is completed under the accreditation required under 201 KAR 46:030, then the board may waive the accreditation standard as long as the graduate passes the American Registry of Radiologic Technologists (ARRT) examination on the first attempt.~~

Section 3. Applicant from an Unaccredited Educational Program. If an applicant qualifies for licensure under KRS 311B.100(3), the applicant shall submit and satisfy the requirements of Section 2(1)(a) through (e) of this administrative regulation and shall submit proof:

- (1) Of an active valid license or certificate from another jurisdiction's regulatory board to practice as an advanced imaging professional, medical imaging technologist, radiographer, radiation therapist, or nuclear medicine technologist and is in good standing;
- (2) Of certification or licensure by a national organization recognized by the board;
- (3) That the applicant has not been disciplined as an advanced imaging professional, medical imaging technologist, radiographer, radiation therapist, or nuclear medicine technologist by any jurisdiction or national organization that has issued a license or certificate to the applicant;
- (4) Of a minimum of five (5) years of work experience as a certified or licensed advanced imaging professional, medical imaging technologist, radiographer, radiation therapist, or nuclear medicine technologist; and
- (5) That the applicant maintained continuing education requirements during the applicant's period of licensure or certification, which includes copies of any continuing education certificates received for attending from the sponsor.

Section 4. The issued license shall identify the licensee as an advanced imaging professional, a medical imaging technologist, a radiographer, a radiation therapist, or a nuclear medicine technologist. The medical imaging technologist license shall also identify any ARRT or NMTCB disciplines awarded to the licensee.

Section 5. The license shall expire annually on the last day of the licensee's birth month. If a license is first issued to an individual less than six (6) months before the individual's birth month, the license issued to the individual shall not expire on that date, but instead it shall expire at the last day of the individual's birth month in the following calendar year.

Section 6. Renewal of License. To renew a license, the licensee shall submit:

- (1) KBMIRT Form 2;
- (2) Verification of current active status with the ARRT or NMTCB; and
- (3) The renewal license fee as established by 201 KAR 46:020, Section 2.

Section 7. Reinstatement of Lapsed License. (1) A licensee who has allowed the license to lapse up to~~for more than one (1) month but less than~~ twelve (12) months shall be eligible to be reinstated upon:

- (a) Submission of KBMIRT Form 2;
- (b) Submission of documentation of twenty-four (24) hours of approved continuing education biennially; and
- (c) The payment of reinstatement~~late~~ and renewal fees as established by 201 KAR 46:020, Sections 2 ~~and~~ 7 ~~and 14~~.
- (2) A licensee whose license has lapsed for more than twelve (12) months shall submit:
 - (a) Verification of current active status with the ARRT or NMTCB;
 - (b) KBMIRT Form 1;
 - (c) Continuing education KBMIRT Form 8, as incorporated by reference in 201 KAR 46:060, that documents twenty-four (24) hours of approved continuing education;
 - (d) The payment of nonrefundable initial application and license fee and reinstatement fee as established by 201 KAR 46:020, Sections~~Section~~ 1 and 7;
 - (e) The results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years; and
 - (f) A copy of a government-issued photo ID.

Section 8. Reinstatement of Revoked License. An applicant seeking reinstatement after a license revocation shall follow the same process as a new applicant as required under KRS 311B.100, 311B.110, and this administrative regulation.

Section 9. Temporary License. The board may, upon completion of Form KBMIRT 3, as incorporated by reference in 201 KAR 46:045, and payment of the fee established in 201 KAR 46:020, Section 3, issue a temporary license to an applicant who has successfully completed an approved course of study in radiography, nuclear medicine technology, radiation therapy, or an advanced imaging profession and meets the other requirements of 201 KAR 46:045 other than having taken the required examination. A temporary license shall be effective for up to one (1) year only and shall not be renewable. Upon certification, a temporary license may be converted to a permanent license as described in 201 KAR 46:045, Section 2. A temporary license shall expire upon issuance of a permanent license.

Section ~~[(10)]~~ Continuing Education Audit Process. (1) The board shall select a sample of licensees to audit for continuing education compliance.

(2) The board shall send each licensee selected for audit a notification of audit.

(3) Each licensee shall maintain his or her personal files such as certificates or records of credit from approved continuing education programs from the current biennium and immediate prior biennium.

(4) A licensee selected for audit shall provide the board with a copy of his or her certificate or records of completion.

(5) Failure to comply with an audit may result in nonrenewal, suspension, or revocation of license.

Section [11.] Contrast Procedures. Only individuals holding a license pursuant to this administrative regulation shall perform diagnostic imaging or radiation therapy procedures regulated by KRS Chapter 311B at facilities where contrast studies are performed.

Section [12.] CT Training for Nuclear Medicine Technologists and Radiation Therapists. Individuals who are licensed in the primary discipline of nuclear medicine or radiation therapy, are certified by the ARRT or NMTCB, and are seeking post-primary certification in computed tomography (CT) may work under the direct supervision of a licensed and certified CT technologist to gain clinical competency. An individual who wishes to complete clinical training in CT shall submit a Provisional License Application, as incorporated by reference in 201 KAR 46:050, which shall expire twenty-four (24) months from the date of issuance.

Section [13.] PET Training for Radiographers and Radiation Therapists. Individuals who are licensed in the primary discipline of radiography or radiation therapy, are certified by the ARRT, and are seeking post-primary certification in positron emission tomography (PET) may work under the direct supervision of a licensed and certified PET technologist with the permission of an authorized user to gain clinical competency. An individual who wishes to complete clinical training in PET shall submit a Provisional License Application, as incorporated by reference in 201 KAR 46:050, which shall expire twenty-four (24) months from the date of issuance.

Section [14.] Applications for licensure shall be filed with the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601.

Section [15.] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) KBMIRT Form 1, "License Application-Medical Imaging or Radiation Therapy", March 2019~~[February 2017]~~; and

(b) KBMIRT Form 2, "License Renewal Application-Medical Imaging or Radiation Therapy", March 2019~~[February 2017]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

AMY ADKINS, Chair

APPROVED BY AGENCY: March 13, 2019

FILED WITH LRC: March 15, 2019 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 23, 2019, at 10:00 a.m., in the office of the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, (502) 782-5687. Individuals interested in attending this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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. Written comments shall be accepted until the end of the day on April 30, 2019. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Elizabeth Morgan, Executive Director, Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, phone (502) 782-5687; fax (502) 782-6495; email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for eligibility for licensure, as well as the initial and renewal application process.

(b) The necessity of this administrative regulation: The necessity of this regulation is to establish the standards and process for application and renewal of license issued by the board.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation is in conformity as the authorizing statute giving the board the ability to promulgate regulations to carry out and enforce the provisions of KRS 311B.050(3), which authorizes the board to issue and renew the licenses of duly qualified applicants, following procedures established by the board through the promulgation of administrative regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the procedures for the board to issue and renew the licenses of duly qualified applicants.

(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 would allow individuals who have established their competency to become licensed; update forms; and remove late fees for late renewal.

(b) The necessity of the amendment to this administrative regulation: The amendment would remove late fees associated with late renewal, update applications, and allow the Board to approve additional accrediting agencies for the education of medical imaging and radiation therapy professionals.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the authorizing statute giving the board the ability to promulgate regulations to carry out and enforce the provisions of KRS 311B.050(3), which authorizes the board to issue and renew the licenses of duly qualified applicants, following procedures established by the board through the promulgation of administrative regulations.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will update the initial and renewal application; remove late fees associated with late renewal; and provide for the board to approve accrediting agencies for the education of medical imaging and radiation therapy professionals to be licensed in Kentucky.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 7,500 licensees.

(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 who seek to be licensed or have an issued license to be renewed must submit an application setting forth the individual's qualifications.

(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 additional costs for complying with the amendment. This amendment will remove late fees to those individuals that renew late.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Qualified individuals will be able to be licensed and maintain previously issued licenses.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: No additional cost will be incurred as a result of amending 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 licensees 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: No.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.

(9) TIERING: Is tiering applied?: Tiering was not applied as the regulation is applicable to all credential holders.

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 Medical Imaging and Radiation Therapy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.: KRS 311B.010 to 311B.190.

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? There is no cost associated with administering this regulation.

(d) How much will it cost to administer this program for subsequent years? There is no cost associated with administering 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:

GENERAL GOVERNMENT CABINET Board of Medical Imaging and Radiation Therapy (Amendment)

201 KAR 46:045. Temporary license application for medical imaging technologists, advanced imaging professionals, radiographers, nuclear medicine technologists, and radiation therapists.

RELATES TO: KRS 311B.050, 311B.100(2), 311B.120, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.010, 311B.050, 311B.100(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B and to regulate the licensure of medical imaging technologists, advanced imaging professionals, radiographers, nuclear medicine technologists, and radiation therapists other than a licensed practitioner of the healing arts. KRS 311B.100(2) requires the board to establish licensure qualifications. This administrative regulation establishes procedures for the temporary licensure of medical imaging technologists, advanced imaging professionals, and radiation therapists who are eligible to apply for the appropriate

national board exam.

Section 1. Application for Temporary License. An applicant shall submit:

(1) Completed and signed Temporary License Application-Medical Imaging and Radiation Therapy, Form KBMIRT 3;

(2) Non-refundable temporary application and license fee as established by 201 KAR 46:020, Section 3;

(3) Results of criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years;

(4) Copy of a government issued photo ID; and

(5) Verification of successful completion of an accredited educational[a] program[in radiography, nuclear medicine technology, or radiation therapy, that has achieved and maintained programmatic accreditation recognized by the board as described in 201 KAR 46:030].

Section 2. Upon certification by the American Registry of Radiologic Technologists (ARRT) or the Nuclear Medicine Technology Certification Board (NMTCB), a temporary license shall be converted to a regular license upon submission of[:

~~(1) Completed and signed updated Temporary License Application-Medical Imaging and Radiation Therapy, Form KBMIRT 3; and~~

(2) documentation of the ARRT or the NMTCB certification. If a temporary license is converted to a permanent license less than six (6) months before the individual's birth month, the permanent license issued to the individual shall not expire on that date, but instead it shall expire at the last day of the individual's birth month in the following calendar year.

Section 3. If a temporary licensee has not submitted documentation of the ARRT or the NMTCB certification during the twelve (12) month period, the license shall not be renewed; and the individual shall follow the procedure for initial license application pursuant to 201 KAR 46:040 and pay the initial application and license fee mandated in 201 KAR 46:020.

Section 4. Incorporation by Reference. (1) "Temporary License Application-Medical Imaging and Radiation Therapy", Form KBMIRT 3, 3/2019[3/2015], is incorporated by reference.

(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

AMY ADKINS, Chair

APPROVED BY AGENCY: March 13, 2019

FILED WITH LRC: March 15, 2019 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 23, 2019, at 10:00 a.m., in the office of the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, (502) 782-5687. Individuals interested in attending this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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. Written comments shall be accepted until the end of the day on April 30, 2019. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Elizabeth Morgan, Executive Director, Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, phone (502) 782-5687; fax (502) 782-6495; email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Elizabeth Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation defines essential requirements for temporary licensure.

(b) The necessity of this administrative regulation: The Board of Medical Imaging and Radiation Therapy is authorized by KRS 311B.010 to 311B.190 to regulate licensees other than licensed practitioners of the healing arts, including but not limited to: the classification and licensure of medical imaging technologists, radiation therapists, radiologist assistants and limited x-ray machine operators; examinations; standards of education and experience; curricula standards for institutions teaching persons to perform medical imaging and radiation therapy procedures; issuance, renewal, and revocation of licenses; the establishment of a reasonable schedule of fees and charges to be paid by individuals for examinations, licenses and renewal licenses; and to set other standards as may be appropriate for the protection of health and safety. This administrative regulation establishes procedures for the temporary licensure of medical imaging professionals and radiation therapists who are eligible to apply for the appropriate national board exam.

(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 licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes procedures for the temporary licensure for practice of medical imaging, radiation therapy and related occupations.

(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 updates the accreditation requirements of the educational programs to include the ability of the board to approve additional accrediting organizations.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to allow more individuals to become licensed in Kentucky.

(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 establishment of licensure qualifications.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will allow more individuals to become licensed in Kentucky.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 7,500 licensees.

(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 action is required. The amendment merely identifies educational requirements for licensure.

(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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Additional applicants will qualify for licensure in Kentucky.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: No additional Cost will be incurred as a result of amending 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 licenses 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: NONE

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: NONE

(9) TIERING: Is tiering applied? Tiering was not applied as the regulation is applicable to all licensees and applicants.

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 Medical Imaging and Radiation Therapy.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 311B.010 to 311B.190

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 Medical Imaging and Radiation Therapy
(Amendment)**

201 KAR 46:081. Limited X-Ray machine operator.

RELATES TO: KRS 311B.020, 311B.150, 311B.100(2), 311B.110, 311B.120, 311B.180, 311B.190

STATUTORY AUTHORITY: KRS 311B.050, 311B.100(2), 311B.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050 requires the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to establish the procedures for the issuance and renewal of a license. KRS 311B.100(2) and KRS 311B.110(6) require the board to promulgate administrative regulations to establish the qualifications for a limited x-ray machine operator. This administrative regulation establishes the requirements for the licensure of a limited x-ray machine operator.

Section 1. Applicability. (1) This administrative regulation shall apply to individuals who perform limited diagnostic radiography while under the direct supervision or indirect supervision of a licensed practitioner of the healing arts.

(2) Limited diagnostic radiography shall include routine chest and thorax, cranium, extremity, podiatric, vertebral column radiography, and bone densitometry procedures.

Section 2. Limited Licensee Employment Prohibition. An individual who holds a limited license shall not be employed as an operator of a source of radiation at a facility where contrast studies, fluoroscopy, mammography, computed tomography, magnetic resonance imaging, bedside radiography, nuclear medicine, positron emission tomography, or radiation therapy procedures are performed.

Section 3. Pathway to the Limited X-ray Machine Operator License. An applicant shall complete an approved postsecondary educational program that meets the American Society of Radiologic Technologists (ASRT) Limited X-Ray Machine Operator Curriculum requirements. An individual shall complete a formal education program for limited x-ray machine operators approved by the board.

Section 4. Application for Temporary Limited X-ray Machine Operator License. (1) An applicant who has completed a formal educational program shall submit:

(a) A completed and signed application Form KBMIRT Form 5;
(b) A non-refundable, non-transferrable temporary limited x-ray machine operator application and license fee as mandated in 201 KAR 46:020, Section 5;

(c) The satisfactory results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment[,] within the past five (5) years; and

(d) A copy of a government-issued photo ID.

(2) The temporary limited x-ray machine operator license shall be effective[expire] for up to one (1) year only and shall not be renewable[from date of issuance for graduates of formal educational programs].

(3) Upon completion of the limited x-ray machine operator training program, individuals shall:

(a) Apply for the limited scope radiography exam; and

(b) Submit the non-refundable, non-transferrable limited x-ray machine operator examination fee as mandated in 201 KAR 46:020, Section 9.

(4) If a temporary licensee has not successfully passed the American Registry of Radiologic Technologists (ARRT) administered limited scope radiography exam prior to the expiration date of the temporary license, the licensee shall cease to perform radiographic procedures. The licensee remains eligible to sit for the exam, however, the individual shall not perform radiographic procedures. Upon successful completion of the exam, the individual shall submit:

(a) A limited x-ray machine operator license application using KBMIRT Form 4; and

(b) An initial application and license fee as mandated in 201 KAR 46:020, Section 1.

(5) If a temporary licensee has successfully passed the ARRT administered limited scope radiography exam prior to the expiration date of the temporary license, the licensee shall be issued a limited x-ray machine operator license which shall expire on the last day of the licensee's birth month. If the limited x-ray machine operator license is first issued to an individual less than six (6) months before the individual's birth month, the license issued to the individual shall not expire on that date, but instead it shall expire at the last day of the individual's birth month in the following calendar year.

Section 5. The issued license shall identify the licensee as a limited x-ray machine operator. The license shall also identify the category as general, bone densitometry, or podiatry.

Section 6. Curricular Standards for Formal Educational Program. This administrative regulation applies to institutions offering a postsecondary program for limited x-ray machine operators. Programs shall:

(1) Meet the curricular standards established by the American Society of Radiologic Technologists (ASRT);

(2) Include a minimum of 240 classroom hours of didactic instruction and 360 clinical hours of education which shall include

supervised practice and demonstration of clinical competency;

(3) Supply data requested for a complete evaluation of its administration, organization, faculty, physical facilities, student policies, and curriculum;

(4) Provide a structured curriculum with clearly written course descriptions, lesson plans, and objectives;

(5) Provide an adequate faculty, which shall be qualified through academic preparation or experience to teach the subjects assigned;

(6) Have a program director who is a licensed radiographer with a minimum of three (3) years of clinical or teaching experience or a combination of clinical and teaching experience;

(7) Provide a licensee-to-student ratio consistent with professional educational guidelines in the appropriate field of practice;

(8) Provide appropriate facilities, sufficient volume, and a variety of diagnostic exams to properly conduct the educational program;

(9) Prohibit students from applying radiation to human beings for diagnostic purposes until they have obtained practical experience and have had their performance evaluated as satisfactory by the program faculty;

(10) Provide direct or indirect supervision by a licensed practitioner of the healing arts or a licensee as required by the student's level of competency;

(11) Prohibit students from administering radiation to a human being unless under direct or indirect supervision as required by the student's level of competency;

(12) Maintain records of each student's attendance, grades, clinical competency, and subjects completed;

(13) Designate a radiation safety officer; and

(14) Permit site inspections by the board's representative.

Section 7. Approved Radiographic Procedures for the Limited X-ray Machine Operator. An individual who holds a limited license is limited to performing the procedures authorized for his or her license as described in subsections (1), (2), and (3) of this section. (1) An individual holding a general limited x-ray machine operator license shall perform only the following:

(a) Radiography of the thorax, lungs and ribs;

(b) Radiography of the skull and facial structures;

(c) Radiography of the upper and lower extremities, including the pectoral girdle and the hips and pelvis; and

(d) Radiography of the cervical, thoracic, and lumbar spines.

(2) An individual holding a limited podiatry x-ray machine operator license shall perform radiographic procedures on the foot and ankle only.

(3) An individual holding a limited bone densitometry x-ray machine operator license shall perform bone densitometry radiographic procedures only.

(4) A limited x-ray machine operator shall comply with the Limited X-ray Machine Operator Practice Standards as incorporated by reference in 201 KAR 46:035[040], Section 4[15].

Section 8. Continuing Education Requirements. Licensees shall complete and document twelve (12) hours of continuing education biennially as required by 201 KAR 46:060. A minimum of six (6) hours shall be related to radiation safety or medical imaging.

Section 9. Continuing Education Audit Process. (1) The board shall select a sample of licensees to audit for continuing education compliance.

(2) The board shall send each licensee selected for audit a notification of audit.

(3) Each licensee shall maintain his or her personal files such as certificates or records of credit from approved continuing education programs from the current biennium and immediate prior biennium.

(4) A licensee selected for audit shall complete KBMIRT Form 8, as incorporated by reference in 201 KAR 46:060, and provide the board with a copy of his or her certificates or records of completion.

(5) Failure to comply with an audit may result in non-renewal, suspension or revocation of license.

Section 10. Renewal of License. A licensee shall renew annually prior to the expiration of his or her current license, which is the last day of the licensee's birth month, by:

- (1) Completing KBMIRT Form 6; and
- (2) Submitting the Renewal License Fee in accordance with 201 KAR 46:020, Section 2.

Section 11. Reinstatement of Lapsed License. ~~[(1)]~~ A licensee who has allowed the license to lapse for ~~up to [more than one (1) month but less than]~~ twelve (12) months is eligible to be reinstated upon submission of KBMIRT Form 6, documentation of twelve (12) hours of continuing education, and the payment of reinstatement and renewal fees pursuant to 201 KAR 46:020, Sections 2 and 7. ~~[(2)]~~ A licensee whose license has lapsed for more than twelve (12) months shall:

- ~~(1)[(a)]~~ Successfully pass the ARRT limited scope radiography examination;
- ~~(2)[(b)]~~ Submit a completed and signed application KBMIRT Form 4;
- ~~(3)[(c)]~~ Submit a non-refundable initial application and license fee and reinstatement fee as mandated in 201 KAR 46:020, Sections [Section] 1 and 7;
- ~~(4)[(d)]~~ Submit satisfactory results of a criminal background check completed within the past six (6) months in state of residence and employment and any other state of residence and employment within the past five (5) years; and
- ~~(5)[(e)]~~ Submit a copy of a government-issued photo ID.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) KBMIRT Form 4, "Limited X-ray Machine Operator License Application", 03/2019[09/2018];
- (b) KBMIRT Form 5, "Limited X-ray Machine Operator Temporary License Application", 03/2019[09/2018]; ~~and~~
- (c) KBMIRT Form 6, "Limited X-ray Machine Operator Renewal Application", 09/2018.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Medical Imaging and Radiation Therapy, 42 Fountain Place, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

AMY ADKINS, Chair

APPROVED BY AGENCY: March 13, 2019

FILED WITH LRC: March 15, 2019 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 23, 2019, at 10:00 a.m., in the office of the Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, (502) 782-5687. Individuals interested in attending this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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. Written comments shall be accepted until the end of the day on April 30, 2019. Send written notification of intent to attend the public hearing or submit written comments on the proposed administrative regulation to:

CONTACT PERSON: Elizabeth Morgan, Executive Director, Board of Medical Imaging and Radiation Therapy, 125 Holmes Street, Suite 320, Frankfort, Kentucky 40601, phone (502) 782-5687; fax (502) 782-6495; email elizabeth.morgan@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Elizabeth Morgan

- (1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the process and requirements for licensure of a limited x-ray machine operator.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to allow establish the standards and qualifications for licensure of a limited x-ray machine operator.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS Chapter 311B authorizes the board to determine and establish the standards and qualifications for licensure of a limited x-ray machine operator.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes standards and qualifications for licensure of a limited x-ray machine operator.

(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 revises 201 KAR 46:081 will update language to clarify expiration date, clarify reinstatement process, eliminate late fees, and update the forms.

(b) The necessity of the amendment to this administrative regulation: The necessity of the amendment to clarify the expiration date if an individual's birth month is within six months of the application, eliminate late fees, and require a reinstatement fee for certain individuals.

(c) How the amendment will assist in the effective administration of the statutes: This administrative regulation establishes the procedures for the board to issue and renew the licenses of limited x-ray machine operators.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 300 state health care organizations and approximately 7,500 licensees.

(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 amendment to the regulation seeks to clarify the limited x-ray machine operator's expiration date, the reinstatement fee for individuals who seek reinstatement of the license, and update the application forms.

(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 impact on a licensee. An individual seeking reinstatement is required to pay the reinstatement fee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Applicants for a limited x-ray license will know the requirements for licensure.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: No additional cost will be incurred as a result of amending 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 licensees 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: No.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amendment will clarify that individuals seeking reinstatement of their limited x-ray machine operator license are required to pay the reinstatement fee established in 201 KAR 46:020, Section 7.

(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? Board of Medical Imaging and Radiation Therapy.

(2) Identify each state or federal statute or federal regulation that authorizes the action taken by the administrative regulation: KRS 311B.010 to 311B.190.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (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? N/A.

(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? N/A.

(c) How much will it cost to administer this program for the first year? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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 Natural Resources
Division of Mine Permits
(Amendment)

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

RELATES TO: KRS Chapter 350, 7 C.F.R. Part 657, 30 C.F.R. Parts 700.5, 701.5, 707.5, 730-733, 735, 761.5, 762.5, 773.5, 800.5, 843.5, 917, 40 C.F.R. Part 136, 30 U.S.C. Chapter 25, 1253, 1255, 1291

STATUTORY AUTHORITY: KRS 350.028, 350.465, 350.500 - 350.521, 7 C.F.R. Part 657, 30 C.F.R. Parts 700.5, 701.5, 707.5, 730-733, 735, 761.5, 762.5, 773.5, 800.5, 843.5, 917, 40 C.F.R. Part 136, 30 U.S.C. 1253, 1255, 1291

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350 requires the cabinet to promulgate administrative regulations pertaining to surface coal mining and reclamation operations under the permanent regulatory program. This administrative regulation establishes definitions for terms used in 405 KAR Chapter 10.

Section 1. Definitions. (1) "Acquisition" means the purchase, lease, or option on the land for the purpose of conducting or allowing through resale, lease, or option the action of conducting surface coal mining and reclamation operations.

(2) "Active Acre" means an acre of land or fraction thereof, permitted and bonded for surface disturbance pursuant to a surface coal mining permit as of July 1, 2013. Active acre does not include:

(a) Acreage contained in a permit for which the entire permit has not been initially disturbed by the permittee after permit issuance;

(b) Acreage contained in a permit, or increment thereof, that has completed initial reclamation and received a minimum of a Phase 1 bond release; or

(c) Undisturbed acreage completely released from liability as a result of a bond release or bond reduction.

(3) "Actuarial soundness" is defined by KRS 350.500(1).

(4) "Adjacent area" means land located outside the affected area or permit area, depending on the context in which "adjacent

area" is used, where air, surface, or groundwater, fish, wildlife, vegetation, or other resources protected by KRS Chapter 350 could be adversely impacted by surface coal mining and reclamation operations.

(5) "Affected area" means any land or water area that is used to facilitate, or is physically altered by, surface coal mining and reclamation operations. The affected area includes:

(a) The disturbed area;

(b) Any area upon which surface coal mining and reclamation operations are conducted;

(c) Any adjacent lands the use of which is incidental to surface coal mining and reclamation operations;

(d) All areas covered by new or existing roads used to gain access to, or for hauling coal to or from, surface coal mining and reclamation operations, except as established in this definition;

(e) Any area covered by surface excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, or shipping areas;

(f) Any areas upon which are sited structures, facilities, or other property or material on the surface resulting from, or incident to, surface coal mining and reclamation operations;

(g) The area located above underground workings associated with underground mining activities;

(h) Auger mining or in situ mining; and

(i) Every road used for the purposes of access to, or for hauling coal to or from, surface coal mining and reclamation operations, unless the road:

1. Was designated as a public road pursuant to the laws of the jurisdiction in which it is located;

2. Is maintained with public funds and constructed in a manner similar to other public roads of the same classification within the jurisdiction; and

3. There is substantial (more than incidental) public use.

(6) "Applicant" means any person seeking a permit, permit revision, permit amendment, permit renewal, or transfer, assignment, or sale of permit rights from the cabinet to conduct surface coal mining and reclamation operations pursuant to KRS Chapter 350 and all applicable administrative regulations.

(7) "Cabinet" is defined by KRS 350.010(10).

(8) "C.F.R." means Code of Federal Regulations.

(9) "Coal" means combustible carbonaceous rock, classified as anthracite, bituminous, subbituminous, or lignite by ASTM Standard D 388-77.

(10) "Coal mined and sold" means coal severed or removed as a result of surface coal mining operations and subsequently sold, transferred, or used by the permittee or operator.

(11) "Collateral bond" means an indemnity agreement in a sum certain payable to the cabinet executed by the permittee and supported by the deposit with the cabinet of cash, negotiable certificates of deposit, or an irrevocable letter of credit of any bank organized and authorized to transact business in the United States.

(12) "Cropland" means land used for the production of adapted crops for harvest, alone or in a rotation with grasses and legumes, and includes row crops, small grain crops, hay crops, nursery crops, orchard crops, and other similar specialty crops.

(13) "Day" means calendar day unless otherwise specified to be a working day.

(14) "Department" means the Department for Natural Resources.

(15) "Disturbed area" means an area where vegetation, topsoil, or overburden is removed or upon which topsoil, spoil, coal processing waste, underground development waste, or noncoal waste is placed by surface coal mining operations. Those areas are classified as "disturbed" until reclamation is complete and the performance bond or other assurance of performance required by 405 KAR Chapter 10 is released.

(16) "Dormancy fee" means the annual fee established in KRS 350.518(2)(f).

(17) "FDIC" means Federal Deposit Insurance Corporation.

(18) "Federal lands" means any lands, including mineral interests, owned by the United States, without regard to how the

United States acquired ownership of the lands or which agency manages the lands. It does not include Indian lands.

(19) "Final disposition" means the status of an enforcement action taken by the cabinet pursuant to KRS Chapter 350 for which a final secretary's order has been entered and the time for appeal has expired or all appeals have been exhausted, or an agreed order has been entered.

(20) "FSLIC" means Federal Savings and Loan Insurance Corporation.

(21) "Full-cost bonding" means performance bonds that have been submitted by a permittee for its surface coal mining operation permits in lieu of participation and membership in the Kentucky Reclamation Guaranty Fund.

(22) "Historically used for cropland" means land that:

(a) Has been used for cropland for any five (5) years or more out of the ten (10) years immediately preceding the:

1. Application; or

2. Acquisition of the land for the purpose of conducting surface coal mining and reclamation operations;

(b) Would likely have been used as cropland for any five (5) out of the last ten (10) years immediately preceding the acquisition or the application but for some fact of ownership or control of the land unrelated to the productivity of the land; or

(c) The cabinet determines, on the basis of additional cropland history of the surrounding land and the land under consideration, are clearly cropland but fall outside the specific five (5) years in ten (10) criterion.

(23) "Impoundment" means a closed basin, naturally formed or artificially built, which is dammed or excavated for the retention of water, sediment, or waste.

(24) "KRGF" means the Kentucky Reclamation Guaranty Fund.

(25) "Land use" means specific functions, uses, or management-related activities of an area, and could be identified in combination when joint or seasonal uses occur and could include land used for support facilities that are an integral part of the use. In some instances, a specific use can be identified without active management.

(26) "Long term treatment" means the use of any active or passive water treatment necessary to meet water quality effluent standards, but does not include Total Suspended Solids or Total Dissolved Solids, at the time a permit or any affected permit increment attains phase 1 bond release standards as determined by the cabinet pursuant to 405 KAR 10:040.

(27) "Member" means a permittee in the Kentucky Reclamation Guaranty Fund.

(28) [(27)] "Non-production fee" means the annual fee established in KRS 350.518(2)(e).

(29) [(28)] "Notice of noncompliance and order for remedial measures" means a written document and order prepared by an authorized representative of the cabinet that establishes with specificity the violations of KRS Chapter 350, 405 KAR Chapters 7 through 24, or permit conditions that the authorized representative of the cabinet determines to have occurred based upon an inspection, and the necessary remedial actions, if any, and the time schedule for completion thereof, necessary and appropriate to correct the violations.

(30) [(29)] "Operations" is defined by KRS 350.010(6).

(31) [(30)] "Operator" is defined by KRS 350.010(8).

(32) [(31)] "Opt-out" means the decision by a permittee to not participate in the KRGF and to provide full-cost bonding pursuant to 405 KAR 10:080.

(33) [(32)] "Order for cessation and immediate compliance" means a written document and order issued by an authorized representative of the cabinet when:

(a) A person to whom a notice of noncompliance and order for remedial measures was issued has failed, as determined by a cabinet inspection, to comply with the terms of the notice of noncompliance and order for remedial measures within the time limits set therein, or as subsequently extended; or

(b) The authorized representative finds, on the basis of a cabinet inspection, any condition or practice or any violation of KRS Chapter 350, 405 KAR Chapters 7 through 24, or any condition of a permit or exploration approval that:

1. Creates an imminent danger to the health or safety of the public; or

2. Is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources.

(34) [(33)] "ORGF" means the Office of the Reclamation Guaranty Fund.

(35) [(34)] "Owned or controlled" and "owns or controls" mean any one (1) or a combination of the relationships established in paragraphs (a) and (b) of this definition:

(a) 1. Being a permittee of a surface coal mining operation;

2. Based on instruments of ownership or voting securities, owning of record in excess of fifty (50) percent of an entity; or

3. Having any other relationship that gives one (1) person authority directly or indirectly to determine the manner in which an applicant, an operator, or other entity conducts surface coal mining operations; and

(b) One (1) of the following relationships, which constitutes ownership or control unless a person demonstrates that the person subject to the presumption does not in fact have the authority directly or indirectly to determine the manner in which the relevant surface coal mining operation is conducted:

1. Being an officer or director of an entity;

2. Being the operator of a surface coal mining operation;

3. Having the ability to commit the financial or real property assets or working resources of an entity;

4. Being a general partner in a partnership;

5. Based on the instruments of ownership or the voting securities of a corporate entity, owning of record ten (10) through fifty (50) percent of the entity; or

6. Owning or controlling coal to be mined by another person under a lease, sublease, or other contract and having the right to receive the coal after mining or having authority to determine the manner in which that person or another person conducts a surface coal mining operation.

(36) [(35)] "Performance bond" means a surety bond, a collateral bond, or a combination thereof, or bonds filed pursuant to the provisions of the Kentucky Reclamation Guaranty Fund (405 KAR 10:070, KRS 350.595, and 350.500 – 350.521), by which a permittee assures faithful performance of all the requirements of KRS Chapter 350, 405 KAR Chapters 7 through 24, and the requirements of the permit and reclamation plan.

(37) [(36)] "Permit" means written approval issued by the cabinet to conduct surface coal mining and reclamation operations.

(38) [(37)] "Permit area" means the area of land, indicated on the approved map submitted by the permittee with an application, required to be covered by the permittee's performance bond pursuant to 405 KAR Chapter 10 and that includes the area of land upon which the permittee proposes to conduct surface coal mining and reclamation operations pursuant to the permit, including all disturbed areas. Areas adequately bonded under another valid permit, pursuant to 405 KAR Chapter 10, could be excluded from the permit area.

(39) [(38)] "Permittee" means an operator or a person holding or required by KRS Chapter 350 or 405 KAR Chapters 7 through 24 to hold a permit to conduct surface coal mining and reclamation operations during the permit term and until all reclamation obligations imposed by KRS Chapter 350 and 405 KAR Chapters 7 through 24 are satisfied.

(40) [(39)] "Person" is defined by KRS 350.010(9).

(41) [(40)] "Person having an interest which is or may be adversely affected" or "person with a valid legal interest" includes any person:

(a) Who uses any resource of economic, recreational, aesthetic, or environmental value that could be adversely affected by coal exploration or surface coal mining and reclamation operations, or by any related action of the cabinet; or

(b) Whose property is or could be adversely affected by coal exploration or surface coal mining and reclamation operations, or by any related action of the cabinet.

(42) [(41)] "Prime farmland" means those lands defined by the Secretary of Agriculture in 7 C.F.R. 657 and that have been "historically used for cropland".

(43)(42) "Reclamation" is defined by KRS 350.010(12).

(44)(43) "Secretary" is defined by KRS 350.010(11).

(45)(44) "SMCRA" means Surface Mining Control and Reclamation Act, 30 U.S.C. Chapter 25 of 1977 (PL 95-87), as amended.

(46)(45) "Surety bond" means an indemnity agreement in a sum certain, payable to the cabinet and executed by the permittee, which is supported by the performance guarantee of a corporation licensed to do business as a surety in the Commonwealth of Kentucky.

(47)(46) "Surface coal mining and reclamation operations" is defined by KRS 350.010(3).

(48)(47) "Surface coal mining operations" is defined by KRS 350.010(1).

(49)(48) "Suspended solids" or nonfilterable residue, expressed as milligrams per liter, means organic or inorganic materials carried or held in suspension in water which are retained by a standard glass fiber filter in the procedure outlined by the U.S. EPA's regulations for waste water and analyses (40 C.F.R. 136).

(50)(49) "Ton" means 2,000 pounds avoirdupois (.90718 metric ton).

(51)(50) "Topsoil" means the A and E soil horizon layers of the four (4) master soil horizons.

(52)(51) "U.S. EPA" means United States Environmental Protection Agency.

(53)(52) "Voluntary Bond Pool" is defined by KRS 350.500(5).

(54)(53) "Willfully" and "willful violation" mean that a person acted either intentionally, voluntarily, or consciously, and with intentional disregard or plain indifference to legal requirements, in authorizing, ordering, or carrying out an act or omission that constituted a violation of SMCRA, KRS Chapter 350, 405 KAR Chapters 7 through 24, or a permit condition, or that constituted a failure or refusal to comply with an order issued pursuant to SMCRA, KRS Chapter 350, or 405 KAR Chapters 7 through 24.

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: March 13, 2019

FILED WITH LRC: March 14, 2019 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 24, 2019 at 5:00 p.m. (Eastern Time) in Training Room C of the Energy and Environment Cabinet at 300 Sower Blvd, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency 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 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 April 30, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Michael Mullins, Regulation Coordinator, 300 Sower Blvd, Frankfort, Kentucky 40601, phone (502) 782-6720, fax (502) 564-4245, email michael.mullins@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Mullins

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides for the defining of certain essential terms used in 405 KAR Chapter 10

(b) The necessity of this administrative regulation: This administrative regulation is necessary to clearly define the terms to be used in 405 KAR Chapter 10.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS Chapter 350 provides the department the authority to promulgate administrative regulations

to implement a permanent program to regulate coal mining in the commonwealth. This administrative regulation defines terms used in 405 KAR Chapter 10.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides definitions to be used in 405 KAR Chapter 10 and will assist in the accurate interpretation of those administrative regulations.

(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 adds a definition for "long term treatment".

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to clearly define what is meant by the term "long term treatment" when used in 405 KAR Chapter 10.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statutes by defining the word "long term treatment" to be used in 405 KAR Chapter 10.

(d) How the amendment will assist in the effective administration of the statutes: KRS 350.028 provides the department the authority to enforce a permanent regulatory program in the commonwealth. These amendments are necessary to comply with requested changes to the cabinet's permanent program related to long term treatment bonding.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This provision would apply to any entity that operates surface coal mine operation that is conducting long-term treatment within Kentucky. This provision would also apply to the Department for Natural Resources and the Division of Water.

(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 entities listed in question (3) above will need to use the definition for the term "long term treatment" correctly in interpreting the amendments to 405 KAR 10:015.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is not a standard cost increase associated with the proposed amendments. As it relates the amendments in 405 KAR 10:015 and this administrative regulation as a whole, any additional cost to a permittee performing long term treatment will be reflected in the amount of the financial assurance instrument which is going from a multiplier of 20 to 25 for annual treatment costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The entities listed in question (3) above will have a clear definition for the term "long term treatment".

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

(a) Initially: There will be no costs to the department associated with implementation of this amendment.

(b) On a continuing basis: There will be no costs to the department associated with implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding for implementation of the amendments to this administrative regulation will be a combination of general funds and restricted 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: The amendments to this administrative regulation will not 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 or increase any

fees.

(9) TIERING: Is tiering applied? No. All entities that operate a coal mine will be required to use the same definition of "long term treatment".

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 Division of Mine Permits, Division of Mine Reclamation and Enforcement, and the Division of Water.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 350.028, 350.465, 350.500 - 350.521, 7 C.F.R. Part 657, 30 C.F.R. Parts 700.5, 701.5, 707.5, 730-733, 735, 761.5, 762.5, 773.5, 800.5, 843.5, 917, 40 C.F.R. Part 136, 30 U.S.C. 1253, 1255, 1291.

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 amended administrative regulation will not generate any new revenue for the 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 amended administrative regulation will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? There will not be a cost increase associated with the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? Future costs would remain essentially unchanged related to this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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. 30 C.F. R. 701.5

2. State Compliance Standards. KRS 350.028 and KRS 350.060.

3. Minimum or uniform standards contained in the federal mandate. 30 C.F. R. 701.5 defines terms that are to be used in the process of interpreting the applicable chapter in the Code of Federal Regulations.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. The amendments will bring Kentucky's mining program closer in line with the federal program.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA

ENERGY AND ENVIRONMENT CABINET Department for Natural Resources Division of Mine Permits (Amendment)

405 KAR 10:015. General bonding provisions.

RELATES TO: KRS 350.020, 350.060, 350.062, 350.064,

350.093, 350.095, 350.100, 350.151, 350.465

STATUTORY AUTHORITY: KRS 350.060, 350.062, 350.064, 350.093, 350.095, 350.100, 350.151, 350.465, 350.515, 350.518

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 350 authorizes the cabinet to promulgate administrative regulations to establish procedures for determining amounts for performance bonds for surface coal mining operations. This administrative regulation establishes criteria for the base determination of bond amounts and requires certain periods of liability during which the bonds shall remain in effect. This administrative regulation establishes requirements for filing and maintaining performance bonds and provides for adjustments in bond amounts and additional information related to minimum bonds and application of bonds to ensure performance of the requirements of KRS Chapter 350 in the event work is performed by the cabinet, taking into consideration such things as topography, geology, future land use, and the difficulty of reclamation.

Section 1. Bonding Requirements. (1) An applicant shall not disturb surface acreage or extend an underground shaft, tunnel, or operation prior to receipt of approval from the cabinet of a performance bond covering an area to be affected by surface operations and facilities.

(2) After an application for a new, amended, revised, or renewed permit to conduct surface coal mining and reclamation operations has been approved pursuant to 405 KAR Chapter 8, but before the permit is issued, the applicant shall file with the cabinet, on a form prescribed and furnished by the cabinet, a performance bond payable to the cabinet.

(a) The applicant shall file the Performance Bond, Form SME-42, for an operation on land other than federal lands, or the Performance Bond for Surface Coal Mining and Reclamation on Federal Lands, Form SME-42-F, for an operation on federal land.

(b) The performance bond shall be conditioned upon compliance with all of the requirements of KRS Chapter 350, 405 KAR Chapters 7 through 24, and the provisions of the reclamation plan and permit, and shall cover all surface coal mining and reclamation operations to be conducted within the permit area or increment thereof until all reclamation requirements of 405 KAR Chapters 7 through 24 have been met.

(c) The amount, duration, type, conditions, and terms of the performance bond shall conform to the requirements of this administrative regulation.

(3) A permit shall not be revised or amended to include additional area unless the liability of the current bond is extended to cover the entire permit area or increment as revised or amended, and the liability of the supplemental bond covers the entire permit area as revised or amended. Unless these conditions are met with respect to the bond, the additional area shall be permitted as a separate increment of the current permit area or pursuant to a new permit.

(4) A rider to the applicable performance bond, confirming coverage of the revision, shall be submitted by the applicant if a revision to a permit does not change the acreage of the permit area or increment but:

(a) Adds a coal washer, a crush and load facility, a refuse pile, or a coal mine waste impoundment to the existing permit; or

(b) Alters the boundary of a permit area or increment.

Section 2. Terms and Conditions of Performance Bond. (1) The performance bond shall be in an amount determined by the cabinet as established in Sections 6, 7, and 8 of this administrative regulation.

(2) The performance bond shall be payable to the cabinet.

(3) The performance bond shall be conditioned upon faithful performance of all of the requirements of KRS Chapter 350, 405 KAR Chapters 7 through 24, and the conditions of the permit and shall cover the entire permit area or the incremental area as the cabinet has approved pursuant to Section 4(2) of this administrative regulation.

(4) The duration of the bond shall be for a time period established in Section 9 of this administrative regulation.

(5) Surety bonds shall be subject to the following conditions:

(a) The cabinet shall not accept the bond of a surety company unless the bond shall not be cancelable by the surety at any time for any reason.

1. Surety bond coverage for permitted lands not disturbed shall be cancelled only with the written approval of the cabinet, provided the surety gives written notice to both the permittee and the cabinet of the intent to cancel prior to the proposed cancellation.

a. A cancellation notice shall be by certified mail.

b. Cancellation shall not be effective for lands subject to bond coverage that are affected after receipt of notice, but prior to approval by the cabinet.

c. The cabinet shall approve a cancellation only if a replacement bond has been filed by the permittee, or if the permit area has been reduced by revision to the extent that the remaining bond amount, after cancellation, is sufficient to cover all the costs attributable to the completion of reclamation operations on the reduced permit area in accordance with Section 10 of this administrative regulation.

2. The cabinet shall advise the surety, within thirty (30) days after receipt of a notice to cancel bond, if the bond may be cancelled on an undisturbed area.

(b) The bond shall provide that the surety and the permittee shall be jointly and severally liable.

(c)1. The surety shall give prompt notice to the permittee and the cabinet of a notice received or action filed alleging the insolvency or bankruptcy of the surety, or alleging violations of regulatory requirements that could result in suspension or revocation of the surety's license to do business.

2. In the event the surety becomes unable to fulfill its obligations pursuant to the bond, the surety shall promptly provide written notice to the permittee and the cabinet.

3. Upon the incapacity of a surety by reason of bankruptcy, insolvency, or suspension or revocation of its license or certificate of authority, the permittee shall be deemed to be without proper bond coverage and shall promptly notify the cabinet.

a. Nothing in this paragraph shall relieve the permittee of responsibility pursuant to the permit or the surety of liability on the permittee's bond.

b. The cabinet shall issue a notice to the permittee specifying a reasonable period to replace bond coverage, not to exceed ninety (90) days.

c. If an adequate bond is not posted by the end of the period allowed, the permittee shall cease coal extraction and coal processing operations and shall comply with the provisions of 405 KAR 16:010, Section 6, or 405 KAR 18:010, Section 4, and shall immediately begin to conduct reclamation operations in accordance with the reclamation plan.

d. Coal extraction and coal processing operations shall not resume until the cabinet has determined that an acceptable bond has been posted.

e. If an acceptable bond has not been posted by the end of the period allowed, the cabinet shall suspend the permit until acceptable bond is posted.

(d) A surety bond shall be executed by the operator and a corporate surety licensed to do business in the Commonwealth of Kentucky.

(6) Collateral bonds may include cash deposits with the cabinet, certificates of deposit, or letters of credit. Collateral bonds, except for letters of credit, shall be subject to the following conditions:

(a) The cabinet or its authorized agent shall obtain possession of and keep in custody all collateral deposited by the applicant, until authorized for release or replacement as established in 405 KAR Chapter 10.

(b) The cabinet shall require that certificates of deposit be assigned to the cabinet or its authorized agent in writing, through the submittal of Escrow Agreement Form SME-64, and the assignment evidenced on the books of the bank issuing such certificates.

(c) The cabinet shall not accept an individual certificate of deposit unless it is issued by a FDIC or FSLIC insured financial institution, and the cabinet shall not in any circumstance accept a denomination in excess of the maximum insurable amount as

determined by FDIC and FSLIC.

(d) The cabinet shall require the issuer of certificates of deposit to waive all rights of setoff or liens that it has or might have against those certificates.

(e) Persons with an interest in collateral posted as a bond, and who desire notification of actions pursuant to the bond, shall request the notification in writing to the cabinet upon an offering of collateral.

(f) The cabinet shall require the applicant to deposit sufficient amounts of certificates of deposit, so as to assure that the cabinet will be able to liquidate those certificates prior to maturity, upon forfeiture, for the amount of the bond required by this chapter.

(7) A letter of credit shall be subject to the following conditions:

(a)1. The letter shall only be issued by a bank organized or authorized to do business in the United States.

2. A letter of credit issued by a non-Kentucky lending institution shall be confirmed by an approved Kentucky lending institution.

(b) A letter of credit shall be irrevocable.

(c) The letter shall be payable to the cabinet upon demand and receipt from the cabinet of a notice of forfeiture issued in accordance with 405 KAR 10:050, or in the event the bank wishes to terminate the letter on its expiration date, the cabinet may draw upon demand. The Irrevocable Standby Letter of Credit, Form SME-72, and the Confirmation of Irrevocable Letter of Standby Credit, form SME-72-A, shall be submitted to the cabinet, as necessary.

(d)1. The issuer shall give prompt notice to the permittee and the cabinet of notice received or action filed alleging the insolvency or bankruptcy of the issuer, or alleging violations of regulatory requirements that could result in suspension or revocation of the issuer's charter or license to do business.

2. In the event the issuer becomes unable to fulfill its obligations pursuant to the letter of credit, notice shall be given immediately to the permittee and the cabinet.

3. Upon the incapacity of an issuer by reason of bankruptcy, insolvency, or suspension or revocation of its charter or license, the permittee shall be deemed to be without proper performance bond coverage and shall promptly notify the cabinet.

a. Nothing in this paragraph shall relieve the permittee of responsibility pursuant to the permit or the issuer of liability on the letter of credit.

b. The cabinet shall issue a notice to the permittee specifying a reasonable period to replace bond coverage, not to exceed ninety (90) days.

c. If an adequate bond is not posted by the end of the period allowed, the permittee shall cease coal extraction and coal processing operations and shall comply with the provisions of 405 KAR 16:010, Section 6, or 405 KAR 18:010, Section 4, and shall immediately begin to conduct reclamation operations in accordance with the reclamation plan.

d. Coal extraction and coal processing operations shall not resume until the cabinet has determined that an acceptable bond has been posted.

e. If an acceptable bond has not been posted by the end of the period allowed, the cabinet shall suspend the permit until acceptable bond is posted.

(8) If a permittee chooses to combine two (2) or more bonds for one (1) permit area or increment, the bonds may be accompanied by a schedule, acceptable to the cabinet and agreed to by all parties, which sets forth the agreed distribution of bond amounts to be released or reduced pursuant to 405 KAR 10:040 and Section 10 of this administrative regulation, respectively. If no schedule is submitted, the cabinet may release equal percentages of each bond.

(9) Permit specific bonds posted by members of the Voluntary Bond Pool on existing permits prior to the establishment of the Kentucky Reclamation Guaranty Fund shall be released in their entirety upon successfully achieving reclamation Phase I bond release in accordance with 405 KAR 10:040, Section 2(4)(a). Permit specific bonds posted by members of the Voluntary Bond Pool on new permits after the establishment of the Kentucky Reclamation Guaranty Fund shall be released in equal percentages at each reclamation phase with the Kentucky

Reclamation Guaranty Bond.

Section 3. Types of Performance Bond. (1) The cabinet shall approve performance bonds of only those types established in this section.

(2) The performance bond shall be a:

(a) Surety bond;

(b) Collateral bond;

(c) Bond filed pursuant to the provisions of the Kentucky Reclamation Guaranty Fund, KRS 350.518;

(d) Bond filed by the Voluntary Bond Pool; or

(e) Combination of the bond types listed in paragraphs (a) through (d) of this subsection.

(3) Bonds filed by the Voluntary Bond Pool prior to its repeal in 2013 Ky. Acts ch. 78, Section 12, shall be deemed valid and convey the same legal right as bonds issued by the KRGF. The amount, duration, conditions, and terms of bonds issued by the Voluntary Bond Pool shall be deemed in compliance with the requirements of this administrative regulation.

Section 4. Bonding Methods. The method of performance bonding for a permit area shall be selected by the applicant and approved by the cabinet prior to the issuance of a permit, and shall consist of one (1) of the following methods:

(1) Method "S" - single area bonding. A single area bond shall be a bond that covers the entire permit area as a single undivided area, for which the applicant shall file the entire bond amount required by the cabinet prior to issuance of the permit.

(a) Liability pursuant to the bond shall extend to every part of the permit area at all times.

(b) Except as provided in Section 9(2) of this administrative regulation regarding extended bond liability, there shall not be a release of all or part of the bond amount for completion of a particular phase of reclamation on a part of the permit area pursuant to 405 KAR 10:040 until that phase of reclamation has been successfully completed on the entire permit area.

(2) Method "I" - incremental bonding. Incremental bonding shall be a method of bonding in which the permit area shall be divided into individual increments, each of which is bonded separately and independently, and for which a bond shall be filed as operations proceed through the permit area.

(a) The permit area shall be divided into distinct increments subject to approval by the cabinet.

1. Each increment shall be of sufficient size and configuration to provide for efficient reclamation operations should reclamation operations by the cabinet become necessary.

2. If the approved postmining land use is of such nature that successful implementation of the postmining land use capability depends upon an area being integrally reclaimed, then that area shall be contained within a single increment.

3. These increments shall be clearly identified on maps submitted in the permit application pursuant to 405 KAR Chapter 8, and the applicant shall describe the approximate time schedule for beginning operations in each increment.

(b) Prior to issuance of a permit, the applicant shall file with the cabinet the full bond amount required by the cabinet for the first increment or increments of the permit area to be disturbed, which shall be not less than the minimum bond required for the permit area required pursuant to Section 7 of this administrative regulation.

(c) The permittee shall not engage in surface coal mining and reclamation operations on an increment of the permit area unless the full bond amount required by the cabinet has been filed with the appropriate regional office of the department for that increment, the cabinet has verified the validity of the bond, and written authorization to conduct surface coal mining and reclamation operations on that increment is issued by the administrator of the regional office. Credit shall not be given for reclamation on other increments.

(d) The boundaries of each increment shall be physically marked at the site in a manner approved by the cabinet pursuant to 405 KAR 16:030.

(e) The bond amount for an increment shall be released or

forfeited independently of another increment of the permit area, and liability pursuant to the performance bond shall extend only to the increment expressly covered by the bond. A single bond amount may be filed to cover more than one (1) increment, in which case the increments covered shall be treated as a single increment.

(f) Except as provided in Section 9(2) of this administrative regulation regarding extended bond liability, there shall not be a release of bond for completion of a phase of reclamation on part of an increment until that phase of reclamation has been successfully completed on the entire increment.

(g) If the bond for an increment is completely released pursuant to 405 KAR 10:040, the increment shall be deleted from the permit area.

Section 5. Substitution of Bonds. (1) The cabinet may allow permittees to substitute existing surety or collateral bonds for equivalent surety or collateral bonds, in which case the liability that has accrued against the permittee on the permit area or increment is transferred to such substitute bonds.

(2) The cabinet shall not release existing performance bonds until the permittee has submitted and the cabinet has approved acceptable substitute performance bonds. A substitution of performance bonds pursuant to this section shall not constitute a release of bond pursuant to 405 KAR 10:040.

(3) The cabinet may refuse to allow substitution of bonds if an action for revocation or suspension of the permit covered by the bond is pending or if there is a pending action for forfeiture of the bond.

Section 6. Determination of Bond Amounts. (1) In determining the bond amount, the cabinet shall estimate the cost to the cabinet if the cabinet had to perform the reclamation, restoration, and abatement work required of a person who conducts surface coal mining and reclamation operations pursuant to KRS Chapter 350, 405 KAR Chapters 7 through 24, and the permit, except as provided in subsection (4) of this section. This amount shall be based on:

(a) The estimated costs submitted by the permittee in accordance with 405 KAR 8:030, Section 24(4), and 405 KAR 8:040, Section 24(4);

(b) The additional estimated costs to the cabinet that may arise from applicable public contracting requirements or the need to bring personnel and equipment to the permit area after its abandonment by the permittee to perform reclamation, restoration, and abatement work;

(c) All additional estimated costs necessary, expedient, and incident to the satisfactory completion of the requirements identified in this section;

(d) An additional amount based on factors of cost changes during the previous five (5) years for the types of activities associated with the reclamation to be performed; and

(e) Other cost information required or available to the cabinet.

(2) If the reclamation cost calculated submitted in a permit application is higher than the minimum bond or bond calculated by the cabinet, the higher calculation shall be used in any issued permit.

(3) The cabinet shall review the bonding amounts identified in Sections 7 and 8 of this administrative regulation at a minimum of every two (2) years to determine if the amounts are adequate due to inflation and increases in reclamation costs.

(4) Full cost bonding participants shall provide the cabinet a cost estimate that reflects the costs of reclamation to the cabinet in accordance with the requirements of 405 KAR 10:080, Section 3.

Section 7. Minimum Bond Amount. The minimum amount of the bond for surface coal mining and reclamation operations at the time the permit is issued or amended shall be:

(1) \$75,000 for the entire surface area under one (1) permit;

(2) \$75,000 per increment for incrementally bonded permits, subject to Section 4(2) of this administrative regulation;

(3) \$50,000 for a permit or increment operating on previously mined areas, as defined in of 405 KAR 8:001, Section 1(86), to be

evaluated by the cabinet; or

(4) \$10,000 for underground mines that have only underground operations.

Section 8. Bonding Rate of Additional Areas. Areas of a surface coal mine and reclamation operation shall be bonded at the following rates for a permit issued by the Division of Mine Permits:

(1) Coal haul roads, other mine access roads, and mine management areas shall be bonded at \$2,500 per acre and each fraction thereof.

(2) Refuse disposal areas shall be bonded at a minimum rate of \$7,500 per acre and each fraction thereof.

(3)(a) An embankment sediment control pond shall be bonded at a rate of \$10,000 per acre and each fraction thereof, with each pond being measured separately, if the pond is located off-bench and located downstream and outside the proposed mining or spoil storage area.

(b) This rate may be applied to partial embankment structures as necessary to meet the requirements of Section 6(1) of this administrative regulation.

(4) Coal preparation plants shall be bonded at the base acreage rate, in accordance with subsection (6) of this section, in addition to the costs associated with demolition and disposal costs relating to concrete, masonry, steel, timber, and other materials associated with surface coal mining and reclamation operations.

(5) Operations on previously mined areas, as defined in 405 KAR 8:001, Section 1(86), shall be bonded at rate of \$2,000 per acre and each fraction thereof.

(6) All areas of surface coal mining and reclamation operations not otherwise addressed in subsections (1) through (5) of this section shall be bonded at the rate of \$3,500 per acre and each fraction thereof.

(7)(a) For permits that have been identified as requiring a producer-of long-term treatment[drainage], the cabinet shall calculate an additional bond or other financial assurance instrument amount based on the estimated annual treatment cost, provided by the permittee and verified by the cabinet, multiplied by a factor of twenty-five (25)[twenty (20) years] plus any capital costs of the treatment system.

(b) The long-term treatment cost estimate shall be subject to verification and acceptance by the cabinet. The department shall use its own estimate for annual treatment costs if the department cannot verify the accuracy of the permittee's estimate. ~~[(c) In lieu of this calculation, the permittee may submit a remediation plan to be approved by the cabinet for the areas deemed to be producing substandard drainage.~~

~~1. The remediation plan shall demonstrate that substandard discharge shall be permanently abated by land reclamation techniques prior to phase II bond release.~~

~~2. If the department rejects the plan, the permittee shall submit the additional acid mine drainage bond previously established in this section.]~~

Section 9. Period of Liability. (1) Liability pursuant to a performance bond applicable to an entire permit area or increment thereof shall continue until all reclamation, restoration, and abatement work required of persons who conduct surface coal mining and reclamation operations pursuant to requirements of KRS Chapter 350, 405 KAR Chapters 7 through 24, and the provisions of the permit have been completed, and the permit or increment terminated by release of the permittee from further liability in accordance with 405 KAR 10:040.

(2) In addition to the period necessary to achieve compliance with all of the requirements of KRS Chapter 350, 405 KAR Chapters 7 through 24, and the permit, including the standards for the success of revegetation as required by 405 KAR 16:200 and 405 KAR 18:200, the period of liability pursuant to a performance bond shall continue for a period of five (5) years beginning with the last year of augmented seeding, fertilizing, irrigation, or other work.

(a) The period of liability shall begin again upon augmented seeding, fertilizing, irrigation, or other work required or conducted on the site prior to bond release.

(b) Isolated and clearly defined portions of a bonded area requiring extended liability because of augmentation may be separated from the original area and bonded separately upon approval by the cabinet.

(c) These areas shall be limited in extent, and not constitute a scattered, intermittent, or checkerboard pattern of failure.

(d) Access to the separated areas for remedial work may be included in the area pursuant to extended liability if necessary.

(3) If the cabinet approves a long-term intensive agricultural postmining land use in accordance with 405 KAR 16:210, augmented seeding, fertilization, irrigation, or other husbandry practices normally associated with the approved postmining land use shall not require restarting the five (5) year period of liability.

(4) The bond liability of the permittee shall include only those actions that the permittee is required to take pursuant to the permit, including completion of the reclamation plan in a manner that the land will be capable of supporting a postmining land use approved pursuant to 405 KAR 16:210. Actions of third parties beyond the control and influence of the permittee and for which the permittee is not responsible pursuant to the permit shall not be covered by the bond.

Section 10. Adjustment of Amount. (1) The amount of the performance bond liability applicable to a permit or increment shall be adjusted by the cabinet if the:

(a) Acreage in the permit area or increment is either increased or decreased; or

(b) Cabinet determines that the cost of future reclamation, restoration, or abatement work has changed. If it is determined that an adjustment pursuant to this paragraph is necessary, the cabinet shall:

1. Notify the permittee, the surety, and any person with a property interest in collateral who has previously requested such a notification in writing; and

2. Provide the permittee an opportunity for an informal conference on the adjustment. The requirements of 400 KAR 1:090 and 400 KAR 1:110 shall not apply to the conduct of the conference.

(2) The amount of the performance bond liability applicable to a permit or increment may be adjusted by the cabinet upon application by the permittee under 405 KAR 8:010, Section 20, to delete acreage from the permit area or increment thereof if the acreage has not been affected by the surface coal mining and reclamation operation. The provisions of 405 KAR 10:040, Section 2(3), shall apply. A reduction due to such a deletion of acreage shall not constitute a bond release and shall not be subject to the procedures of 405 KAR 10:040, Section 1.

(3) The cabinet may grant reduction of the required performance bond amount if the permittee's method of operation or other circumstances will reduce the maximum estimated cost to the cabinet to complete the reclamation responsibilities and therefore warrant a reduction of the bond amount. The request shall not be considered as a request for partial bond release subject to the procedures of 405 KAR 10:040, Section 1.

(4) The cabinet shall refuse to approve a reduction of the performance bond liability amount if an action for revocation or suspension of the permit covered by the bond is pending, if there is a pending action for forfeiture of the bond, or if the permittee is currently in violation of 405 KAR Chapters 7 through 24 on that permit or increment.

Section 11. Supplemental Assurance. (1) If alternative distance limits or additional pits are approved pursuant to 405 KAR 16:020, Section 2, the applicant shall submit to the cabinet supplemental assurance in the amount established in this section. This supplemental assurance shall be for the purpose of assuring the reclamation of the additional unreclaimed disturbed area and shall be in addition to the performance bond required pursuant to 405 KAR Chapter 10. The applicant shall submit supplemental assurance on the cabinet form, Supplemental Assurance, SME-42 (SA). This form shall be accompanied by the Escrow Agreement form (for use with Supplemental Assurance form only), SME-64 (SA).

(a) The supplemental assurance shall not be subject to the bond release requirements of 405 KAR 10:040, but shall be returned in accordance with the requirements of this section.

(b) The requirements of Sections 2, 3, and 5 of this administrative regulation and 405 KAR 10:035 and 10:050 shall apply to supplemental assurance.

(2) Single seam contour mining. For single seam contour operations subject to 405 KAR 16:020, Section 2(3), the amount required shall be \$150,000 per 1,500 feet, or any portion thereof, of additional distance approved for the first pit pursuant to 405 KAR 16:020, Section 2(3). If an additional pit or pits are approved, the amount shall be \$150,000 per 1,500 feet, or any portion thereof, including the first 1,500 feet of each additional pit.

(3) Multiple seam contour mining. For multiple seam contour mining operations subject to 405 KAR 16:020, Section 3(6)~~[Section 2(4)]~~, the amount required shall be \$150,000 per 1,500 feet, or any portion thereof, of additional distance approved for the first multiple seam operation pursuant to 405 KAR 16:020, Section 2(4). If additional multiple seam operations are approved, the amount shall be \$150,000 per 1,500 feet, or any portion thereof, including the first 1,500 feet of each additional multiple seam operation.

(4) Mountaintop removal. If a mountaintop removal operation begins by mining a contour cut around all or a portion of the mountaintop, that contour portion shall require the same supplemental assurance established in subsection (2) of this section.

(5) Area mining. The amount required shall be \$150,000 for any four (4) spoil ridges, or any portion thereof, of additional distance approved for the first pit pursuant to 405 KAR 16:020, Section 2(1). If an additional pit or pits are approved, the amount shall be \$150,000 for any four (4) spoil ridges, or any portion thereof, including the first four (4) spoil ridges of each additional pit.

(6) Return of supplemental assurance. Supplemental assurance shall be returned to the person that submitted it upon:

(a) Application to the cabinet for the return; and

(b) Inspection and written documentation (including photographs) by the cabinet verifying that the area for which the supplemental assurance was submitted has been backfilled and graded (or in the case of mountaintop removal, the associated highwall has been eliminated by mining operations).

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Performance Bond, Form SME-42", June 2013;

(b) "Irrevocable Standby Letter of Credit, Form SME-72", July 1994;

(c) "Confirmation of Irrevocable Standby Letter of Credit, Form SME-72-A", July 1994;

(d) "Supplemental Assurance, SME-42 (SA)", July 1994;

(e) "Escrow Agreement (for use with Supplemental Assurance form only), SME-64 (SA)", July 1994;

(f) "Escrow Agreement, Form SME-64", October 2008;

(g) "Remining Issues and Procedures, Reclamation Advisory Memorandum No. 154", May 2012; and

(h) "Performance Bond for Surface Coal Mining and Reclamation on Federal Lands, Form SME-42-F", June 2013.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department for Natural Resources, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: March 13, 2019

FILED WITH LRC: March 14, 2019 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 24, 2019 at 5:00 p.m. (Eastern Time) in Training Room C of the Energy and Environment Cabinet at 300 Sower Blvd, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency 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 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 April 30, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Michael Mullins, Regulation Coordinator, 300 Sower Blvd, Frankfort, Kentucky 40601, phone (502) 782-6720, fax (502) 564-4245, email michael.mullins@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Mullins

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes criteria for base determination of reclamation bond amounts, liability periods, long-term treatment financial assurance and requirements for filing and maintaining performance bonds for surface coal mining operations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure adequate bonds or other financial assurance instruments are held by the cabinet to ensure performance of the requirements of KRS Chapter 350 in the event reclamation or remediation work is performed by the cabinet.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS Chapter 350 provides the cabinet the authority to promulgate administrative regulations to implement a permanent program to regulate coal mining in the commonwealth. This administrative regulation establishes procedures for determining amounts for performance bonds for surface coal mining operations.

(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 the criteria for determination of bond amounts, liability periods, long-term treatment financial assurance and requirements for filing and maintaining performance bonds for surface coal mining operations and ensures adequate bonds are held by the cabinet to perform the requirements of KRS Chapter 350 in the event reclamation or remediation work is performed by the cabinet.

(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 makes changes requested by the Office of Surface Mining Reclamation and Enforcement to the bonding protocol program amendment regarding long-term treatment financial assurance calculation that was submitted by the cabinet.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to change the multiplier for long-term treatment financial assurance calculations. This amendment also removes the provision to allow a remediation plan in lieu of payment of the long-term treatment bond.

(c) How the amendment conforms to the content of the authorizing statutes: KRS Chapter 350 provides the cabinet the authority to promulgate administrative regulations to establish procedures for determining amounts and additional information for performance bonds for surface coal mining operations. This amendment changes the bonding protocol program regarding long-term treatment financial assurance calculations.

(d) How the amendment will assist in the effective administration of the statutes: KRS 350.064 requires reclamation bond to be filed by the applicant. This amendment alters the criteria for calculations for long-term treatment bonds.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This provision would apply to any entity

that operates surface coal mine operation that is conducting long-term treatment within Kentucky. This provision would also apply to the Department for Natural Resources and the Division of Water.

(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 entities listed in question (3) above who are conducting long-term treatment on surface coal mining operations will be required to use the new multiplier and post required financial assurance instrument for those sites.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is not a standard cost increase associated with the proposed amendments. Any additional cost to a permittee performing long-term treatment will be reflected in the amount of the financial assurance instrument which is going from a multiplier of 20 to 25 for annual treatment costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Department for Natural Resources will benefit by ensuring adequate financial assurance is held by the cabinet to satisfy the requirements of KRS Chapter 350 in the event work is performed by the cabinet. The regulated entities with long-term treatment sites will benefit by providing a more reliable amount of financial assurance.

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

(a) Initially: There will be no costs to the department associated with implementation of this amendment.

(b) On a continuing basis: There will be no costs to the department associated with implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding for implementation of the amendments to this administrative regulation will be a combination of general funds and restricted 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: The amendments to this administrative regulation will not 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 or increase any fees.

(9) TIERING: Is tiering applied? No. All entities that operate a coal mine will be required to meet the same requirements as it relates to sites with long term treatment concerns.

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 Division of Mine Permits, Division of Mine Reclamation and Enforcement, and the Division of Water.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 350.060, 350.062, 350.064, 350.093, 350.095, 350.100, 350.151, 350.465, 350.515, 350.518.

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 amended administrative regulation will not generate any new revenue for the 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 amended administrative regulation will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? There will not be a cost increase associated with the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? Future costs would remain essentially unchanged related to this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact 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. 30 C.F. R. 800.17

2. State Compliance Standards. KRS 350.028 and KRS 350.060.

3. Minimum or uniform standards contained in the federal mandate. 30 C.F. R. Part 800 are federal regulations related to bonding and insurance requirements for surface coal mining and reclamation operations under regulatory programs.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. The amendments will make Kentucky's mining program similar to the federal program related to the bonding long-term treatment sites.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Kentucky Board of Education Department of Education (Amendment)

704 KAR 3:303. Required Academic Standards.

RELATES TO: KRS 156.070, 156.160, 158.6451, 158.6453, 160.290

STATUTORY AUTHORITY: KRS 156.070, 156.160, 158.6453

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Kentucky Board of Education to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes, and assessment strategies developed under KRS 158.645 and 158.6451. KRS 158.6453 requires the revision of academic content standards. KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools and all programs operated in the schools. KRS 160.290 authorizes local boards of education to provide for courses and other services for students consistent with the administrative regulations of the Kentucky Board of Education. This administrative regulation incorporates by reference the required academic standards, which contain the general courses of study and academic content standards for use in Kentucky's common schools unless specifically incorporated in another administrative regulation in Title 704, [KAR] Chapter 8.

Section 1. Before graduating from a Kentucky public high school, a student shall meet the minimum content requirements established in the required[Kentucky] academic standards.

Section 2. Incorporation by Reference. (1) The "Kentucky Academic Standards.", March 2019[October-2018], is incorporated by reference.

(2) This material may be inspected, copied, or obtained,

subject to applicable copyright law, at the Division of Program Standards, Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Monday through Friday, 8:00 a.m. through 4:30 p.m.

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).

WAYNE D. LEWIS, Ph.D.

HAL HEINER, Chairperson

APPROVED BY AGENCY: March 14, 2019

FILED WITH LRC: March 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 29, 2019 at 10:00 a.m., in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by 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 April 30, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Deanna Durrett, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321, email regcomments@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Deanna Durrett

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the minimum content standards for use in Kentucky's common schools.

(b) The necessity of this administrative regulation: KRS 156.160 requires the Kentucky Board of Education to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected outcomes for students and schools established in KRS 158.6451.

(c) How this administrative regulation conforms to the content of the authorizing statute: KRS 158.6453 requires the revision of academic content standards. KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools and all programs operated in the schools. KRS 160.290 authorizes local boards of education to provide for courses and other services for students consistent with the administrative regulations of the Kentucky Board of Education.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation incorporates by reference the Kentucky Academic Standards, which contain the general courses of study and academic content standards for use in Kentucky's common schools pursuant to KRS 158.6451.

(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 will amend the document incorporated by reference in 704 KAR 3:303 to remove the standards incorporated by reference in 704 KAR 8:060.

(b) The necessity of the amendment to this administrative regulation: This regulation will amend the document incorporated by reference in 704 KAR 3:303 to remove the standards incorporated by reference in 704 KAR 8:060.

(c) How the amendment conforms to the content of the

authorizing statute: KRS 156.160 requires the Kentucky Board of Education to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451 and 158.6453. KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools and all programs operated in the schools. KRS 160.290 authorizes local boards of education to provide for courses and other services for students consistent with the administrative regulations of the Kentucky Board of Education.

(d) How the amendment will assist in the effective administration of the statutes: This regulation will amend the document incorporated by reference in 704 KAR 3:303 to remove the standards incorporated by reference in 704 KAR 8:060. This will increase the efficiency of the review and revision process.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Those affected by this regulation include: The Kentucky Department of Education will need to modify the document incorporated by reference in 704 KAR 3:303. This amendment will require local districts to conform to the contents of the academic standards incorporated by reference in this and other regulations.

(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 will not require any action by local districts. The Kentucky Department of Education will need to modify the document incorporated by reference in 704 KAR 3:303.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Kentucky Department of Education staff time will be impacted to revise the document incorporated by reference.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment will increase the efficiency of the Kentucky Department of Education once standards are revised by having them in their own regulations.

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

(a) Initially: Minimal staff time at the Kentucky Department of Education will be required to implement this amendment.

(b) On a continuing basis: Minimal staff time at the Kentucky Department of Education will be required to implement this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State 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 funding will be necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees or directly or indirectly 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 local education agencies.

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 Department of Education staff time will be impacted to revise the document incorporated by reference.

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

regulation. KRS 156.160 requires the Kentucky Board of Education to establish courses of study for the different grades and kinds of common schools, with the courses of study to comply with the expected goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451 and 158.6453. KRS 156.070(1) requires the Kentucky Board of Education to manage and control the common schools and all programs operated in the schools. KRS 160.290 authorizes local boards of education to provide for courses and other services for students consistent with the administrative regulations of the Kentucky Board of Education.

(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. This amendment will not have any impact on expenditure or revenue.

(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.

(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.

(c) How much will it cost to administer this program for the first year? Minimal staff time at the Kentucky Department of Education will be required to implement this amendment.

(d) How much will it cost to administer this program for subsequent years? Minimal staff time at the Kentucky Department of Education will be required to implement this amendment.

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 (+/-): NA
Other Explanation: N/A

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:180. Recordkeeping, reporting, statistics.

RELATES TO: KRS 338.015(1), (2), 338.121(3), 338.161, 29 C.F.R. Part 1904

STATUTORY AUTHORITY: KRS 338.061, 338.161

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.161(1) requires the Department of Workplace Standards, represented by the commissioner to promulgate administrative regulations requiring employers to report occupational safety and health statistics. 29 C.F.R. Part 1904 authorizes requirements for the recording and reporting of occupational illnesses and injuries. This administrative regulation establishes recordkeeping and reporting requirements for employers pursuant to KRS Chapter 338.

Section 1. Definitions. (1) "Amputation" means an injury in which a portion of the body including bone tissue is removed.

(2) "Employee" is defined by KRS 338.015(2).

(3) "Employer" is defined by KRS 338.015(1).

(4) "Loss of eye" means the physical removal of an eye from the socket.

(5) "Occupational Safety and Health Act" means KRS Chapter 338.

(6) "Secretary of Labor" means the Secretary of the United States Department of Labor or the Secretary of the Labor Cabinet.

(7) "Section 11(c) of the Act" means KRS 338.121(3).

Section 2. An employer shall comply with the following federal regulations published by the Office of the Federal Register,

National Archives and Records Administration, except as modified by the definitions in Section 1 and the requirements of Section 3 of this administrative regulation:

(1) 29 C.F.R. Part 1904, effective July 1, 2018[2015]; and

(2) ~~The amendment to 29 C.F.R. Part 1904 as published in the January 25, 2019 Federal Register, Volume 84, Number 17, [Beginning January 1, 2017:~~

~~(a) The amendments to 29 C.F.R. Part 1904 as published in the May 12, 2016 Federal Register, Volume 81, Number 92; and~~

~~(b) The correction to the May 12, 2016 Federal Register, Volume 81, Number 92 as published in the May 20, 2016 Federal Register, Volume 81, Number 98.]~~

Section 3. Reporting Fatalities, Amputations, In-Patient Hospitalizations, or Loss of Eye. The reporting requirements established in this section shall apply in lieu of 29 C.F.R. 1904.39.

(1) An employer shall orally report to the Kentucky Labor Cabinet, Department of Workplace Standards, Division of Occupational Safety and Health Compliance, at (502) 564-3070, any work-related incident that results in the:

(a) Death of any employee; or

(b) Hospitalization of three (3) or more employees.

(2) The report required pursuant to subsection (1) of this section shall be made within eight (8) hours from when the incident is reported to the employer, the employer's agent, or another employee. If the employer cannot speak with someone in the Frankfort office, the employer shall report the incident using the OSHA toll-free, central telephone number, 1-800-321-OSHA (1-800-321-6742).

(3) An employer shall orally report to the Kentucky Labor Cabinet, Department of Workplace Standards, Division of Occupational Safety and Health Compliance, at (502) 564-3070, any work-related incident that results in:

(a) An amputation suffered by an employee;

(b) An employee's loss of an eye; or

(c) The hospitalization of fewer than three (3) employees within seventy-two (72) hours following the incident.

(4) The report required pursuant to subsection (3) of this section shall be made within seventy-two (72) hours from when the incident is reported to the employer, the employer's agent, or another employee.

(5) The requirement to report the loss of an eye pursuant to subsection (3)(b) of this section shall be effective January 1, 2016. ~~[As approved by the Kentucky Labor Cabinet, Department of Workplace Standards]~~

DAVID A. DICKERSON, Secretary

DWAYNE F. DEPP, Commissioner

APPROVED BY AGENCY: March 5, 2019

FILED WITH LRC: March 6, 2019 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 22, 2019 at 10:00 am. (EDT) at the Labor Cabinet, 657 Chamberlin Avenue, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until April 30, 2019. 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: Kristi Redmon, OSH Standards Specialist, Kentucky Department of Workplace Standards, 657 Chamberlin Avenue, Frankfort, Kentucky 40601, phone (502) 564-3504, fax (502) 564-4769, email Kristi.Redmon@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Kristi Redmon

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers to comply with the requirements of 29 C.F.R. 1904 and updates the C.F.R. to July 1, 2018. Section 2 also establishes the amendments to 29 C.F.R. 1904 published in the January 25, 2019 Federal Register, Volume 84, Number 17. Section 3 amends and replaces the requirements of 29 C.F.R. 1904.39 with state-specific reporting occupational injuries and illnesses that have been in effect since 2006. With the January 25, 2019 final rule OSHA is rescinding the requirement that employers with 250 or more employees electronically submit their 301 and 300 OSHA forms. Instead, those employers will now only be required to electronically submit to OSHA their 300A form. OSHA has also amended the recordkeeping requirement by requiring the provision of the Employer Identification Number (EIN) when the OSHA 300A information is submitted to OSHA. Finally, this amendment updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the January 25, 2019 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements in Section 2 of the regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 338.161 (1) requires the Department of Workplace Standards to develop and maintain a program of collection, compilation, and analysis of occupational safety and health statistics. This amendment adopts the federal requirement, which, according to OSHA, improves the reporting requirement so that the OSH Program can better target employers for enforcement and compliance assistance purposes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: According to OSHA, the recordkeeping and reporting regulation enhances worker safety throughout Kentucky by maintaining a useful database of injuries and illnesses and keeps the state occupational safety and health program at least as effective as the federal program.

(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: Section 2 requires employers to comply with the requirements of 29 C.F.R. 1904. Section 2 also updates the C.F.R. to July 2018 and establishes the amendments to 29 C.F.R. 1904 published in the January 25, 2019 Federal Register, Volume 84, Number 17. This amendment rescinds the requirement to submit the 300 and 301 OSHA forms for employers with 250 or more employees. OSHA is also requiring the provision of the Employer Identification Number when submitting the required information electronically. Finally, this amendment also updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the January 25, 2019 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal requirements in Section 2 of the regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment also conforms to KRS 338.161, which requires the Department of Workplace Standards to develop and maintain a program of collection, compilations, and

analysis of occupational safety and health statistics. This amendment adopts the federal requirement, which, according to OSHA improves the reporting requirement so that the OSH Program can better target employers for enforcement and compliance assistance purposes.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements, providing all a clear understanding of the requirements. According to OSHA, the recordkeeping and reporting regulation ensures that data collected in Kentucky are useful in comparing illness and injury incident rates to those nationally.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth covered by KRS Chapter 338.

(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 rescinds the employer's requirement to submit their OSHA 300 and 301 form information, but adds a requirement to provide the Employer Identification Number when OSHA 300A information is electronically submitted.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): According to OSHA, there are no net costs associated with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): According to OSHA, improved employee protection is likely to result from the promulgation of this amendment due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

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

(a) Initially: There will be no cost to implement this specific amendment.

(b) On a continuing basis: There will be no costs on a continuing basis to implement this amendment to the administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Restricted/state and federal 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 is neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18(c)(2), 29 U.S.C. 667

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the January 25, 2019 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal recordkeeping requirements in Section 2 of the regulation.

3. Minimum or uniform standards contained in the federal

mandate. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the January 25, 2019 final rule. Kentucky does not have an effective alternative to the final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate the federal recordkeeping requirements in Section 2 of the regulation.

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 poses different requirements than the federal mandate in Sections 1 and 3, in that the definition of amputation and injury reporting times are different, but this difference is not stricter than the federal mandate. This amendment does not impose stricter requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The requirement to report occupational hospitalizations, amputations, and fatalities has been in place since 2006. The additional requirement to report the loss of eye aligns the reporting requirements with 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 will affect any unit, part, or division of local government covered by KRS 338.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.161, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Part 1953.4.

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? OSHA estimates that there will be no net costs to employers to implement this amendment.

(d) How much will it cost to administer this program for subsequent years? OSHA estimates that there will be no net costs to employers to implement this amendment.

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

Revenues (+/-): None.

Expenditures (+/-): None.

Other explanation:

ENERGY AND ENVIRONMENT CABINET Department for Natural Resources Division of Mine Safety (Amendment)

805 KAR 3:100. Equipment use and operation.

RELATES TO: KRS 351.070

STATUTORY AUTHORITY: KRS 351.070

NECESSITY, FUNCTION, AND CONFORMITY: KRS 351.070 authorizes the Secretary of the Energy and Environment Cabinet to

promulgate, amend, or rescind any administrative regulations as necessary and suitable for the proper administration of KRS Chapter 351. This administrative regulation establishes safety standards controlling the use and operation of equipment in the Commonwealth's surface type coal and clay mines, which include strip and auger mining operations.

Section 1. (1) The following items shall be guarded to prevent injury:

- (a) Gears;
- (b) Sprockets;
- (c) Chains;
- (d) Drive, head, tail, and take-up pulleys;
- (e) Flywheels;
- (f) Couplings;
- (g) Shafts;
- (h) Sawblades;
- (i) Fan inlets; and
- (j) Similar exposed moving machine parts that may cause injury to persons.

(2) An overhead belt shall be guarded if the whipping action from a broken belt may be hazardous to a person below.

(3) A guard at conveyor drive, head, and tail pulleys shall be sufficient to prevent a person from reaching behind the guard and becoming caught between the belt and the pulley.

(4) A protruding set screw on revolving parts shall be guarded.

(5) Except while testing the machinery, a guard shall be securely in place while machinery is being operated.

(6) A guard shall be sufficiently strong and maintained to provide the required protection.

(7) A stationary grinding machine other than a special bit grinder shall be equipped with:

(a) Peripheral hoods (less than ninety (90) degree throat openings) capable of withstanding the force of a bursting wheel;

(b) Adjustable tool rests set as close as practical to the wheel; and

(c) Safety washers.

(8) A face shield or goggles, in good condition, shall be worn while operating a grinding wheel.

(9) A hand-held power tool, other than a rock drill, shall be equipped with controls requiring constant hand or finger pressure to operate the tools or shall be equipped with friction or other equivalent safety devices.

(10) A guard or shield shall be provided in areas where flying or falling materials present a hazard.

(11)(a) A vehicle, such as a fork lift, truck, front-end loader, and bulldozer, shall be provided with rollover protection, if necessary, to protect the operator.

(b)1. Beginning January 1, 2016:

a. An excavator newly placed in service at a licensed facility shall be equipped with rollover protection that shall meet, at a minimum, the International Organization for Standardization (ISO) 12117-2:2008 standard or the equivalent ISO standard; and

b.i. A person operating an excavator that is not equipped with certified rollover protection pursuant to subsection (11)(b)1.a. of this administrative regulation shall be trained by the Division of Mine Safety as having successfully completed an excavator operation safety course.

ii. The training established in subclause i. of this clause shall be recorded on the Mine Safety and Health Administration Form 5000-23, which shall be maintained on the mine premises.

2. An excavator manufactured before 2011 shall meet and maintain the safety standards in place at the time the equipment was manufactured. Beginning January 1, 2020, any excavator in operation at a licensed facility shall be equipped with rollover protection meeting the current International Organization for Standardization (ISO) standards in place.

(12)(a) A vehicle, such as a fork lift, truck, front-end loader, and bulldozer, shall be provided with falling object protection, if necessary, to protect the operator against falling material.

(b)1. An excavator manufactured after January 1, 2011, shall be provided with falling object protection. The falling object protection shall meet ISO standards in place when the machine

was manufactured.

2. Effective January 1, 2016, an excavator that operates in an application with the risk of falling objects shall be equipped with falling object protection that shall meet, at a minimum, the ISO 10262:1998 Level II standard or the equivalent ISO standard.

(13) Unsafe equipment or machinery shall be removed from service immediately.

(14) Machinery and equipment shall be operated only by an authorized and experienced person.

(15) A repair or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except if machinery motion is necessary to make an adjustment or if nonenergized components of large machinery can be safely repaired while the machine is operating.

(16) A person shall not work on mobile equipment in a raised position until it has been blocked in place securely. This shall not preclude the use of equipment specifically designed for these purposes, such as elevated mobile work platforms.

(17) A drive belt shall not be shifted while in motion unless the machine is provided with a mechanical shifter.

(18) A belt, chain, or rope shall not be guided onto a power driven moving pulley, sprocket, or drum with the hands, except on slow moving equipment especially designed for hand feeding.

(19) A pulley or conveyor shall not be cleaned manually while the conveyor is in motion.

(20) A belt dressing shall not be applied manually while the belt is in motion unless an aerosol-type dressing is used.

(21) Machinery shall not be lubricated while in motion if a hazard exists unless equipped with extended fittings or cups.

CHARLES G. SNAVELY, Secretary

APPROVED BY AGENCY: March 13, 2019

FILED WITH LRC: March 14, 2019 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 23, 2019 at 5:00 p.m. (Eastern Time) in Training Room C of the Energy and Environment Cabinet at 300 Sower Blvd, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency 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 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 April 30, 2019. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Michael Mullins, Regulation Coordinator, 300 Sower Blvd, Frankfort, Kentucky 40601, phone: (502) 782-6720, fax: (502) 564-4245, email: michael.mullins@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Mullins

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes safety standards controlling the use and operation of equipment in the Commonwealth's surface type coal and clay mines, which include strip and auger mining operations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to require safety standards for equipment used on surface coal mines and clay mines within the Commonwealth.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 351.070(12) provides that the Commissioner may "prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines." This

administrative regulation provides safety standards for equipment.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides details concerning safety requirements for equipment used at surface type coal and clay mines which include strip and auger mining operations.

(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 require excavators manufactured prior to 2011 to be equipped with safety equipment that meets the safety standards in place at the time the equipment was manufactured. This equipment must be maintained on the equipment for its active life.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary correct a requirement that when originally promulgated requiring the ISO standard for equipment manufactured prior to 2011. This requirement could not be met because the equipment could not be safely retrofitted to meet the ISO standard.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statutes by correcting a requirement that couldn't safely be met for excavators manufactured prior to 2011.

(d) How the amendment will assist in the effective administration of the statutes: KRS 351.070(12) provides that the Commissioner may "prescribe reasonable safety standards governing...mechanical equipment in the operation of open-pit or surface mines." This amendment will correct a requirement that couldn't safely be met for excavators manufactured prior to 2011. However, training will be required for these excavators.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All surface mines in the Commonwealth and a few underground mines, depending on if they are using excavators in areas where there are dangers of rollover, could be impacted.

(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 entities listed in question (3) above will be required to ensure their excavators manufactured prior to 2011 meet the safety standards in place at the time the equipment was manufactured. They also need to ensure those excavators continue to meet those standards.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment will not result in a significant cost to the entities described in (3). This amendment will require the entities in (3) to maintain their equipment so that the excavators continue to meet those standards. The cost associated with this amendment will be in the form of maintenance costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): These entities will no longer be expected to meet a safety standard that was not feasible for them to meet in a safe manner.

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

(a) Initially: There will be no costs to the administrative body with implementation of this amendment.

(b) On a continuing basis: There will be no costs to the administrative body with implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding for implementation of the amendments to this administrative regulation will be General 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: The amendments to this administrative regulation will not 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 or increase any fees.

(9) TIERING: Is tiering applied? No. All entities that use excavators will be required to meet 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 Division of Mine Safety.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 351.070.

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 new administrative regulation will not generate any new revenue for the state or local government. This administrative regulation will not generate revenue.

(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 new administrative regulation will not generate revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? There will not be a cost increase associated with the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? Future costs would remain essentially unchanged related to this amendment.

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

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

PUBLIC PROTECTION CABINET Department of Insurance (Amendment)

806 KAR 47:010. Fraud prevention~~[Designation of a contact person]~~.

RELATES TO: KRS 304.2-140, 304.47-010, 304.47-020, 304.47-040, 304.47-050, 304.47-080

STATUTORY AUTHORITY: KRS 304.2-110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code~~[as defined in KRS 304.1-010]~~. This administrative regulation establishes insurer requirements and a comprehensive process for reporting and investigating fraudulent insurance acts~~[for the designation of primary contact persons to communicate with the Division of Insurance Fraud Investigation]~~.

Section 1. Definitions. (1) "Division" is defined by KRS 304.47-010(6);

(2) "Special investigative unit" or "SIU" means a unit to investigate fraudulent insurance acts as required by KRS 304.47-080.

Section 2. Scope. This administrative regulation shall apply to

all insurers admitted to do business in the Commonwealth that are not otherwise exempted by KRS 304.47-080(1).

Section 3. Primary Anti-fraud Contacts. To facilitate communication with the division, an~~[Every]~~ insurer shall designate~~[at least]~~ two (2) primary contact persons, one (1) of whom shall be the head of the SIU,~~[but not more than four (4) primary contact persons]~~ who shall communicate with the division~~[of Insurance Fraud Investigation]~~ on matters relating to the reporting, investigation, and prosecution of suspected fraudulent insurance acts, as defined in KRS 304.47-020.

Section 4[2]. Special Investigative Units and Anti-fraud Plans.~~[Every insurer shall notify the Division of Insurance Fraud Investigation in writing of the names, addresses, and telephone numbers of:]~~

(1) An insurer shall maintain an SIU to fulfill the requirements of KRS 304.47-080.~~[The insurer's primary contact persons; and]~~

(2) In conjunction with its SIU, an insurer shall:~~[The primary person responsible for the insurer's investigative unit.]~~

(a) Implement systematic and effective methods to detect and investigate suspected fraudulent insurance claims;

(b) Educate and train all claims handlers to identify possible insurance fraud;

(c) Develop policies for the SIU to cooperate, coordinate, and communicate with:

1. The insurer's claims handlers, legal personnel, technical support personnel, and database support personnel; and

2. The division and other relevant law enforcement agencies.

(d) Develop and submit to the division a written anti-fraud plan, which shall include:

1. Acknowledgment of duty to report to the division, including mandatory reporting of suspected fraud within fourteen (14) days;

2. SIU contact information;

3. SIU investigative ethics;

4. Procedures to detect and deter fraud; and

5. Continuing education plans for SIU staff.

Section 5. Compliance Report. (1) Within ninety (90) days of admission, and at least once every two (2) years, an insurer shall submit to the division a written report setting forth the manner in which the insurer is complying with Section 4 of this administrative regulation. The report shall also include:

(a) The total number of SIU investigative staff responsible for cases in Kentucky, and whether any such staff also investigate cases in other jurisdictions; and either

(b) If the insurer formed the SIU in house and solely governs it, the year that the SIU was formed; or

(c) If the insurer has contracted SIU services through another company, the identity of the company providing SIU services and the initial year of the contract between the insurer and the company.

(2) Within thirty (30) days of a material change of the information provided in the compliance report, the insurer shall amend the compliance report and resubmit it to the division.

Section 6. Reporting Fraudulent Insurance Acts. (1) All persons identified in KRS 304.47-050(2) shall report suspected fraudulent insurance acts to the division within fourteen (14) days of determination that a suspected fraudulent act has been committed. Reports submitted to a person or entity other than the division shall not satisfy the reporting duty of KRS 304.47-050(2). Reports shall be submitted by:

(a) Completing a report on the department's electronic services portal at <https://insurance.ky.gov/eservices/default.aspx>; or

(b) Submitting a completed Uniform Suspected Insurance Fraud Reporting Form.

(2) All persons identified in KRS 304.47-050(1) may report suspected fraudulent insurance acts to the division by:

(a) Completing a report on the department's electronic services portal at <https://insurance.ky.gov/eservices/default.aspx>; or

(b) Submitting a completed Uniform Suspected Insurance Fraud Reporting Form.

Section 7. Incorporation by Reference. (1) The "Uniform Suspected Insurance Fraud Reporting Form," 03/2019, is incorporated by reference.

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

K. GAIL RUSSELL, Acting Secretary
NANCY G. ADKINS, Commissioner

APPROVED BY AGENCY: March 14, 2019

FILED WITH LRC: March 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 10:00 a.m. on April 22, 2019 at 215 West Main Street, Frankfort, Kentucky 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on April 30, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Patrick O'Connor II, Deputy Commissioner, Policy, P.O. Box 517, 215 West Main Street, Frankfort, Kentucky 40602, phone (502) 564-6026, fax (502) 564-1453, email patrick.oconnor@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Patrick O'Connor II

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes insurer requirements and creates a comprehensive process for reporting and investigating fraudulent insurance acts. The administrative regulation requires insurers to establish a Special Investigative Unit, identify primary anti-fraud contacts, submit anti-fraud plans and reports to the Department of Insurance division of insurance fraud investigation, and sets forth the process for all persons reporting to the department.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out requirements of KRS 304 Subtitle 47. The administrative regulation facilitates insurer and public communications with the Division regarding suspected fraudulent insurance acts.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes the Commissioner to promulgate administrative regulations necessary to carry out and enforce the provisions of the Kentucky Insurance Code. KRS 304.47-040 establishes the division of insurance fraud investigations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation facilitates communication between insurers and the division, making it easier for both to fulfill their statutory duties regarding insurance fraud.

(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 incorporates necessary substantive provisions from 806 KAR 47:010, 806 KAR 47:020, and 806 KAR 47:030, combining them into a single administrative regulation for administrative efficiency. The amended administrative regulation will now serve as a comprehensive guide to the reporting and investigating of fraudulent insurance acts while eliminating unnecessary

duplication, repetition, and complexity.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation amendment will make it easier for insurers to comply with their statutory duties. Additionally, this amendment will make it easier for the Division to uphold its statutory duty to investigate fraudulent insurance acts. Lastly, this amendment will make it clearer of how someone, although not obligated to do so, can report fraudulent insurance acts to the Division.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes the Commissioner to promulgate administrative regulations necessary to carry out and enforce the provisions of the Kentucky Insurance Code.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation amendment serves as a comprehensive guide for insurers regarding the reporting and investigating of fraudulent insurance acts. Additionally, this amendment offers guidance of how someone, although not obligated to do so, can report fraudulent insurance acts to the Division.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation amendment will affect insurers doing business in the Commonwealth, and the general public to the extent they report fraudulent insurance acts.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment: Insurers will have to become familiar with the revised regulatory scheme and ensure that anti-fraud plans and compliance reports satisfy all revised requirements. The general public will not have to take any action to comply.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This administrative regulation amendment should create no cost to regulated entities or the general public.

(c) As a result of compliance, what benefits will accrue to the entities: Insurers will have an easier time complying with a single administrative regulation governing the reporting and investigating of insurance fraud.

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

(a) Initially: There will be no initial costs to implement this administrative regulation amendment.

(b) On a continuing basis: There will be no continuing costs to implement this administrative regulation amendment.

(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 and enforce this administrative regulation 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 to implement this administrative regulation amendment.

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

(9) TIERING: Is tiering applied? No. Tiering is not applied because this administrative regulation amendment applies equally to all regulated entities.

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 amendment will impact the Insurance Fraud

Investigation division of 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. KRS 304.2-110 authorizes the Commissioner make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code.

(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. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the 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? This administrative regulation amendment will not generate revenue for state or local government 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? This administrative regulation amendment will not generate revenue for state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? There is no cost associated with administering this administrative regulation amendment for the first year.

(d) How much will it cost to administer this program for subsequent years? There is no cost associated with administering this administrative regulation amendment 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 (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: None.

NEW ADMINISTRATIVE REGULATIONS

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Repealer)

301 KAR 3:091. Repeal of 301 KAR 3:090.

RELATES TO: KRS Chapter 13A, 150.230, 150.250, 150.605

STATUTORY AUTHORITY: KRS Chapter 13A, 150.605

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation pertains to the issuance of a contract for a painting to be used as the annual waterfowl stamp, which is issued by the state. The function of this administrative regulation is to identify the procedure for issuing the contract made necessary by KRS 150.605, which was repealed in 2013. 301 KAR 3:090 is being repealed because the department discontinued the use of a painting for the annual waterfowl stamp.

Section 1. 301 KAR 3:090, Waterfowl painting contract, is hereby repealed.

RICH STORM, Commissioner
DON PARKINSON, Secretary

APPROVED BY AGENCY: March 7, 2019

FILED WITH LRC: March 15, 2019 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 23, 2019 at 9:00 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 April 30, 2019. 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 regulation repeals 301 KAR 3:090, which established the procedure for issuing the contract for a painting to be used as the annual waterfowl stamp.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to repeal 301 KAR 3:090, which established the procedure for issuing a contract for a painting to be used as the annual waterfowl stamp.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS Chapter 13A establishes the requirements for the administrative regulation process. KRS 150.605 was repealed in 2013 and no longer applies.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will no longer assist in the administration of the 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: 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: N/A.

(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 since 301 KAR 3:090 is being repealed.

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 Division of Administrative 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 Chapter 13A and KRS 150.605 (repealed in 2013).

(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:

PUBLIC PROTECTION CABINET
Department of Insurance
(Repealer)

806 KAR 47:021. Repeal of 806 KAR 47:020 and 806 KAR 47:030.

RELATES TO: KRS 304.47-050 and KRS 304.47-080

STATUTORY AUTHORITY: KRS 304.2-110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the commissioner to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation repeals 806 KAR 47:020 and 806 KAR 47:030 for administrative efficiency and ease of compliance. The necessary substantive provisions of these administrative regulations are being concurrently incorporated into a single administrative regulation concerning the reporting and investigating of insurance fraud at 806 KAR 47:010.

Section 1. The following administrative regulations are hereby repealed:

(1) 806 KAR 47:020. Reporting fraudulent insurance acts; and

(2) 806 KAR 47:030. Requirements for special investigative units.

K. GAIL RUSSELL, Acting Secretary

NANCY G. ATKINS, Commissioner

APPROVED BY AGENCY: March 14, 2019

FILED WITH LRC: March 15, 2019 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 10:00 a.m. on April 22, 2019 at 215 West Main Street, Frankfort, Kentucky 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on April 30, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Patrick O'Connor II, Deputy Commissioner, Policy, P.O. Box 517, 215 West Main Street, Frankfort, Kentucky 40602, phone (502) 564-6026, fax (502) 564-1453, email patrick.oconnor@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Patrick O'Connor

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 806 KAR 47:020 and 806 KAR 47:030 for administrative efficiency and ease of compliance. The necessary substantive provisions of these administrative regulations are being concurrently incorporated into 806 KAR 47:010, which will now serve as a comprehensive guide to the reporting and investigating of fraudulent insurance acts.

(b) The necessity of this administrative regulation: This administrative regulation repealer is necessary to modernize and simplify the Kentucky Department of Insurance's regulatory scheme by consolidating administrative regulations concerning the

same subject matter.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes the Commissioner to promulgate administrative regulations necessary to carry out and enforce the provisions of the Kentucky Insurance Code.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This repealer, along with the concurrent amendment to 806 KAR 47:010 will greatly simplify the administration of the Kentucky Department of Insurance's division of Insurance Fraud Investigation and make compliance easier for insurers and any individuals wishing to report suspected insurance fraud.

(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 repealer.

(b) The necessity of the amendment to this administrative regulation: This is a repealer.

(c) How the amendment conforms to the content of the authorizing statutes: This is a repealer.

(d) How the amendment will assist in the effective administration of the statutes: This is a repealer.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation repealer will affect insurers doing business in the Commonwealth, and the general public to the extent they report fraudulent insurance acts.

(4) Provide an analysis of how the entities identified in the previous question 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 each of the regulated entities have to take to comply with this regulation or amendment:

Insurers will no longer need to comply with the two repealed administrative regulations, but since necessary substantive provisions are concurrently being relocated to amend 806 KAR 47:010, those businesses will need to update their practices accordingly. The general public will not have to take any action to comply with the proposed repeal.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This administrative regulation repealer should create no cost to regulated entities or the general public.

(c) As a result of compliance, what benefits will accrue to the entities: Insurers will have an easier time complying with a single administrative regulation governing the reporting and investigating of insurance fraud.

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

(a) Initially: There will be no initial costs to implement this administrative regulation repealer.

(b) On a continuing basis: There will be no continuing costs to implement this administrative regulation repealer.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no source because no funding is necessary to implement and enforce this administrative regulation repealer.

(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 a repealer.

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

(9) TIERING: Is tiering applied? No. Tiering is not applied because this administrative regulation repealer applies equally to all regulated entities.

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 repealer will impact the Kentucky Department of Insurance's division of Insurance Fraud Investigation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110 authorizes the Commissioner to make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code.

(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. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the 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? This administrative regulation repealer will not generate revenue for state or local government 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? This administrative regulation repealer will not generate revenue for state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? There is no cost associated with administering this administrative regulation repealer for the first year.

(d) How much will it cost to administer this program for subsequent years? There is no cost associated with administering this administrative regulation repealer 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 (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: None.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of March 11, 2019

Call to Order and Roll Call

The March meeting of the Administrative Regulation Review Subcommittee was held on Monday, March 11, 2019 at 1:00 p.m. In Room 149 of the Capitol Annex. Representative Hale, Co-Chair, called the meeting to order, the roll call was taken. The minutes of the February 2019 were approved.

Present were:

Members: Senators Alice Forgy Kerr, and Stephen West. Representatives David Hale, Deanna Frazier, Mary Lou Marzian, and Tommy Turner.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Betsy Cupp, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Klaber.

Guests: Emily Dennis, John Steffen, Registry of Election Finance; Todd Renner, Department of Revenue; Mike West, Board of Nursing; Scott Majors, Board of Physical Therapy; Tony Cotto, Jason Smith, Cindy Stinnett, Boxing and Wrestling Commission; Bryan Morrow, Board of Licensure for Marriage and Family Therapist; Steven Fields, Rich Storm, Karen Waldrop, Department of Fish and Wildlife Resources; Dana Feldman, Clint Quarles, Michael Williams, Department of Agriculture; Amy Barker, Justice Cabinet; William Codell, Department of Juvenile Justice; Brian Black, Kristi Redmon, Labor Cabinet; B. Dale Hamblin, Robert Swisher, Department of Workers' Claims; Joe Donohue, Charles Vice, Department of Financial Institutions; David Trimble, Department of Professional Licensing; Jonathan Scott, Department for Medicaid Services; Shannon Gadd, Janet Hall, Department for Aging and Independent Living; Laura Begin, Leitha Harris, Todd Trapp, Department for Community Based Services; Bruce Linder, Kentucky Association of Health Care Facilities.

The Administrative Regulation Review Subcommittee met on Monday, March 11, 2019, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

DEPARTMENT OF STATE: Kentucky Registry of Election Finance: Reports and Forms

32 KAR 1:050 & E. Political organization registration. Emily Dennis, general counsel, and John Steffen, executive director, represented the registry.

A motion was made and seconded to approve the following amendment: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

32 KAR 1:070 & E. Waiver from filing candidate election finance statement.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Income Tax; Corporations

103 KAR 16:151. Repeal of 103 KAR 016:100, 103 KAR 016:110, 103 KAR 016:120, 103 KAR 016:130, 103 KAR 016:145, and 103 KAR 016:150. Todd Renner, executive director, Office of Tax Policy and Regulation, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 16:270. Apportionment; receipts factor.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Sections 1 and 3 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to add Section 7 to clarify that this administrative regulation shall apply to

tax periods beginning on or after January 1, 2018. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Nursing

201 KAR 20:065. Professional standards for prescribing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone by APRNs for medication assisted treatment for opioid disorder. Mike West, general counsel, represented the board.

A motion was made and seconded to approve the following amendment: to amend the RELATES TO paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

Board of Physical Therapy

201 KAR 22:070. Requirements for foreign-educated physical therapists and physical therapist assistants. Scott Majors, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend: (1) Section 3 to establish additional requirements for a foreign-educated physical therapist assistant; and (2) Section 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Boxing and Wrestling Commission

201 KAR 27:005. Definitions for 201 KAR Chapter 027. Jason Smith, commissioner, and Cindy Stinnett, executive director, represented the commission.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 27:008. License requirements and fees.

A motion was made and seconded to approve the following amendments: to amend: (1) the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 4 to comply with the drafting requirements of KRS Chapter 13A; and (2) Section 10 to revise the Physical Report. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 027:011. General requirements for boxing and kickboxing shows.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 7, and 13 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 27:016. General requirements for mixed martial arts matches, shows, or exhibitions.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 4, 16, and 18 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 27:020. Tickets.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and

with agreement of the agency, the amendments were approved.

201 KAR 27:022. Repeal of 201 KAR 027:017.

Board of Licensure for Marriage and Family Therapists

201 KAR 32:110. Telehealth. Bryan Morrow, counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend: (1) the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2 through 6, and 8 to comply with the drafting requirements of KRS Chapter 13A; (2) Section 1 to add a definition for "telehealth;" and (3) Section 4 to establish that the client's identity shall be verified by a valid photo identification. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 2:095 & E. Importation of cervid carcasses and parts. Gabe Jenkins, deer and elk coordinator; Rich Storm, commissioner; and Karen Waldrop, deputy commissioner, represented the department.

DEPARTMENT Of AGRICULTURE: Office of Consumer and Environmental Protection: Agricultural Pest Control

302 KAR 27:010. Definitions for 302 KAR Chapter 027. Dana Feldman, executive director; Clint Quarles, counsel; and Michael Williams, director, Division of Environmental Services, represented the office.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 27:020. General provisions.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 27:031. Repeal of 302 KAR 027:030.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 27:040. Prison inmates.

A motion was made and seconded to approve the following amendments: to amend the TITLE and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 27:050. Certification.

A motion was made and seconded to approve the following amendments: to amend the TITLE, the RELATES TO paragraph, and Sections 1 through 8 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 27:060. Fine schedule for violation of KRS 217B.120.

A motion was made and seconded to approve the following amendments: to amend: (1) the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 6 to comply with the drafting and formatting requirements

of KRS Chapter 13A; and (2) Sections 2 and 3 to revise fees in order to comply with minimum and maximum fee standards as established in KRS 217B.990. Without objection, and with agreement of the agency, the amendments were approved.

Ornamental Turf Lawn and Interior Plantscape Pest Control

302 KAR 28:010. Definitions for 302 KAR Chapter 028.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 28:020. General provisions.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 28:030. Ornamental and interior plantscape posting.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 28:040. Prison inmates.

A motion was made and seconded to approve the following amendments: to amend the TITLE and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 28:050. Certification.

A motion was made and seconded to approve the following amendments: to amend the TITLE, the RELATES TO paragraph, and Sections 1 through 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 28:060. Fine schedule for violation of KRS 217B.120.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A; (2) to delete Section 5 because the form previously incorporated by reference is already incorporated by reference in another administrative regulation; and (3) to amend Section 2 to revise fees in order to comply with minimum and maximum fee standards as established in KRS 217B.990. Without objection, and with agreement of the agency, the amendments were approved.

Office of Agricultural Marketing: Industrial Hemp

302 KAR 50:090. Enforcement, corrective action plans, and mandatory reporting to state and federal agencies, department to retain growing site information for at least three (3) years.

A motion was made and seconded to approve the following amendments: to amend the TITLE and Sections 2 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Weights and Measures

302 KAR 85:010. Requirements to establish fee schedules for calibrations, adjustments, weights, and measures.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and

with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Special Law Enforcement Officers

500 KAR 2:020. Filing and processing SLEO commissions. Amy Barker, assistant general counsel, represented the cabinet.

In response to questions by Co-Chair West, Ms. Barker stated that commission revocation provisions were not being amended. This administrative regulation clarified statutory criteria, including first aid, CPR, and firearm proficiency. Additionally, this administrative regulation allowed the secretary to appoint a designee pertaining to this program.

A motion was made and seconded to approve the following amendments: to amend: (1) the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; Sections 1 through 4, 7, 8, and 11 through 15; and the material incorporated by reference to comply with the drafting and formatting requirements of KRS Chapter 13A; (2) Section 4(1) to specify the required CPR training; (3) Section 4(2) to allow fingerprinting at local law enforcement offices; (4) Section 9(1) to establish procedures for an applicant to obtain approval for training already completed; and (5) Section 9(2) to establish standards for demonstrating proficiency with firearms and first aid. Without objection, and with agreement of the agency, the amendments were approved.

Department of Juvenile Justice: Child Welfare

505 KAR 1:080. Kentucky Educational Collaborative for state agency children. William Codell, attorney, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

LABOR CABINET: Department of Workplace Standards: Division of Occupational Safety and Health Compliance: Division of Occupational Safety and Training

803 KAR 2:320. Toxic and hazardous substances. Brian Black, occupational safety and health standards specialist, and Kristi Redmon, occupational safety and health standards specialist, represented the division.

A motion was made and seconded to approve the following amendments: to amend the TITLE, the STATUTORY AUTHORITY paragraph, and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

803 KAR 2:505. Cranes and derricks in construction.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Workers' Claims

803 KAR 25:290. Continuation of medical benefits. Dale Hamblin, Jr., assistant general counsel, and Robert Swisher, commissioner, represented the department.

In response to questions by Co-Chair West, Mr. Swisher stated that House Bill 2 from the 2018 Regular Session of the General Assembly limited medical benefits for most claims of permanent partial disability from lifetime benefits to 780 weeks from the date of injury or last exposure. This administrative regulation established the process to track claimants and to notify claimants of impending benefits termination at 754 weeks and the right of claimants to file an application for continuation. This administrative regulation also established the processing procedure for applications of continuation and the process for administrative hearings and appeals. Claimants were required to keep a current address on file with the department. Claimants would be notified by mail and, if applicable, email as benefits

termination approached. The department used standard mail, rather than certified mail, due to projected future costs and because claimants often rejected certified mail.

In response to questions by Co-Chair Hale, Mr. Swisher stated that the department would notify claimants by mail and, if applicable, email approximately twenty-six (26) weeks prior to the termination of benefits.

A motion was made and seconded to approve the following amendments: to amend 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.

PUBLIC PROTECTION CABINET: Kentucky Department of Financial Institutions: Administration

808 KAR 1:060. Automated teller machines. Joe Donohue, general counsel, and Charles Vice, commissioner, represented the department.

In response to a question by Co-Chair West, Mr. Donohue stated that this package of administrative regulation streamlined and reorganized, but did not substantively change, requirements.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 1:140. Fees.

A motion was made and seconded to approve the following amendments: to amend: (1) the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 5, 7, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) Section 2 to establish that the hourly fee for examiners shall be forty-two (42) dollars rather than fifty-five (55) dollars for licensees that are not a state chartered bank or trust company. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 1:161. Repeal of 808 KAR 001:020, 001:050, 001:090, 001:120, 001:130, 001:150, and 001:160.

808 KAR 1:170. Licensing and registration.

A motion was made and seconded to approve the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Credit Unions

808 KAR 3:050. Conduct of credit unions.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 5 and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 3:061. Repeal of 808 KAR 00:020 and 003:060.

A motion was made and seconded to approve the following amendment: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

Industrial Loans

808 KAR 5:041. Repeal of 808 KAR 005:040.

Consumer Loans

808 KAR 6:095. Mandatory availability for repayment.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments

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were approved.

808 KAR 6:121. Repeal of 808 KAR 006:015, 006:105, 006:115, and 006:120.

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.

Check Cashing

808 KAR 9:010. Deferred deposit database compliance.

808 KAR 9:031. Repeal of 808 KAR 009:020 and 009:030.

808 KAR 9:040. Customer account transfers.

A motion was made and seconded to approve the following amendment: to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

808 KAR 9:050. Licensee change of control.

Multibank Companies

808 KAR 11:021. Repeal of 808 KAR 011:020.

Mortgage Loan Companies and Mortgage Loan Brokers

808 KAR 12:050. Processing and closing charges for real estate loans to consumers.

A motion was made and seconded to approve the following amendment: to amend the STATUTORY AUTHORITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

808 KAR 12:055. Uniform standards for mortgage loan processor applicant employee background checks.

808 KAR 12:111. Repeal of 808 KAR 012:002, 012:021, 012:022, 012:023, 012:024, 012:026, 012:030, and 012:110.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the NECESSITY, FUNCTION, AND CONFORMITY paragraph; and Section 1 to: (1) remove a regulatory citation erroneously listed among those to be repealed; and (2) comply with the formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Administrative Hearing

808 KAR 14:010. Record retention.

A motion was made and seconded to approve the following amendments: to amend: (1) the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, 4, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) Section 5 to add material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 14:020. Annual reporting.

General

808 KAR 15:010. Exceptions to bank lending limits.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 15:020. Stay of notice of intention to remove from office.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to

comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 15:030. Bank branches, offices, and loan production offices.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 3 through 7 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 15:040. Multibank companies.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Professional Licensing: Athlete Agent Registry

830 KAR 2:010. Registration and Fees. David Trimble, general counsel, represented the registry.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services

907 KAR 1:560 & E. Medicaid hearings and appeals regarding eligibility. Jonathan Scott, regulatory and legislative advisor, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 2, 5, 6, 9, 10, and 19 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

907 KAR 1:563 & E. Medicaid covered services appeals and hearings unrelated to managed care.

A motion was made and seconded to approve the following amendment: to amend Section 17 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

Department for Aging and Independent Living: Division of Operations and Support

910 KAR 1:240. Certification of assisted-living communities. Shannon Gadd, commissioner, and Janet Hall, director, represented the division. Bruce Linder, executive vice president, Kentucky Association of Health Care Facilities and Kentucky Center for Assisted Living, appeared in support of a proposed amendment to this administrative regulation.

In response to a question by Co-Chair Hale, Mr. Linder stated that the division worked with the Kentucky Association of Health Care Facilities and Kentucky Center for Assisted Living to develop a proposed amendment to this administrative regulation. Ms. Gadd and Ms. Hall agreed to the proposed amendment, which allowed the 2019 annual certification fee to be made in payments over a six (6) month period if there was a documented hardship and if approved by the cabinet.

In response to questions by Co-Chair West, Ms. Gadd stated that fees were established in 2000 and only currently covered approximately one-third (1/3) of expenses. This administrative regulation raised fees to cover processing costs per assisted-living unit.

A motion was made and seconded to approve the following amendments: to amend: (1) the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2, 3, 7, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) Section 3 to allow the 2019 annual certification fee to be made in payments over a six (6) month period if there was a documented hardship and if approved by the cabinet. Without objection, and with agreement of the agency, the amendments were approved.

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Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:055 & E. Hearings and appeals. Laura Begin, regulation coordinator; Leitha Harris, branch manager; and Todd Trapp, assistant director, represented the division.

A motion was made and seconded to approve the following amendments: to amend Sections 4 and 12 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Supplemental Nutrition Assistance Program

921 KAR 3:060 & E. Administrative disqualification hearings and penalties.

921 KAR 3:070 & E. Fair hearings.

Other Business: Co-Chair Hale introduced and welcomed Representative Deanna Frazier as a new member of the subcommittee. Representative Frazier, from the eighty-first district in Madison County, stated that she was an audiologist and mother of two (2) sons.

The following administrative regulations were deferred or removed from the March 11, 2019, subcommittee agenda:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Education Professional Standards Board: Administrative Certificates

16 KAR 3:090. Certifications for advanced educational leaders.

STATE BOARD OF ELECTIONS: Forms and Procedures

31 KAR 4:120. Additional and emergency precinct officers.

FINANCE AND ADMINISTRATION: Teachers' Retirement System: General Rules

102 KAR 1:060. Refunds.

102 KAR 1:163. Collection of life insurance benefits.

102 KAR 1:168. Survivor's benefits.

102 KAR 1:320. Qualified domestic relations orders.

Department for Facilities and Support Services: State-Owned Buildings and Grounds

200 KAR 3:020 & E. Use of State-owned facilities and grounds.

BOARDS AND COMMISSIONS: Board of Medical Licensure

201 KAR 9:270. Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with Naloxone.

Board of Social Work

201 KAR 23:150. Complaint procedure, disciplinary action, and reconsideration.

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

301 KAR 2:172. Deer hunting seasons, zones, and requirements.

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

601 KAR 2:030 & E. Ignition interlock.

PUBLIC PROTECTION CABINET: Kentucky Claims Commission: Tax Appeals

802 KAR 1:010. Tax appeal procedures.

LABOR CABINET: Department of Workplace Standards: Department of Workers' Claims

803 KAR 25:270 & E. Pharmaceutical formulary.

PUBLIC PROTECTION CABINET: Department of Insurance: Administration

806 KAR 2:092. Disclosure of local government taxes and collection fee.

806 KAR 2:100. Disclosure of insurance premium surcharge.

806 KAR 2:121. Repeal of 806 KAR 002:120 and 806 KAR 002:150.

Kinds of Insurance; Limits of Risk; Reinsurance

806 KAR 5:011. Repeal of 806 KAR 005:010 and 806 KAR 005:020.

Surplus Lines

806 KAR 10:030. Surplus lines reporting and tax payment structure.

PUBLIC PROTECTION CABINET: Kentucky Department of Financial Institutions

808 KAR 1:180. Use of special restricted funds.

Horse Racing Commission: Thoroughbred Racing

810 KAR 1:301. Repeal of 810 KAR 001:004, 810 KAR 001:005, 810 KAR 001:007, 810 KAR 001:008, 810 KAR 001:009, 810 KAR 001:010, 810 KAR 001:012, 810 KAR 001:014, 810 KAR 001:015, 810 KAR 001:016, 810 KAR 001:017, 810 KAR 001:018, 810 KAR 001:021, 810 KAR 001:024, 810 KAR 001:026, 810 KAR 001:027, 810 KAR 001:028, 810 KAR 001:029, 810 KAR 001:030, 810 KAR 001:037, 810 KAR 001:040, 810 KAR 001:050, 810 KAR 001:060, 810 KAR 001:070, 810 KAR 001:080, 810 KAR 001:090, 810 KAR 001:100, 810 KAR 001:110, 810 KAR 001:130, 810 KAR 001:140, 810 KAR 001:145, 810 KAR 001:150, and 810 KAR 001:300.

General

810 KAR 2:001. Definitions.

810 KAR 2:010. Racing commission and administrative staff.

810 KAR 2:020. Thoroughbred and flat racing officials.

810 KAR 2:030. Chemical dependency.

810 KAR 2:040. Stewards.

810 KAR 2:050. Judges and Standardbred racing officials.

810 KAR 2:060. Owners' authorized agents and jockey agents.

810 KAR 2:070. Thoroughbred and other flat racing associations.

810 KAR 2:080. Standardbred racing associations.

Licensing

810 KAR 3:001. Definitions.

810 KAR 3:010. Licensing of racing associations.

810 KAR 3:020. Licensing of racing participants.

810 KAR 3:030. Licensing totalizator companies.

810 KAR 3:040. Advance deposit account wagering.

810 KAR 3:050. Simulcast facilities.

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Flat and Steeplechase Racing

810 KAR 4:001. Definitions.

810 KAR 4:010. Horses.

810 KAR 4:020. Weights.

810 KAR 4:030. Entries, subscriptions, and declarations.

810 KAR 4:040. Running of the race.

810 KAR 4:050. Claiming races.

810 KAR 4:060. Objections and complaints.

810 KAR 4:070. Jockeys and apprentices.

810 KAR 4:080. Steeplechase racing.

810 KAR 4:090. Owners.

810 KAR 4:100. Trainers.

Standardbred Racing

810 KAR 5:001. Definitions.

810 KAR 5:010. Registration and identification of horses.

810 KAR 5:020. Eligibility and classification.

810 KAR 5:030. Claiming races.

810 KAR 5:040. Farm, corporate, or stable name.

810 KAR 5:050. Stakes and futurities.

810 KAR 5:060. Entries and starters.

810 KAR 5:070. Running of the race.

810 KAR 5:080. Harness racing and county fairs.

Pari-Mutuel Wagering

810 KAR 6:020. Calculation of payouts and distribution of pools.

Incentive and Development Funds

810 KAR 7:010. Backside improvement fund.

810 KAR 7:020. Kentucky thoroughbred breeders' incentive fund.

810 KAR 7:030. Kentucky thoroughbred development fund.

810 KAR 7:040. Kentucky Standardbred development fund and Kentucky Standardbred breeders' incentive fund.

810 KAR 7:060. Kentucky Quarter Horse, Paint Horse, Appaloosa, and Arabian development fund.

810 KAR 7:070. Violations, discipline, disputes, and investigation.

Medication Guidelines

810 KAR 8:010. Medication; testing procedures; prohibited practices.

810 KAR 8:020. Drug, medication, and substance classification schedule and withdrawal guidelines.

810 KAR 8:030. Disciplinary measures and penalties.

810 KAR 8:040. Out-of-competition testing.

810 KAR 8:050. International medication protocol as condition of a race.

810 KAR 8:060. Post-race sampling and testing procedures.

Hearings and Appeals

810 KAR 9:010. Hearings, reviews and appeals.

Harness Racing

811 KAR 1:301. Repeal of 811 KAR 001:010, 811 KAR 001:015, 811 KAR 001:020, 811 KAR 001:025, 811 KAR 001:030, 811 KAR 001:035, 811 KAR 001:037, 811 KAR 001:040, 811 KAR 001:045, 811 KAR 001:050, 811 KAR 001:055, 811 KAR 001:060, 811 KAR 001:065, 811 KAR 001:070, 811 KAR 001:075, 811 KAR 001:080, 811 KAR 001:085, 811 KAR 001:90, 811 KAR 001:093, 811 KAR 001:095, 811 KAR 001:100, 811 KAR 001:105, 811 KAR 001:110, 811 KAR 001:115, 811 KAR 001:120, 811 KAR 001:130, 811 KAR 001:140, 811 KAR 001:150, 811 KAR 001:185, 811 KAR 001:215, 811 KAR 001:220, 811 KAR 001:225, 811 KAR 001:230, 811 KAR 001:240, 811 KAR 001:260, 811 KAR 001:280, 811 KAR 001:285, 811 KAR 001:290, and 811 KAR 001:300.

Quarter Horse, Paint Horse, Appaloosa, and Arabian Racing

811 KAR 2:301. Repeal of 811 KAR 002:015, 811 KAR 002:020, 811 KAR 002:030, 811 KAR 002:035, 811 KAR 002:040, 811 KAR 002:045, 811 KAR 002:050, 811 KAR 002:056, 811 KAR 002:065, 811 KAR 002:070, 811 KAR 002:075, 811 KAR 002:080, 811 KAR 002:085, 811 KAR 002:090, 811 KAR 002:093, 811 KAR 002:096, 811 KAR 002:100, 811 KAR 002:105, 811 KAR 002:110, 811 KAR 002:130, 811 KAR 002:140, 811 KAR 002:150, 811 KAR 002:170, 811 KAR 002:180, 811 KAR 002:185, 811 KAR 002:190, 811 KAR 002:200, and 811 KAR 002:300.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Certificate of Need: Certificate of Need

900 KAR 6:075 & E. Certificate of need nonsubstantive review.

Office of Health Data and Analytics: Division of Analytics: Data Reporting and Public Use Data Sets

900 KAR 7:030. Data reporting by health care providers.

Division of Health Benefit Exchange: Kentucky Health Benefit Exchange

900 KAR 10:021. Repeal of 900 KAR 010:010, 900 KAR 010:020, and 900 KAR 010:110.

Department for Medicaid Services: Division of Policy and Operations

907 KAR 1:604 & E. Recipient cost-sharing.

Payments and Services

907 KAR 3:170. Telehealth service coverage and reimbursement.

Division of Program Integrity

907 KAR 5:005. Health Insurance Premium Payment (HIPP) Program.

Division of Fiscal Management: Hospital Service Coverage and Reimbursement

907 KAR 10:820 & E. Disproportionate share hospital distributions.

Department for Behavioral Health, Developmental and Intellectual Disabilities: Division of Behavioral Health: Substance Abuse

908 KAR 1:341. Repeal of 908 KAR 001:340.

908 KAR 1:370. Licensing procedures, fees, and general requirements for nonhospital-based alcohol and other drug treatment entities.

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908 KAR 1:372. Licensure of residential alcohol and other drug treatment entities.

908 KAR 1:374. Licensure of nonhospital-based outpatient alcohol and other drug treatment entities.

Department for Community Based Services: Division of Family Support: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 2:015 & E. Supplemental programs for persons who are aged, blind, or have a disability.

Division of Protection and Permanency: Child Welfare

922 KAR 1:140. Foster care and adoption permanency services.

922 KAR 1:305. Licensure of child-caring facilities and child-placing agencies.

922 KAR 1:400. Supporting services.

922 KAR 1:565. Service array for a relative or fictive kin caregiver.

Daycare

922 KAR 2:160 & E. Child Care Assistance Program.

The subcommittee adjourned at 1:45 p.m. The next meeting of the subcommittee is tentatively scheduled for April 9, 2019, 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.

SENATE STANDING COMMITTEE ON HEALTH AND WELFARE

Meeting of March 11, 2019

The following administrative regulations were available for consideration and placed on the agenda of the Senate Standing Committee on Health and Welfare for its meeting of March 11, 2019, having been referred to the Committee on March 6, 2019, pursuant to KRS 13A.290(6):

201 KAR 002:370
201 KAR 020:056
201 KAR 020:062
201 KAR 020:161
201 KAR 020:162
201 KAR 020:215
201 KAR 020:220
201 KAR 020:226
201 KAR 020:240
201 KAR 020:260
201 KAR 020:280
201 KAR 020:310
201 KAR 020:320
201 KAR 020:340
201 KAR 020:350
201 KAR 020:360
201 KAR 020:362
201 KAR 020:411
201 KAR 022:170
900 KAR 009:010
922 KAR 001:050
922 KAR 001:500
922 KAR 001:530

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the March 11, 2019 meeting, which are hereby incorporated by reference.

HOUSE STANDING COMMITTEE ON HEALTH AND FAMILY SERVICES

Meeting of March 13, 2019

The following administrative regulations were available for consideration and placed on the agenda of the House Standing Committee on Health and Family Services for its meeting of March 13, 2019, having been referred to the Committee on March 6, 2019, pursuant to KRS 13A.290(6):

201 KAR 002:370
201 KAR 020:056
201 KAR 020:062
201 KAR 020:161
201 KAR 020:162
201 KAR 020:215
201 KAR 020:220
201 KAR 020:226
201 KAR 020:240
201 KAR 020:260
201 KAR 020:280
201 KAR 020:310
201 KAR 020:320
201 KAR 020:340
201 KAR 020:350
201 KAR 20:360
201 KAR 20:362
201 KAR 20:411
201 KAR 022:170
900 KAR 009:010
922 KAR 001:050
922 KAR 001:500
922 KAR 001:530

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the March 13, 2019 meeting, which are hereby incorporated by reference.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates

J - 2

The Locator Index lists all administrative regulations published in VOLUME 45 of the *Administrative Register of Kentucky* from July 2018 through June 2019. 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 44 are those administrative regulations that were originally published in VOLUME 44 (last year's) issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the *2018 Kentucky Administrative Regulations Service* was published.

KRS Index

J - 19

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 45 of the *Administrative Register of Kentucky*.

Certifications Index

J - 37

The Certification Index lists of administrative regulations that have had certification letters filed during this VOLUME year. The certification process is established in KRS 13A.3104. If the certification letter states the administrative regulation shall be amended, the administrative body shall file an amendment to the regulation within 18 months of the date the certification letter was filed. If the certification letter states that the regulation shall remain in effect without amendment, the last effective date of the regulation is changed to the date the regulations compiler received the letter.

Technical Amendment Index

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The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments entered since being published in the 2018 *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). Because 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

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The Subject Index is a general index of administrative regulations published in VOLUME 45 of the *Administrative Register of Kentucky*, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	44 Ky.R. Page No.	Effective Date	Regulation Number	44 Ky.R. Page No.	Effective Date
VOLUME 44					
The administrative regulations listed under VOLUME 44 are those administrative regulations that were originally published in Volume 44 (last year's) issues of the <i>Administrative Register of Kentucky</i> but had not yet gone into effect when the <i>2018 Kentucky Administrative Regulations Service</i> was published.					
SYMBOL KEY:			201 KAR 3:006(r)	2703	8-31-2018
* Statement of Consideration not filed by deadline			201 KAR 3:025		
** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))			Repealed	2703	8-31-2018
*** Withdrawn before being printed in Register			201 KAR 3:035		
IJC Interim Joint Committee			Repealed	2703	8-31-2018
(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.			201 KAR 3:045		
			Amended	2544	See 45 Ky.R.
			201 KAR 3:055		
			Repealed	2703	8-31-2018
			201 KAR 3:065		
			Repealed	2703	8-31-2018
			201 KAR 3:090		
			Amended	2546	8-24-2018
			201 KAR 3:100	2705	8-31-2018
			201 KAR 5:090		
			Amended	2548	See 45 Ky.R.
201 KAR 12:082E	2303	4-13-2018	201 KAR 5:130		
Replaced	2364	8-6-2018	Amended	2549	8-31-2018
201 KAR 22:020E	2180	3-14-2018	201 KAR 6:020		
Replaced	2486	6-20-2018	Amended	2552	8-31-2018
201 KAR 22:040E	2182	3-14-2018	201 KAR 6:050		
Replaced	2487	6-20-2018	Amended	2554	See 45 Ky.R.
201 KAR 22:070E	2184	3-14-2018	201 KAR 9:021		
Replaced	2487	6-20-2018	Amended	2361	7-18-2018
921 KAR 2:015E	1799	12-28-2017	201 KAR 9:031		
Replaced	1899	6-20-2018	Amended	2363	
922 KAR 2:090E	1916	2-14-2018	As Amended		See 45 Ky.R.
Replaced	2513	7-18-2018	201 KAR 9:310		
922 KAR 2:100E	1925	2-14-2018	Amended	1871	5-4-2018
Replaced	2522	7-18-2018	201 KAR 9:480	1725	
922 KAR 2:111E	1936	2-14-2018	As Amended	1970	3-15-2018
Expires		8-13-2018	201 KAR 12:010		
922 KAR 2:120E	1937	2-14-2018	Amended	2556	See 45 Ky.R.
Replaced	2533	7-18-2018	201 KAR 12:030		
922 KAR 2:171E(r)	2306	4-13-2018	Amended	2557	See 45 Ky.R.
Expires	2308	10-10-2018	201 KAR 12:082		
922 KAR 2:180E	1946	2-14-2018	Amended	2364	
Replaced	2138	7-18-2018	As Amended		See 45 Ky.R.
922 KAR 2:190E	1952	2-14-2018	201 KAR 12:140		
Replaced	2144	7-18-2018	Amended	2561	See 44 Ky.R.
922 KAR 2:270E	2308	4-13-2018	201 KAR 12:190		
Replaced	2459	7-18-2018	Amended	2563	See 44 Ky.R.
			201 KAR 12:230		
			Amended	2565	See 44 Ky.R.
			201 KAR 12:260		
			Amended	2368	
			As Amended		See 45 Ky.R.
13 KAR 3:060	2702	8-31-2018	201 KAR 14:180		
16 KAR 2:010			Amended	2566	8-24-2018
Amended	1584		201 KAR 20:056		
Am Comments	2033	See 44 Ky.R.	Amended	2237	
16 KAR 5:030			As Amended	2473	6-20-2018
Amended	1589		201 KAR 20:070		
Am Comments	2039	See 44 Ky.R.	Amended	2239	
101 KAR 1:325			As Amended	2475	6-20-2018
Amended	2542	8-31-2018	201 KAR 20:110		
103 KAR 16:360			Amended	2241	
Amended	1094		As Amended	2476	6-20-2018
Withdrawn by agency		12-8-2017	201 KAR 20:225		
103 KAR 26:120			Amended	2244	
As Amended	1494	2-2-2018	As Amended	2477	6-20-2018
103 KAR 41:120			201 KAR 20:370		
Amended	1112		Amended	2246	
Withdrawn by agency		12-8-2017	As Amended	2478	6-20-2018
201 KAR 3:005			201 KAR 20:411		
Repealed	2703	8-31-2018			

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201 KAR 20:470			401 KAR 5:060		
Amended	2250		Amended	2620	11-1-2018
As Amended	2481	6-20-2018	401 KAR 5:065		
201 KAR 22:020			Amended	2623	11-1-2018
Amended	2255		401 KAR 5:070		
As Amended	2486	6-20-2018	Repealed	2707	11-1-2018
201 KAR 22:040			401 KAR 5:075		
Amended	2257		Amended	2625	See 45 Ky.R.
As Amended	2487	6-20-2018	401 KAR 5:080		
201 KAR 22:070			Amended	2628	11-1-2018
Amended	2259		401 KAR 5:300		
As Amended	2487	6-20-2018	Repealed	2707	11-1-2018
201 KAR 25:090			401 KAR 5:320		
Amended	1623		Amended	2631	See 45 Ky.R.
Withdrawn by agency		10-26-2018	401 KAR 51:240	2284	
201 KAR 34:060			Am Comments	2505	7-5-2018
Amended	2568	See 44 Ky.R.	401 KAR 51:250	2286	
201 KAR 41:100			Am Comments	2507	7-5-2018
Amended	2572	See 44 Ky.R.	401 KAR 51:260	2288	
301 KAR 1:130			Am Comments	2509	7-5-2018
Amended	2574	8-6-2018	405 KAR 1:005		
301 KAR 2:049			Repealed	2708	10-5-2018
Amended	2260		405 KAR 1:007		
As Amended	2488	6-7-2018	Repealed	2708	10-5-2018
301 KAR 2:172			405 KAR 1:010		
Amended	2370		Repealed	2708	10-5-2018
As Amended		See 45 Ky.R.	405 KAR 1:011(r)	2708	10-5-2018
301 KAR 2:176			405 KAR 1:015		
Amended	2576	10-5-2018	Repealed	2708	10-5-2018
301 KAR 2:221			405 KAR 1:020		
Amended	2374		Repealed	2708	10-5-2018
As Amended		See 45 Ky.R.	405 KAR 1:030		
301 KAR 2:222			Repealed	2708	10-5-2018
Amended	2376		405 KAR 1:040		
As Amended		See 45 Ky.R.	Repealed	2708	10-5-2018
301 KAR 2:228			405 KAR 1:050		
Amended	2380	See 44 Ky.R.	Repealed	2708	10-5-2018
302 KAR 16:020			405 KAR 1:051		
Amended	2265		Repealed	2708	10-5-2018
As Amended	2492	7-6-2018	405 KAR 1:060		
302 KAR 16:080			Repealed	2708	10-5-2018
Repealed	2283	7-6-2018	405 KAR 1:070		
302 KAR 16:081(r)	2283	7-6-2018	Repealed	2708	10-5-2018
302 KAR 16:091			405 KAR 1:080		
Amended	2267		Repealed	2708	10-5-2018
As Amended	2493	7-6-2018	405 KAR 1:090		
302 KAR 50:050	1768		Repealed	2708	10-5-2018
Amended	2383	7-20-2018	405 KAR 1:100		
401 KAR 5:002			Repealed	2708	10-5-2018
Amended	2578	See 45 Ky.R.	405 KAR 1:110		
401 KAR 5:005			Repealed	2708	10-5-2018
Amended	2585	See 45 Ky.R.	405 KAR 1:120		
401 KAR 5:006			Repealed	2708	10-5-2018
Amended	2598	See 45 Ky.R.	405 KAR 1:130		
401 KAR 5:015			Repealed	2708	10-5-2018
Amended	2602	See 45 Ky.R.	405 KAR 1:130		
401 KAR 5:035			Repealed	2708	10-5-2018
Repealed	2707	11-1-2018	405 KAR 1:141		
401 KAR 5:037			Repealed	2708	10-5-2018
Amended	2604	See 45 Ky.R.	405 KAR 1:150		
401 KAR 5:039(r)	2707	11-1-2018	Repealed	2708	10-5-2018
401 KAR 5:045			405 KAR 1:160		
Amended	2610	See 45 Ky.R.	Repealed	2708	10-5-2018
401 KAR 5:050			405 KAR 1:170		
Amended	2612	11-1-2018	Repealed	2708	10-5-2018
401 KAR 5:052			405 KAR 1:180		
Amended	2615	11-1-2018	Repealed	2708	10-5-2018
401 KAR 5:055			405 KAR 1:190		
Amended	2616	See 45 Ky.R.	Repealed	2708	10-5-2018

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405 KAR 1:210			501 KAR 16:300		
Repealed	2708	10-5-2018	Amended	1887	
405 KAR 1:220			Am Comments	2339	
Repealed	2708	10-5-2018	As Amended	2496	7-6-2018
405 KAR 1:230			501 KAR 16:310		
Repealed	2708	10-5-2018	Amended	1891	
405 KAR 1:240			Am Comments	2343	
Repealed	2708	10-5-2018	As Amended	2498	7-6-2018
405 KAR 1:250			501 KAR 16:330		
Repealed	2708	10-5-2018	Amended	1893	
405 KAR 1:260			Am Comments	2345	
Repealed	2708	10-5-2018	As Amended	2499	7-6-2018
405 KAR 3:005			501 KAR 16:340		
Repealed	2709	10-5-2018	Amended	1897	
405 KAR 3:007			Am Comments	2349	7-6-2018
Repealed	2709	10-5-2018	503 KAR 5:090		
405 KAR 3:010			Amended	2637	10-5-2018
Repealed	2709	10-5-2018	505 KAR 1:120		
405 KAR 3:011(r)	2709	10-5-2018	Amended	2384	
405 KAR 3:015			As Amended		See 45 Ky.R.
Repealed	2709	10-5-2018	505 KAR 1:140		
405 KAR 3:020			Amended	2386	See 45 Ky.R.
Repealed	2709	10-5-2018	600 KAR 4:010		
405 KAR 3:030			Amended	2272	
Repealed	2709	10-5-2018	As Amended	2501	7-6-2018
405 KAR 3:040			601 KAR 2:030		
Repealed	2709	10-5-2018	Amended	1651	
405 KAR 3:050			Withdrawn by agency		6-13-2018
Repealed	2709	10-5-2018	603 KAR 2:015		
405 KAR 3:060			Amended	2640	
Repealed	2709	10-5-2018	Withdrawn by agency		7-24-2018
405 KAR 3:070			703 KAR 5:190		
Repealed	2709	10-5-2018	Repealed	2157	8-6-2018
405 KAR 3:080			703 KAR 5:191(r)	2157	8-6-2018
Repealed	2709	10-5-2018	703 KAR 5:225		
405 KAR 3:090			Amended	2101	
Repealed	2709	10-5-2018	As Amended		See 45 Ky.R.
405 KAR 3:100			703 KAR 5:260		
Repealed	2709	10-5-2018	Repealed	2157	6-17-2018
405 KAR 3:111			703 KAR 5:280	2158	
Repealed	2709	10-5-2018	Am Comments	2351	
405 KAR 3:120			As Amended		See 45 Ky.R.
Repealed	2709	10-5-2018	704 KAR 7:090		
405 KAR 3:130			Amended	1658	
Repealed	2709	10-5-2018	As Amended	2015	4-6-2018
405 KAR 3:140			735 KAR 1:010		
Repealed	2709	10-5-2018	Amended	2388	
405 KAR 3:150			As Amended		See 45 Ky.R.
Repealed	2709	10-5-2018	735 KAR 1:020		
405 KAR 3:160			Amended	2391	
Repealed	2709	10-5-2018	As Amended		See 45 Ky.R.
405 KAR 3:170			735 KAR 2:010		
Repealed	2709	10-5-2018	Amended	2394	
405 KAR 3:180			As Amended		See 45 Ky.R.
Repealed	2709	10-5-2018	735 KAR 2:020		
405 KAR 3:190			Amended	2396	
Repealed	2709	10-5-2018	As Amended		See 45 Ky.R.
501 KAR 6:030			735 KAR 2:030		
Amended	2269		Amended	2398	
AmComments	2511	8-6-2018	As Amended		See 45 Ky.R.
501 KAR 6:070			735 KAR 2:040		
Amended	2635	See 44 Ky.R.	Amended	2399	
501 KAR 6:170			As Amended		See 45 Ky.R.
Amended	2270	7-6-2018	735 KAR 2:050		
501 KAR 6:270			Amended	2401	
Amended	2097		As Amended		See 45 Ky.R.
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501 KAR 16:290			Amended	2403	
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804 KAR 9:040			820 KAR 1:056		
Repealed	1774	7-6-2018	Repealed	2720	1-4-2019
804 KAR 9:050			820 KAR 1:057		
Repealed	1774	7-6-2018	Amended	2683	See 45 Ky.R.
804 KAR 9:051(r)	1774	7-6-2018	820 KAR 1:058		
807 KAR 5:022			Repealed	2720	1-4-2019
Amended	2405	See 45 Ky.R.	820 KAR 1:060		
807 KAR 5:026			Amended	2690	See 45 Ky.R.
Amended	2436	See 45 Ky.R.	820 KAR 1:100		
810 KAR 1:111(r)	2711		Repealed	2720	1-4-2019
Withdrawn		7-18-2018	820 KAR 1:110		
810 KAR 8:040	2712		Repealed	2720	1-4-2019
Withdrawn		7-18-2018	820 KAR 1:120		
811 KAR 1:241(r)	2717		Repealed	2720	1-4-2019
Withdrawn		7-18-2018	820 KAR 1:125		
811 KAR 2:151(r)	2718		Amended	2691	1-4-2019
Withdrawn		7-18-2018	820 KAR 1:130		
815 KAR 7:110			Amended	2693	See 45 Ky.R.
Amended	2439	See 44 Ky.R.	820 KAR 1:135	2721	See 45 Ky.R.
815 KAR 7:120			902 KAR 2:055		
Amended	2442	See 44 Ky.R.	Amended	2695	See 45 Ky.R.
815 KAR 7:125			902 KAR 10:040		
Amended	2445	See 44 Ky.R.	Amended	2277	See 44 Ky.R.
815 KAR 8:007			902 KAR 20:016		
Repealed	2458	8-22-2018	Amended	1415	
815 KAR 8:011(r)	2458	8-22-2018	Am Comments	2054	See 44 Ky.R.
815 KAR 8:045			902 KAR 20:058		
Repealed	2458	8-22-2018	Amended	1714	5-4-2018
815 KAR 8:070			906 KAR 1:200		
Amended	2446	See 45 Ky.R.	Amended	2454	
815 KAR 8:080			As Amended		See 45 Ky.R.
Amended	2449	See 45 Ky.R.	910 KAR 2:030		
815 KAR 8:100			Amended	2698	
Amended	2451	See 45 Ky.R.	As Amended		See 45 Ky.R.
820 KAR 1:001			910 KAR 2:050		
Amended	2646	See 45 Ky.R.	Repealed	2723	9-19-2018
820 KAR 1:005			910 KAR 2:052(r)	2723	9-19-2018
Amended	2650	See 45 Ky.R.	921 KAR 2:015		
820 KAR 1:010			Amended	1899	6-20-2018
Repealed	2720	1-4-2019	922 KAR 2:090		
820 KAR 1:011(r)	2720	1-4-2019	Amended	2109	
820 KAR 1:015			AmComments	2513	7-18-2018
Repealed	2720	1-4-2019	922 KAR 2:100		
820 KAR 1:016			Amended	2118	
Repealed	2720	1-4-2019	AmComments	2522	7-18-2018
820 KAR 1:025			922 KAR 2:110		
Amended	2654	See 45 Ky.R.	Repealed	2306	4-13-2018
820 KAR 1:026			922 KAR 2:120		
Repealed	2720	1-4-2019	Amended	2129	
820 KAR 1:028			AmComments	2533	
Repealed	2720	1-4-2019	As Amended		See 45 Ky.R.
820 KAR 1:029			922 KAR 2:170		
Repealed	2720	1-4-2019	Repealed	2308	7-18-2018
820 KAR 1:032			922 KAR 2:180		
Amended	2656	See 45 Ky.R.	Amended	2138	
820 KAR 1:033			As Amended		See 45 Ky.R.
Repealed	2720	1-4-2019	922 KAR 2:190		
820 KAR 1:034			Amended	2144	
Repealed	2720	1-4-2019	As Amended		See 45 Ky.R.
820 KAR 1:036			922 KAR 2:210		
Repealed	2720	1-4-2019	Repealed	2308	4-13-2018
820 KAR 1:042			922 KAR 2:270	2459	
Amended	2670	See 45 Ky.R.	As Amended		See 45 Ky.R.
820 KAR 1:044					
Repealed	2720	1-4-2019			
820 KAR 1:046					
Repealed	2720	1-4-2019			
820 KAR 1:050					
Amended	2678	See 45 Ky.R.			

SYMBOL KEY:

* Statement of Consideration not filed by deadline

** Withdrawn, deferred more than twelve months (KRS)

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13A.300(2)(e) and 13A.315(1)(d))					
*** Withdrawn before being printed in Register					an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.
IJC Interim Joint Committee					
(r) Repealer regulation: KRS 13A.310(3)-on the effective date of					

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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.)

9 KAR 1:015E	234	7-11-2018
Replaced	933	10-24-2018
9 KAR 1:030E	235	7-11-2018
Replaced	933	10-24-2018
31 KAR 3:010E	7	5-22-2018
Replaced	638	10-5-2018
31 KAR 4:100E	236	6-21-2018
Replaced	1512	1-4-2019
31 KAR 4:120E	239	6-21-2018
Withdrawn	*	10-15-2018
32 KAR 1:030E	906	8-31-2018
Replaced	2055	2-1-2019
32 KAR 1:050E	2301	1-14-2019
32 KAR 1:070E	2302	1-14-2019
40 KAR 2:345E	241	7-2-2018
Replaced	946	11-2-2018
101 KAR 2:210E	908	9-14-2018
Replaced	1055	1-4-2019
103 KAR 18:050E	910	9-10-2018
Replaced	1518	1-4-2019
105 KAR 1:147E	1174	10-5-2018
Replaced	2071	2-1-2019
200 KAR 3:020E	2304	1-4-2019
301 KAR 1:152E	2039	11-19-2018
301 KAR 2:095E	2308	12-17-2018
301 KAR 2:169E	912	8-24-2018
Withdrawn		10-5-2018
301 KAR 2:225E	614	7-20-2018
Replaced	752	12-7-2018
400 KAR 1:001E	243	7-13-2018
Replaced	431	10-5-2018
400 KAR 1:040E	245	7-13-2018
Replaced	958	10-5-2018
400 KAR 1:090E	251	7-13-2018
Replaced	963	10-5-2018
400 KAR 1:100E	260	7-13-2018
Replaced	970	10-5-2018
400 KAR 1:110E	265	7-13-2018
Replaced	974	10-5-2018
501 KAR 5:020E	617	7-19-2018
Replaced	1524	1-4-2019
503 KAR 1:110E	274	6-27-2018
Replaced	1047	12-7-2018
601 KAR 2:030E	9	6-13-2018
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Resubmitted	2310	1-8-2019
787 KAR 1:010E	915	9-13-2018
Replaced	1528	1-4-2019
803 KAR 25:089E	15	6-11-2018
Replaced	1193	12-7-2018
803 KAR 25:270E	2316	12-27-2018
805 KAR 1:210E	277	7-13-2018
Replaced	560	10-5-2018
895 KAR 1:001E	279	6-29-2018
Withdrawn by agency		7-2-2018
895 KAR 1:010E	282	6-29-2018
Withdrawn by agency		7-2-2018
895 KAR 1:015E	285	6-29-2018

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895 KAR 1:020E	288	6-29-2018
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895 KAR 1:025E	290	6-29-2018
Withdrawn by agency		7-2-2018
895 KAR 1:030E	292	6-29-2018
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895 KAR 1:035E	295	6-29-2018
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895 KAR 1:040E	297	6-29-2018
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895 KAR 1:045E	299	6-29-2018
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895 KAR 1:050E	301	6-29-2018
Withdrawn by agency		7-2-2018
895 KAR 1:055E	303	6-29-2018
Withdrawn by agency		7-2-2018
900 KAR 11:010E	917	9-13-2018
Replaced	1111	12-12-2018
900 KAR 5:020E	305	7-13-2018
Replaced	1622	12-12-2018
900 KAR 6:075E	1176	9-25-2018
902 KAR 20:008E	307	7-13-2018
Replaced	474	10-17-2018
902 KAR 20:401E(r)	312	7-13-2018
Expired		1-9-2019
902 KAR 55:011E(r)	313	7-13-2018
Expired		1-9-2019
906 KAR 1:071E(r)	315	7-13-2018
Expired		1-9-2019
907 KAR 1:025E	922	9-13-2018
Replaced	1673	1-4-2019
907 KAR 1:560E	1493	11-1-2018
907 KAR 1:563E	1497	11-1-2018
907 KAR 1:604E	2319	12-28-2018
907 KAR 1:642E	316	7-2-2018
Withdrawn by agency		7-27-2018
907 KAR 10:820E	2041	11-30-2018
921 KAR 2:015E	2322	12-28-2018
921 KAR 2:055E	1501	11-1-2018
921 KAR 3:060E	1505	11-1-2018
921 KAR 3:070E	1507	11-1-2018
922 KAR 1:100E	928	9-13-2018
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922 KAR 2:160E	2045	11-30-2018
922 KAR 1:360E	619	8-1-2018
Replaced	2106	1-23-2019
922 KAR 1:560E	318	7-13-2018
Replaced	2284	12-12-2018

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9 KAR 1:030		
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As Amended	626	10-5-2018	Amended	120	
11 KAR 15:010			As Amended	637	9-28-2018
Amended	106		13 KAR 2:020		
As Amended	626	10-5-2018	Amended	403	
11 KAR 15:110	207		As Amended	942	11-2-2018
As Amended	627	10-5-2018	16 KAR 2:010		See 44 Ky.R.
12 KAR 2:006			As Amended	321	8-31-2018
Amended	380	10-10-2018	16 KAR 2:100		
12 KAR 2:011			Amended	1704	
Amended	381	10-10-2018	As Amended	2329	3-8-2019
12 KAR 2:016			16 KAR 2:210	1850	
Amended	382	10-10-2018	As Amended	2330	3-8-2019
As Amended	935		16 KAR 003:011(r)	2801	
12 KAR 2:017			16 KAR 3:090	2250	
Amended	384	10-10-2018	16 KAR 5:030		See 44 Ky.R.
12 KAR 2:018			As Amended	326	8-31-2018
Amended	385	10-10-2018	16 KAR 9:040		
As Amended	935		Amended	1706	
12 KAR 2:021			As Amended	2331	3-8-2019
Amended	389	10-10-2018	31 KAR 3:010		
As Amended	938		Amended	122	
12 KAR 2:026			As Amended	638	10-5-2018
Amended	391	10-10-2018	31 KAR 4:100		
As Amended	940		Amended	124	
12 KAR 2:031			Amended	408	
Amended	392	10-10-2018	As Amended	1512	1-4-2019
As Amended	940		31 KAR 4:120		
12 KAR 2:036			Amended	125	
Amended	394	10-10-2018	Withdrawn by agency		6-20-2018
As Amended	941		Amended	409	
12 KAR 2:041			Withdrawn	*	10-15-2018
Amended	395	10-10-2018	Amended	2152	
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Amended	396	10-10-2018	Amended	1052	
12 KAR 2:051			As Amended	2055	
Amended	398	10-10-2018	32 KAR 1:050		
12 KAR 2:056			Amended	2401	
Amended	399	10-11-2018	As Amended	2345	
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12 KAR 2:061			Amended	2402	
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Amended	401		45 KAR 1:050		
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12 KAR 3:007			Amended	1053	
Amended	108		As Amended	1512	1-4-2019
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12 KAR 3:012			Amended	127	10-5-2018
Amended	109		101 KAR 2:034		
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12 KAR 3:017			As Amended	639	10-5-2018
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12 KAR 3:022			Amended	133	10-5-2018
Amended	114		101 KAR 2:095		
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12 KAR 3:027			As Amended	643	10-5-2018
Amended	116		101 KAR 2:210		
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12 KAR 3:028	208		101 KAR 3:045		
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12 KAR 3:032			As Amended	646	10-5-2018
Amended	118		Amended	2960	
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12 KAR 3:037			Amended	144	10-5-2018
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103 KAR 1:040			103 KAR 16:380		
Amended	1297	2-1-2019	Repealed	1152	1-4-2019
103 KAR 1:130			103 KAR 16:381(r)	1152	1-4-2019
Amended	1299	2-1-2019	103 KAR 17:010		
103 KAR 015:040			Amended	1066	
Repealed	859	12-7-2018	As Amended	1516	1-4-2019
103 KAR 15:041(r)	859	12-7-2018	103 KAR 17:020		
103 KAR 15:050			Amended	1068	
Amended	1057		As Amended	1516	1-4-2019
As Amended	1513	1-4-2019	103 KAR 017:041		
103 KAR 15:060			Repealed	861	12-7-2018
Amended	1059		103 KAR 17:042(r)	861	12-7-2018
As Amended	1514	1-4-2019	103 KAR 17:060		
103 KAR 015:090			Amended	1069	
Repealed	859	12-7-2018	As Amended	1517	1-4-2019
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Amended	727		Amended	734	
As Amended	1180	12-7-2018	As Amended	1182	12-7-2018
103 KAR 15:120			103 KAR 17:130		
Amended	728		Amended	735	
As Amended	1180	12-7-2018	As Amended	1183	12-7-2018
103 KAR 15:140			103 KAR 17:140		
Amended	730		Amended	736	
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103 KAR 15:180			103 KAR 18:050		
Amended	1060		Amended	1070	
As Amended	1514	1-4-2019	As Amended	1518	1-4-2019
103 KAR 15:195			103 KAR 18:080		
Amended	1062	1-4-2019	Repealed	1153	1-4-2019
103 KAR 016:010			103 KAR 18:081(r)	1153	1-4-2019
Repealed	860	12-7-2018	103 KAR 18:160		
103 KAR 16:011(r)	860	12-7-2018	Repealed	1153	1-4-2019
103 KAR 16:060			103 KAR 18:110		
Amended	1301		Amended	1073	1-4-2019
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103 KAR 16:090			Amended	1074	
Amended	1305	2-1-2019	As Amended	1519	1-4-2019
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103 KAR 16:151(r)	1851		Amended	1075	
As Amended	2845		As Amended	1520	1-4-2019
103 KAR 016:210			103 KAR 18:180		
Repealed	860	12-7-2018	Amended	738	12-7-2018
103 KAR 16:230			103 KAR 018:190		
Amended	1307	2-1-2019	Repealed	862	12-7-2018
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103 KAR 16:240			103 KAR 018:200		
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103 KAR 16:250			Repealed	862	12-7-2018
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103 KAR 16:290			Amended	1318	
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Repealed	860	12-7-2018	106 KAR 001:081		
103 KAR 16:330			Amended	2743	
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200 KAR 30:011(r)	558	11-2-2018	Amended	1731	
200 KAR 30:020			As Amended	2338	3-8-2019
Repealed	558	11-2-2018	201 KAR 12:280	213	
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Repealed	558	11-2-2018	201 KAR 020:056		
200 KAR 30:040			Amended	1733	
Repealed	558	11-2-2018	Am Comments	2702	3-13-2019
200 KAR 30:070			201 KAR 20:057		
Repealed	558	11-2-2018	Amended	411	
201 KAR 001:290	2802		Am Comments	1044	11-27-2018
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201 KAR 2:015			Amended	2159	
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Recodified as 831 KAR 1:030		10-12-2018	As Amended	2585	3-13-2019
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201 KAR 6:050		See 44 Ky.R.	201 KAR 20:240		
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201 KAR 9:031		See 44 Ky.R.	As Amended	2585	3-13-2019
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Amended	743	12-12-2018	As Amended	2586	3-13-2019
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201 KAR 12:085			Amended	1763	3-13-2019
Repealed	947	11-2-2018	201 KAR 20:360		
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Repealed	947	11-2-2018	As Amended	2594	3-13-2019
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Amended	2161	3-13-2019	Amended	2971	
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201 KAR 26:175			As Amended	651	9-6-2018
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201 KAR 26:200			Amended	750	12-7-2018
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201 KAR 026:210			Amended	2165	
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Amended	2414		As Amended	955	10-4-2018
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Repealed	1857	3-8-2019	Amended	2454	
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Repealed	1857	3-8-2019	302 KAR 28:060		
302 KAR 001:050			Amended	2457	
Repealed	1857	3-8-2019	As Amended	2889	
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Repealed	1857	3-8-2019	Amended	150	
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Repealed	1857	3-8-2019	As Amended	1522	
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Amended	1783		Amended	1397	
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SYMBOL KEY:

- * Statement of Consideration not filed by deadline
- ** Withdrawn, deferred more than twelve months (KRS)

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161.028	016 KAR 003:090	189A.340	601 KAR 002:030
161.128	016 KAR 002:100	189A.345	601 KAR 002:030
	016 KAR 002:210	189A.400	601 KAR 002:030
	016 KAR 009:040	189A.410	601 KAR 002:030
161.030	016 KAR 002:100	189A.420	601 KAR 002:030
	016 KAR 002:210	189A.440	601 KAR 002:030
	016 KAR 003:090	189A.500	601 KAR 002:030
	016 KAR 009:040	194A	921 KAR 002:015
161.046	016 KAR 009:040	194A.005	902 KAR 100:022
161.048	016 KAR 009:040		902 KAR 100:070
161.120	016 KAR 009:040		902 KAR 100:142
161.145	702 KAR 001:160		922 KAR 001:140
161.220	102 KAR 001:320		922 KAR 001:400
161.470	102 KAR 001:060		922 KAR 001:565
161.520	102 KAR 001:060	194A.025	907 KAR 001:563
	102 KAR 001:168	194A.030	900 KAR 009:010
161.655	102 KAR 001:163		911 KAR 001:020

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194A.050	911 KAR 001:071		815 KAR 008:030
	900 KAR 010:021	198B.668	815 KAR 008:010
	902 KAR 019:010	198B.670	815 KAR 002:030
	922 KAR 001:400	198B.672	815 KAR 002:010
	922 KAR 001:565		815 KAR 008:010
194A.060	907 KAR 003:170	198B.676	815 KAR 002:040
	910 KAR 001:240		815 KAR 008:010
	922 KAR 001:100	198B.684	815 KAR 002:020
	922 KAR 001:560	198B.700	815 KAR 006:001
	922 KAR 002:160		815 KAR 006:010
194A.125	907 KAR 003:170	198B.706	815 KAR 006:001
194A.700-729	501 KAR 006:020		815 KAR 006:010
	910 KAR 001:240		815 KAR 006:030
197	501 KAR 006:020		815 KAR 006:040
198B.010	815 KAR 007:070		815 KAR 006:101
198B.040	815 KAR 007:070	198B.712	815 KAR 006:010
198B.050	815 KAR 007:070		815 KAR 006:030
	815 KAR 035:020		815 KAR 006:040
198B.060	815 KAR 007:070	198B.714	815 KAR 006:010
	815 KAR 035:015	198B.716	815 KAR 006:010
198B.090	815 KAR 002:010	198B.722	815 KAR 006:010
	815 KAR 002:020		815 KAR 006:030
	815 KAR 007:070		815 KAR 006:040
	815 KAR 035:015	198B.724	815 KAR 006:010
198B.095	815 KAR 002:010		815 KAR 006:040
	815 KAR 002:020	198B.728	815 KAR 006:030
	815 KAR 007:070	198B.730	815 KAR 006:030
198B.260	902 KAR 020:260	198B.738	815 KAR 006:010
	908 KAR 001:374	199.011	922 KAR 001:010
198B.4003	815 KAR 004:030		922 KAR 001:100
198B.4009	815 KAR 002:010		922 KAR 001:140
	815 KAR 002:020		922 KAR 001:305
	815 KAR 004:030		922 KAR 001:360
	815 KAR 004:071		922 KAR 001:400
198B.4011	815 KAR 002:010		922 KAR 001:530
	815 KAR 004:030		922 KAR 001:560
198B.4013	815 KAR 002:010		922 KAR 001:565
	815 KAR 004:030	199.430	922 KAR 001:100
198B.4023	815 KAR 002:010	199.462	922 KAR 001:140
	815 KAR 002:020		922 KAR 001:565
	815 KAR 004:030	199.467	922 KAR 001:140
198B.4025	815 KAR 002:010	199.470	922 KAR 001:010
	815 KAR 002:020	199.470-199.590	922 KAR 001:565
	815 KAR 004:030	199.473	922 KAR 001:010
198B.4027	815 KAR 004:030	199.474	922 KAR 001:010
198B.4033	815 KAR 004:030	199.480	922 KAR 001:010
198B.4037	815 KAR 002:040		922 KAR 001:560
198B.615	815 KAR 002:040	199.490	922 KAR 001:010
198B.6405	815 KAR 002:010	199.492	922 KAR 001:010
198B.6409	815 KAR 002:010	199.493	922 KAR 001:010
	815 KAR 002:020	199.500	922 KAR 001:010
	815 KAR 022:011		922 KAR 001:060
	815 KAR 025:081	199.502	922 KAR 001:060
198B.645	815 KAR 002:010	199.505	922 KAR 001:560
198B.650	815 KAR 008:010	199.510	922 KAR 001:010
198B.654	815 KAR 002:010	199.520	922 KAR 001:010
	815 KAR 002:020		922 KAR 001:100
	815 KAR 008:010	199.525	922 KAR 001:100
	815 KAR 008:091	199.540	922 KAR 001:010
198B.656	815 KAR 008:010	199.555	101 KAR 003:045
	815 KAR 008:030		922 KAR 001:050
198B.658	815 KAR 002:010		922 KAR 001:060
	815 KAR 008:010		922 KAR 001:140
	815 KAR 008:030	199.557	922 KAR 001:060
	815 KAR 008:091		922 KAR 001:140
198B.659	815 KAR 008:010	199.570	922 KAR 001:010
198B.6504	815 KAR 002:020		922 KAR 001:100
198B.660	815 KAR 002:010	199.572	922 KAR 001:010
	815 KAR 008:010		922 KAR 001:100
	815 KAR 008:030	199.575	922 KAR 001:100
198B.662	815 KAR 008:030	199.590	922 KAR 001:010
198B.664	815 KAR 002:010	199.640	922 KAR 001:305
	815 KAR 002:020	199.670	922 KAR 001:305
	815 KAR 008:010	199.640 - 199.680	922 KAR 001:360

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199.801	922 KAR 001:360	205.622	895 KAR 001:035
	922 KAR 001:140		907 KAR 008:040
199.892	921 KAR 002:055	205.637	907 KAR 010:820
	922 KAR 002:160	205.639	907 KAR 010:820
199.894	922 KAR 002:160		922 KAR 001:050
199.8943	704 KAR 003:015	205.640	907 KAR 010:820
199.896	922 KAR 002:160	205.641	907 KAR 010:820
199.898	922 KAR 002:160	205.703	922 KAR 001:400
199.8982	922 KAR 002:160	205.705	921 KAR 001:380
199.899	922 KAR 002:160	205.712	601 KAR 002:030
199.8994	922 KAR 002:160	205.710 - 205.800	921 KAR 001:380
199.990	922 KAR 001:010	205.900 - 205.925	910 KAR 001:090
199.640	922 KAR 001:305	205.992	921 KAR 001:380
	922 KAR 001:560	205.2005	921 KAR 003:025
200.080 - 200.120	505 KAR 001:100	205.6312	907 KAR 001:604
	505 KAR 001:110	205.6328	900 KAR 001:091
	505 KAR 001:180	205.6485	907 KAR 001:604
	505 KAR 001:190	205.8451	895 KAR 001:001
200.460	911 KAR 001:010		907 KAR 001:563
	911 KAR 001:060		907 KAR 001:604
200.470	911 KAR 001:010	209A.020	922 KAR 001:400
	911 KAR 001:020	209.020	921 KAR 002:015
200.575	922 KAR 001:411		922 KAR 001:400
200.654	911 KAR 001:010	209.030	902 KAR 020:300
202A.011	921 KAR 002:015		908 KAR 001:370
202B.010	922 KAR 001:100		910 KAR 001:240
205.175	907 KAR 001:075	209.032	902 KAR 020:300
205.200	922 KAR 001:400	209.130	922 KAR 001:400
205.211	921 KAR 002:055	210.270	907 KAR 001:075
	922 KAR 001:565		907 KAR 001:563
205.231	907 KAR 001:075	210.366	201 KAR 026:175
	907 KAR 001:560	211.025	902 KAR 010:051
	907 KAR 001:563	211.090	902 KAR 010:051
	921 KAR 002:055		902 KAR 047:071
	921 KAR 003:060	211.180	902 KAR 008:165
	921 KAR 003:070		902 KAR 008:170
205.237	907 KAR 001:075		902 KAR 010:051
	907 KAR 001:560		902 KAR 019:010
	907 KAR 001:563		902 KAR 047:071
	921 KAR 002:055		902 KAR 100:022
205.245	921 KAR 002:015		902 KAR 100:070
205.455	910 KAR 001:090		902 KAR 100:100
205.510	907 KAR 003:170		902 KAR 100:142
205.520	895 KAR 001:001	211.350	815 KAR 035:015
	895 KAR 001:010		815 KAR 035:020
	895 KAR 001:015	211.461	907 KAR 001:560
	895 KAR 001:020	211.466	907 KAR 001:560
	895 KAR 001:025	211.651	902 KAR 019:010
	895 KAR 001:030	211.655	902 KAR 019:010
	895 KAR 001:035	211.660	902 KAR 019:010
	895 KAR 001:040	211.670	902 KAR 019:010
	895 KAR 001:045	211.842 - 211.852	902 KAR 020:275
	895 KAR 001:050		902 KAR 100:018
	895 KAR 001:055		902 KAR 100:022
	907 KAR 001:005		902 KAR 100:052
	907 KAR 001:121		902 KAR 100:070
	907 KAR 001:270		902 KAR 100:072
	907 KAR 001:280		902 KAR 100:100
	907 KAR 001:330		902 KAR 100:142
	907 KAR 001:360	211.990	902 KAR 100:018
	907 KAR 001:441		902 KAR 100:022
	907 KAR 001:560		902 KAR 100:052
	907 KAR 001:563		902 KAR 100:070
	907 KAR 008:040		902 KAR 100:072
205.531	907 KAR 001:560		902 KAR 100:100
205.558	907 KAR 001:755		902 KAR 100:142
205.559	907 KAR 003:170	212.025	902 KAR 008:170
205.560	907 KAR 001:121	212.120	902 KAR 008:170
	907 KAR 001:270	212.230	902 KAR 008:165
	907 KAR 001:280	212.240	902 KAR 008:165
	907 KAR 001:360	212.245	902 KAR 008:165
	907 KAR 001:604		902 KAR 008:170
	907 KAR 003:170	212.890	902 KAR 008:165
205.565	907 KAR 010:820		902 KAR 008:170

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213.046	921 KAR 001:380	216C.080	900 KAR 011:010
214.034	702 KAR 001:160	216C.090	900 KAR 011:010
214.036	702 KAR 001:160	216C.100	900 KAR 011:010
	922 KAR 002:160	216C.110	900 KAR 011:010
214.181	908 KAR 001:370	216C.120	900 KAR 011:010
214.625	908 KAR 001:370	216C.160	900 KAR 011:010
216.300	910 KAR 001:240	216C.170	900 KAR 011:010
216.380	907 KAR 010:820	216C.180	900 KAR 011:010
216.510 - 216.525	900 KAR 002:040	216C.200	900 KAR 011:010
	902 KAR 020:300	216C.210	900 KAR 011:010
216.530	902 KAR 020:008	216C.220	900 KAR 011:010
	921 KAR 002:015	216C.230	900 KAR 011:010
216.532	902 KAR 020:300	217.005	902 KAR 045:007
216.535	902 KAR 020:300	217.005 - 217.205	902 KAR 045:005
216.537 - 216.590	900 KAR 002:021		902 KAR 045:160
216.540	902 KAR 020:300	217.005 - 217.215	902 KAR 045:090
216.543	902 KAR 020:300	217.015	301 KAR 001:155
216.545	902 KAR 020:300	217.127	902 KAR 045:007
216.547	902 KAR 020:300	217.280 - 217.390	902 KAR 045:005
216.555 - 216.567	900 KAR 002:040	217.290	902 KAR 045:090
216.557	921 KAR 002:015	217.290 - 217.390	902 KAR 045:160
216.577	900 KAR 002:040	217.801	902 KAR 047:071
216.595	910 KAR 001:240	217.990 - 217.992	902 KAR 045:005
216.750	921 KAR 002:015		902 KAR 045:160
216.765	921 KAR 002:015	217.992	902 KAR 045:090
216.785 - 216.793	902 KAR 020:300	217B	302 KAR 027:010
216.789	910 KAR 001:240		302 KAR 027:020
216.793	910 KAR 001:240		302 KAR 027:031
216.860	906 KAR 001:071		302 KAR 027:040
216.865	906 KAR 001:071		302 KAR 027:050
216.900 - 216.915	906 KAR 001:071		302 KAR 028:010
216.930	906 KAR 001:071		302 KAR 028:020
216.2920	900 KAR 007:030		302 KAR 028:030
216.2925	900 KAR 007:030		302 KAR 028:040
	902 KAR 020:008		302 KAR 028:050
216.2927	900 KAR 007:030		302 KAR 029:020
216A.010	900 KAR 002:040	217B.120	302 KAR 027:060
216B	902 KAR 019:010		302 KAR 028:060
	921 KAR 002:015	217B.500 - 217B.900	902 KAR 045:090
216B.010	900 KAR 006:075	218A.205	201 KAR 020:056
	902 KAR 020:008		201 KAR 020:161
216B.010 - 216B.130	900 KAR 005:020		201 KAR 020:215
216B.010 - 216B.131	902 KAR 020:260	218A.160	902 KAR 055:011
216B.010 - 216B.170	902 KAR 020:275	218A.172	201 KAR 009:260
216B.015	900 KAR 006:075		201 KAR 020:057
	902 KAR 020:008	218A.175	902 KAR 020:260
	902 KAR 020:111	218A.180	908 KAR 001:341
216B.020	902 KAR 020:008		908 KAR 001:374
	902 KAR 020:076	218A.202	908 KAR 001:374
	902 KAR 020:251	218A.205	201 KAR 009:260
	908 KAR 001:370		201 KAR 020:057
216B.040	900 KAR 006:020		902 KAR 020:260
	902 KAR 020:008	219.310 - 219.410	815 KAR 025:040
216B.042	902 KAR 020:008	222	908 KAR 001:341
216B.045 - 216B.055	902 KAR 020:008	222.003	908 KAR 001:370
216B.075	902 KAR 020:008	222.005	908 KAR 001:370
216B.090	900 KAR 006:075	222.231	908 KAR 001:370
216B.105 - 216B.131	902 KAR 020:008		908 KAR 001:372
216B.176	902 KAR 020:401		908 KAR 001:374
216B.177	902 KAR 020:401	222.271	908 KAR 001:370
216B.185	902 KAR 020:008	222.441	908 KAR 001:370
216B.400	201 KAR 020:411	222.462	908 KAR 001:370
216B.450	922 KAR 001:050		908 KAR 001:374
216B.455	900 KAR 006:075	222.990	908 KAR 001:370
216B.990	900 KAR 006:075	223	400 KAR 001:001
	902 KAR 020:008		400 KAR 001:040
	902 KAR 020:260		400 KAR 001:090
	902 KAR 020:275		400 KAR 001:100
216C.010	900 KAR 011:010	224	400 KAR 001:001
216C.030	900 KAR 011:010		400 KAR 001:040
216C.040	900 KAR 011:010		400 KAR 001:090
216C.050	900 KAR 011:010		400 KAR 001:100
216C.060	900 KAR 011:010	224.01-110	400 KAR 004:125
216C.070	900 KAR 011:010	224.1	401 KAR 042:005

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	401 KAR 042:020		815 KAR 035:020
	401 KAR 042:060	227.487	815 KAR 035:020
	401 KAR 042:341	227.489	815 KAR 035:015
224.1-010	401 KAR 005:002	227.491	815 KAR 035:015
224.1-070	401 KAR 005:002		815 KAR 035:020
224.1-400	401 KAR 005:002	227.492	815 KAR 035:015
	401 KAR 039:060	227.495	815 KAR 035:015
	401 KAR 042:060	227.550	815 KAR 025:050
	401 KAR 042:250		815 KAR 025:060
224.1-405	401 KAR 042:250		815 KAR 025:090
224.10	401 KAR 039:060		815 KAR 025:100
	401 KAR 039:080	227.550 - 227.660	815 KAR 025:020
	401 KAR 039:090	227.550 - 227.665	815 KAR 025:001
	401 KAR 040:051	227.555	815 KAR 025:050
	401 KAR 042:005	227.560	815 KAR 025:060
	401 KAR 042:020	227.570	815 KAR 002:010
	401 KAR 042:060		815 KAR 002:020
	401 KAR 042:341		815 KAR 025:050
224.10-100	401 KAR 052:050		815 KAR 025:060
	401 KAR 052:070		815 KAR 025:090
224.10-240	400 KAR 004:125	227.580	815 KAR 025:050
224.10-410	400 KAR 001:110		815 KAR 025:060
	401 KAR 042:250	227.590	815 KAR 002:010
224.10-420	401 KAR 042:250		815 KAR 002:020
224.10-430	401 KAR 042:250		815 KAR 025:040
224.10-440	401 KAR 042:250		815 KAR 025:050
	400 KAR 004:125		815 KAR 025:060
224.10-470	401 KAR 042:250		815 KAR 025:090
	400 KAR 004:125	227.600	815 KAR 025:050
224.20-100	401 KAR 052:050		815 KAR 025:060
	401 KAR 052:070	227.610	815 KAR 025:060
224.20-110	401 KAR 052:050	227.620	815 KAR 025:060
	401 KAR 052:070	227.630	815 KAR 025:060
224.20-120	401 KAR 052:050	227.640	815 KAR 025:100
	401 KAR 052:070	227.660	815 KAR 025:090
224.40	401 KAR 042:060	227.990	815 KAR 025:050
	401 KAR 042:341		815 KAR 025:060
224.40-310	401 KAR 039:060		815 KAR 025:090
224.43	401 KAR 042:060	227.992	815 KAR 025:050
	401 KAR 042:341	227A.010	815 KAR 035:060
224.46	401 KAR 039:060	227A.020	815 KAR 002:030
	401 KAR 039:080	227A.040	815 KAR 002:010
	401 KAR 039:090		815 KAR 002:020
	401 KAR 040:051		815 KAR 035:080
	401 KAR 042:060		815 KAR 035:090
	401 KAR 042:341		815 KAR 035:101
224.50-130	401 KAR 039:090	227A.060	815 KAR 035:060
224.60	401 KAR 042:005		815 KAR 035:080
	401 KAR 042:020		815 KAR 035:090
	401 KAR 042:060	227A.100	815 KAR 002:010
	401 KAR 042:341		815 KAR 002:020
224.60-105	401 KAR 042:330		815 KAR 035:060
224.60-110	401 KAR 042:250	227A.110	815 KAR 035:080
224.60-120	401 KAR 042:250	229.011	201 KAR 027:005
224.60-130	401 KAR 042:250	229.025	201 KAR 027:008
	401 KAR 042:330	229.031	201 KAR 027:005
224.60-135	401 KAR 042:250		201 KAR 027:011
224.60-140	401 KAR 042:250		201 KAR 027:016
	401 KAR 042:330		201 KAR 027:020
224.60-150	401 KAR 042:250	229.035	201 KAR 027:008
	401 KAR 042:330	229.055	201 KAR 027:011
224.70-100	401 KAR 005:002	229.065	201 KAR 027:008
224.70-120	401 KAR 005:002	229.111	201 KAR 027:005
224.99	401 KAR 039:060		201 KAR 027:011
	401 KAR 039:080		201 KAR 027:016
	401 KAR 039:090	229.131	201 KAR 027:005
	401 KAR 040:051		201 KAR 027:011
224.99-010	401 KAR 005:002		201 KAR 027:016
	401 KAR 040:051	229.155	201 KAR 027:005
224.99-020	401 KAR 040:051		201 KAR 027:011
224.99-030	401 KAR 040:051	229.171	201 KAR 027:005
227.450	815 KAR 035:015		201 KAR 027:008
227.460	815 KAR 035:020		201 KAR 027:011
227.480	815 KAR 035:015		201 KAR 027:016

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	201 KAR 027:020		810 KAR 002:080
	201 KAR 027:022		810 KAR 003:010
230.210	810 KAR 006:020		810 KAR 003:020
	810 KAR 008:050		810 KAR 003:030
230.215	810 KAR 002:001		810 KAR 003:040
	810 KAR 002:020		810 KAR 004:020
	810 KAR 002:030		810 KAR 004:040
	810 KAR 002:040		810 KAR 004:050
	810 KAR 002:050		810 KAR 004:060
	810 KAR 002:060		810 KAR 004:070
	810 KAR 002:070		810 KAR 004:090
	810 KAR 002:080		810 KAR 004:100
	810 KAR 003:010		810 KAR 005:010
	810 KAR 003:020		810 KAR 005:020
	810 KAR 004:010		810 KAR 005:030
	810 KAR 004:020		810 KAR 005:050
	810 KAR 004:030		810 KAR 005:060
	810 KAR 004:040		810 KAR 005:070
	810 KAR 004:050		810 KAR 005:080
	810 KAR 004:060		810 KAR 006:020
	810 KAR 004:070		810 KAR 007:040
	810 KAR 004:080		810 KAR 008:010
	810 KAR 004:090		810 KAR 008:020
	810 KAR 004:100		810 KAR 008:030
	810 KAR 005:010		810 KAR 008:040
	810 KAR 005:020		810 KAR 008:050
	810 KAR 005:030		810 KAR 008:060
	810 KAR 004:040	230.265	810 KAR 008:010
	810 KAR 005:050		810 KAR 008:020
	810 KAR 005:060		810 KAR 008:030
	810 KAR 005:070		810 KAR 008:060
	810 KAR 005:080	230.280	810 KAR 003:010
	810 KAR 006:020		810 KAR 003:020
	810 KAR 007:020		810 KAR 005:070
	810 KAR 007:030		810 KAR 005:080
	810 KAR 007:040	230.290	810 KAR 002:030
	810 KAR 007:060		810 KAR 002:050
	810 KAR 007:070		810 KAR 003:010
	810 KAR 008:010		810 KAR 003:020
	810 KAR 008:020		810 KAR 003:030
	810 KAR 008:030		810 KAR 003:040
	810 KAR 008:040		810 KAR 004:030
	810 KAR 008:050		810 KAR 004:090
	810 KAR 008:060		810 KAR 004:100
	810 KAR 009:010		810 KAR 005:070
230.218	810 KAR 007:010		810 KAR 005:080
230.225	810 KAR 001:301		810 KAR 008:010
	810 KAR 003:030		810 KAR 008:020
	810 KAR 007:030		810 KAR 008:030
	810 KAR 007:060		810 KAR 008:040
	810 KAR 007:070		810 KAR 008:050
	810 KAR 008:010		810 KAR 008:060
	810 KAR 008:020	230.300	810 KAR 003:010
	810 KAR 008:040		810 KAR 003:020
	811 KAR 001:301		810 KAR 003:030
	811 KAR 002:301		810 KAR 005:070
230.230	810 KAR 002:010		810 KAR 008:030
230.240	810 KAR 002:010		810 KAR 008:040
	810 KAR 002:020	230.310	810 KAR 002:030
	810 KAR 002:050		810 KAR 002:050
	810 KAR 004:030		810 KAR 003:020
	810 KAR 008:010		810 KAR 003:030
	810 KAR 008:020		810 KAR 003:040
	810 KAR 008:040		810 KAR 004:030
	810 KAR 008:050		810 KAR 004:090
	810 KAR 008:060		810 KAR 004:100
230.445	810 KAR 007:060		810 KAR 005:040
	810 KAR 007:070		810 KAR 005:070
230.260	810 KAR 002:001		810 KAR 005:080
	810 KAR 002:020		810 KAR 008:030
	810 KAR 002:030		810 KAR 008:040
	810 KAR 002:050		810 KAR 009:010
	810 KAR 002:060	230.320	810 KAR 002:030
	810 KAR 002:070		810 KAR 003:010

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	810 KAR 003:030		012 KAR 002:011
	810 KAR 003:040		012 KAR 002:016
	810 KAR 004:030		012 KAR 002:017
	810 KAR 004:090		012 KAR 002:018
	810 KAR 004:100		012 KAR 002:021
	810 KAR 005:070		012 KAR 002:026
	810 KAR 007:070		012 KAR 002:036
	810 KAR 008:010		012 KAR 002:056
	810 KAR 008:020		012 KAR 003:007
	810 KAR 008:030		012 KAR 003:032
	810 KAR 008:040	250.501	012 KAR 002:031
	810 KAR 008:050		012 KAR 002:041
	810 KAR 008:060		012 KAR 002:046
	810 KAR 009:010		012 KAR 002:051
230.330	810 KAR 007:020		012 KAR 002:061
	810 KAR 007:070		012 KAR 003:012
	810 KAR 009:010		012 KAR 003:017
230.361	810 KAR 003:030		012 KAR 003:022
	810 KAR 004:080		012 KAR 003:027
	810 KAR 006:020		012 KAR 003:028
	810 KAR 008:030		012 KAR 003:037
230.3615	810 KAR 006:020		012 KAR 003:039
230.370	810 KAR 003:030		012 KAR 003:042
	810 KAR 008:010	250.511	012 KAR 002:041
	810 KAR 008:020		012 KAR 002:051
	810 KAR 008:040		012 KAR 002:061
	810 KAR 003:050		012 KAR 003:037
230.377	810 KAR 003:030	250.521	012 KAR 002:061
230.380	810 KAR 003:050		012 KAR 003:012
	810 KAR 007:030		012 KAR 003:017
230.400	810 KAR 007:070		012 KAR 003:022
	810 KAR 007:060		012 KAR 003:027
230.443	810 KAR 007:040		012 KAR 003:028
230.770	810 KAR 007:070		012 KAR 003:039
	810 KAR 007:020		012 KAR 003:042
230.800	810 KAR 007:070	250.531	012 KAR 002:031
	810 KAR 007:040		012 KAR 003:017
230.802	810 KAR 007:070	250.541	012 KAR 002:041
	810 KAR 007:070		012 KAR 002:051
230.804	810 KAR 006:020		012 KAR 002:046
230.990	810 KAR 007:040		012 KAR 002:066
	810 KAR 005:080		012 KAR 003:037
230.398	301 KAR 001:015	250.551	012 KAR 002:031
235.010	301 KAR 001:015		012 KAR 002:046
235.990	815 KAR 015:080		012 KAR 002:051
236.097	815 KAR 015:080	250.561	012 KAR 002:061
236.210	301 KAR 002:172	250.581	012 KAR 002:051
237.110	804 KAR 005:080	257	302 KAR 020:211
241.010	804 KAR 011:031		302 KAR 020:231
241.060	804 KAR 008:050		302 KAR 020:541
243.020	804 KAR 001:110		302 KAR 020:581
243.0307	804 KAR 001:110	257.020	302 KAR 020:561
243.036	804 KAR 001:070		302 KAR 020:571
243.130	804 KAR 001:070	257.030	302 KAR 020:561
243.150	804 KAR 001:070		302 KAR 020:571
243.170	804 KAR 001:070		302 KAR 020:571
243.180	804 KAR 001:070	257.040	302 KAR 020:571
243.232	804 KAR 005:080	257.050	302 KAR 020:221
243.260	804 KAR 001:110		302 KAR 020:571
243.340	804 KAR 001:070	257.080	302 KAR 020:221
243.390	804 KAR 004:011	257.110	302 KAR 020:561
243.630	804 KAR 004:011	257.120	302 KAR 020:561
244.090	804 KAR 005:021	257.110 - 257.170	302 KAR 020:221
244.130	804 KAR 001:030	257.140	302 KAR 020:561
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244.240	804 KAR 001:070	260.850 - 260.869	302 KAR 050:080
	804 KAR 001:110		302 KAR 050:090
	804 KAR 005:021	262.902	302 KAR 100:011
244.590	804 KAR 001:070		302 KAR 100:021
	804 KAR 001:110	262.904	302 KAR 100:011
244.600	804 KAR 005:021		302 KAR 100:021
246.210	302 KAR 020:221	262.908	302 KAR 100:011
247	302 KAR 001:011		302 KAR 100:021
	302 KAR 077:011	286	808 KAR 014:010

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	808 KAR 001:161	286.8-070	808 KAR 001:170
286.3-020	808 KAR 001:140	286.8-080	808 KAR 001:170
	808 KAR 001:161	286.8-090	808 KAR 001:170
286.3-050	808 KAR 001:140	286.8-120	808 KAR 012:050
	808 KAR 001:161	286.8-150	808 KAR 001:180
286.3-095	808 KAR 001:140	286.8-225	808 KAR 001:180
	808 KAR 001:161	286.8-227	808 KAR 001:180
	808 KAR 011:021	286.8-255	808 KAR 012:055
	808 KAR 015:040	286.8-260	808 KAR 001:170
286.3-135	808 KAR 001:140	286.8-290	808 KAR 001:170
286.3-102	808 KAR 001:161	286.9-010	808 KAR 001:170
	808 KAR 015:030		808 KAR 009:010
286.3-135	808 KAR 001:161		808 KAR 009:050
286.3-140	808 KAR 001:140	286.9-020	808 KAR 001:170
	808 KAR 001:161		808 KAR 009:050
286.3-145	808 KAR 001:140	286.9-030	808 KAR 001:170
	808 KAR 001:161		808 KAR 009:050
286.3-146	808 KAR 001:140	286.9-040	808 KAR 001:170
	808 KAR 001:161		808 KAR 009:040
286.3-170	808 KAR 001:140		808 KAR 009:050
	808 KAR 001:161	286.9-050	808 KAR 001:170
286.3-172	808 KAR 001:140		808 KAR 009:050
	808 KAR 001:161	286.9-060	808 KAR 001:170
286.3-174	808 KAR 001:140		808 KAR 009:050
	808 KAR 001:161	286.9-070	808 KAR 009:050
286.3-180	808 KAR 001:060	286.9-071	808 KAR 001:170
	808 KAR 001:140		808 KAR 009:050
	808 KAR 001:161	286.9-073	808 KAR 001:170
	808 KAR 015:030		808 KAR 009:050
286.3-185	808 KAR 001:161	286.9-075	808 KAR 009:010
	808 KAR 015:030		808 KAR 009:050
286.3-280	808 KAR 001:161	286.9-080	808 KAR 001:170
	808 KAR 015:010	286.9-090	808 KAR 009:031
286.3-290	808 KAR 001:161	286.9-100	808 KAR 009:010
	808 KAR 015:010		808 KAR 009:040
286.3-300	808 KAR 001:161	286.9-104	808 KAR 009:050
	808 KAR 015:010	286.9-120	808 KAR 009:031
286.3-375	808 KAR 001:161	286.9-140	808 KAR 009:010
286.3-450	808 KAR 001:140	290.095	808 KAR 003:061
	808 KAR 001:161	290.585	808 KAR 003:061
286.3-480	808 KAR 001:140	292.322	808 KAR 001:180
	808 KAR 001:161	304.1-080	806 KAR 009:360
286.3-530	808 KAR 001:140		806 KAR 017:091
	808 KAR 001:161	304.1-070	806 KAR 010:030
286.3-690	808 KAR 001:161	304.2-140	806 KAR 047:010
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	808 KAR 015:030	304.3	806 KAR 002:121
286.3-905	808 KAR 011:021	304.3-150	806 KAR 002:092
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5286.3-920	808 KAR 001:140	304.3-270	103 KAR 015:180
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286.4	808 KAR 001:170	304.9-053	806 KAR 009:360
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286.4-490	808 KAR 006:095	304.5-140	806 KAR 005:011
286.4-590	808 KAR 014:020	304.5-150	806 KAR 005:011
286.5-061	808 KAR 001:060	304.10-030	806 KAR 010:030
286.6-055	808 KAR 001:060	304.10-050	806 KAR 010:030
286.6-070	808 KAR 003:061	304.10-120	806 KAR 002:121
286.6-095	808 KAR 003:050	304.10-170	806 KAR 010:030
286.6-100	808 KAR 003:050	304.10-180	806 KAR 010:030
	808 KAR 003:061	304.11-010	806 KAR 005:011
286.6-225	808 KAR 003:050	304.11-030	401 KAR 039:090
286.6-585	808 KAR 003:050	304.11-050	806 KAR 005:011
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286.6-405	808 KAR 003:061	304.12-020	806 KAR 017:570
286.7	808 KAR 003:061	304.12-190	806 KAR 017:091
286.8	808 KAR 012:111	304.14-020	806 KAR 017:091
286.8-010	808 KAR 012:055	304.14-120	806 KAR 017:020
286.8-020	808 KAR 001:170		806 KAR 017:091
286.8-030	808 KAR 001:170		806 KAR 017:570

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304.14-150	806 KAR 017:091	304.32-1595	806 KAR 017:091
304.14-180	806 KAR 017:091	304.33-030	806 KAR 017:570
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304.17-042	806 KAR 017:091	304.47-020	806 KAR 047:010
304.17-070	806 KAR 017:091	304.47-040	806 KAR 047:010
304.17-310	806 KAR 017:091	304.47-050	806 KAR 047:010
304.17-311	806 KAR 017:570		806 KAR 047:021
304.17-313	806 KAR 017:091	304.47-080	806 KAR 047:010
304.17-319	806 KAR 017:091		806 KAR 047:021
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304.17A.005	806 KAR 017:091	304.99-123	806 KAR 017:360
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304.17A.230	806 KAR 017:091	311A.035	202 KAR 007:520
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304.17A.245	806 KAR 017:091	311A.055	202 KAR 007:520
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304.17A-500	806 KAR 017:300	311A.190	202 KAR 007:520
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304.17A-527	806 KAR 017:300		201 KAR 046:030
304.17A-530	806 KAR 017:300		201 KAR 046:040
304.17A-532	806 KAR 017:300		201 KAR 046:081
304.17A.540	806 KAR 017:091	311B.050	201 KAR 046:020
304.17A.545	806 KAR 017:091		201 KAR 046:030
304.17A-560	806 KAR 017:300		201 KAR 046:040
304.17A-575	806 KAR 017:300		201 KAR 046:045
304.17A-577	806 KAR 017:300		201 KAR 046:081
304.17A-578	806 KAR 017:300	311B.080	201 KAR 046:030
304.17A.647	806 KAR 017:091	311B.100	201 KAR 046:020
304.17A-700	806 KAR 017:360		201 KAR 046:040
304.17A-702	806 KAR 017:360		201 KAR 046:045
304.17A-704	806 KAR 017:360		201 KAR 046:081
304.17A-706	806 KAR 017:360	311B.110	201 KAR 046:020
304.17A-708	806 KAR 017:360		201 KAR 046:040
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304.17A-730	806 KAR 017:360		201 KAR 046:040
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314.011	902 KAR 020:260		201 KAR 020:162
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	201 KAR 020:062	315.020	201 KAR 002:370
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	201 KAR 020:161	315.030	201 KAR 002:370
	201 KAR 020:162	315.036	902 KAR 055:011
	201 KAR 020:215	315.065	201 KAR 002:015
	201 KAR 020:220	315.120	201 KAR 002:015
	201 KAR 020:280	315.121	201 KAR 002:370
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314.021	201 KAR 020:320		201 KAR 012:260
314.027	201 KAR 020:240	317A.050	201 KAR 012:030
314.031	201 KAR 020:161		201 KAR 012:082
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314.041	201 KAR 020:240		201 KAR 012:251
	201 KAR 020:260	317A.062	201 KAR 012:260
	201 KAR 020:320	317A.090	317 KAR 012:082
314.042	201 KAR 020:056	317A.130	201 KAR 012:280
	201 KAR 020:057	318.010	815 KAR 020:030
	201 KAR 020:062	318.020	815 KAR 020:030
	201 KAR 020:065	318.030	815 KAR 020:030
	201 KAR 020:240	318.040	815 KAR 020:030
314.051	201 KAR 020:240	318.050	815 KAR 002:040
314.071	201 KAR 020:161		815 KAR 020:030
	201 KAR 020:162	318.054	815 KAR 002:010
	201 KAR 020:240		815 KAR 002:020
314.073	201 KAR 020:215		815 KAR 002:040
	201 KAR 020:220		815 KAR 020:030
	201 KAR 020:240	318.060	815 KAR 020:030
314.075	201 KAR 020:240	318.080	815 KAR 020:030
314.091	201 KAR 020:056	318.100	815 KAR 002:030
	201 KAR 020:161	318.130	815 KAR 002:010
	201 KAR 020:162		815 KAR 002:020
314.101	201 KAR 020:240		902 KAR 045:160
314.103	201 KAR 020:056	318.134	815 KAR 002:040
	201 KAR 020:411	318.170	815 KAR 002:030
314.105	201 KAR 020:226		815 KAR 020:041
314.107	201 KAR 020:161	319	911 KAR 001:010
314.109	201 KAR 020:056	319.005	201 KAR 026:130
314.111	201 KAR 020:056		908 KAR 001:370
	201 KAR 020:260	319.032	201 KAR 026:130
	201 KAR 020:280		201 KAR 026:171
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	201 KAR 020:320	319.050	201 KAR 026:171
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	201 KAR 020:632	319.056	201 KAR 026:171
314.131	201 KAR 020:062		908 KAR 001:370
	201 KAR 020:220	319.064	201 KAR 026:171
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	201 KAR 020:162		201 KAR 026:171
	201 KAR 020:240	319.092	201 KAR 026:140
314.171	201 KAR 020:240		201 KAR 026:171
314.181	201 KAR 020:226	319.118	201 KAR 026:130
314.193	201 KAR 020:057		201 KAR 026:171
314.195	201 KAR 020:057	319.990	201 KAR 026:130
314.196	201 KAR 020:057	319A.010	201 KAR 028:170
314.470	201 KAR 020:161		907 KAR 001:604
	201 KAR 020:310	319A.070	201 KAR 028:021
314.475	201 KAR 020:056	319A.080	201 KAR 028:060

KRS SECTION	REGULATION	KRS SECTION	REGULATION
319A.100	201 KAR 028:170	350.010	400 KAR 001:110
319A.110	201 KAR 028:060	350.020	405 KAR 010:015
319A.120	201 KAR 028:060	350.028	400 KAR 001:001
319A.140	201 KAR 028:060		400 KAR 001:040
319A.150	201 KAR 028:060		400 KAR 001:090
319A.160	201 KAR 028:060	350.029	400 KAR 001:110
319A.170	201 KAR 028:060	350.032	400 KAR 001:090
	201 KAR 028:170		400 KAR 001:001
322	401 KAR 042:341	350.060	400 KAR 001:090
322A	401 KAR 042:341		400 KAR 001:090
325.240	201 KAR 001:290	350.062	405 KAR 010:015
	201 KAR 001:240	350.064	405 KAR 010:015
	201 KAR 001:310	350.070	405 KAR 010:015
325.340	201 KAR 001:290		400 KAR 001:001
	201 KAR 001:340		400 KAR 001:040
327.010	201 KAR 022:020		400 KAR 001:090
	907 KAR 001:604	350.085	400 KAR 001:110
327.050	201 KAR 022:020		400 KAR 001:001
	201 KAR 022:040		400 KAR 001:040
	201 KAR 022:070	350.090	400 KAR 001:090
327.060	201 KAR 022:020		400 KAR 001:001
	201 KAR 022:070		400 KAR 001:090
327.070	201 KAR 022:040	350.093	400 KAR 001:110
327.075	201 KAR 022:020		400 KAR 001:001
327.080	201 KAR 022:020		400 KAR 001:040
327.300	201 KAR 022:170		400 KAR 001:090
327.310	201 KAR 022:020		400 KAR 001:110
334A	911 KAR 001:010	350.095	405 KAR 010:015
334A.020	907 KAR 001:604	350.100	405 KAR 010:015
335.030	201 KAR 023:150	350.130	405 KAR 010:015
335.070	201 KAR 023:150		400 KAR 001:001
335.080	908 KAR 001:370		400 KAR 001:040
335.100	908 KAR 001:370		400 KAR 001:090
335.150	201 KAR 023:150	350.151	400 KAR 001:110
335.155	201 KAR 023:150	350.240	405 KAR 010:015
335.300	908 KAR 001:370	350.255	400 KAR 001:090
335.305	201 KAR 032:110		400 KAR 001:001
335.310	201 KAR 032:110		400 KAR 001:090
335.320	201 KAR 032:110	350.300	400 KAR 001:110
335.325	201 KAR 032:110	350.305	400 KAR 001:090
335.380	201 KAR 032:110	350.465	400 KAR 001:001
335.399	201 KAR 032:110		400 KAR 001:040
335.500	908 KAR 001:370		400 KAR 001:090
337.275	922 KAR 002:160		400 KAR 001:110
338	803 KAR 050:010		405 KAR 010:015
338.015	803 KAR 002:180	350.610	400 KAR 001:001
	803 KAR 002:320		400 KAR 001:090
	803 KAR 002:505	350.990	400 KAR 001:001
338.031	803 KAR 002:320		400 KAR 001:040
338.121	803 KAR 002:180		400 KAR 001:090
338.161	803 KAR 002:180		400 KAR 001:110
339.230	815 KAR 035:060	350.0301	400 KAR 001:001
341.190	787 KAR 001:010		400 KAR 001:090
342.0011	803 KAR 025:089		400 KAR 001:110
	803 KAR 025:270	350.0305	400 KAR 001:001
	803 KAR 025:290		400 KAR 001:090
	803 KAR 030:010	351.010	805 KAR 007:080
342.019	803 KAR 025:089	351.070	805 KAR 003:100
342.020	803 KAR 025:089	351.127	805 KAR 007:080
	803 KAR 025:270	351.182	805 KAR 007:080
	803 KAR 025:290	351.315	400 KAR 001:001
342.035	803 KAR 025:089		400 KAR 001:040
	803 KAR 025:270		400 KAR 001:090
342.122	803 KAR 030:010		400 KAR 001:110
	803 KAR 030:021	351.345	400 KAR 001:001
342.1221	803 KAR 030:010		400 KAR 001:040
342.1222	803 KAR 030:010		400 KAR 001:090
342.1223	803 KAR 030:010		400 KAR 001:110
342.1231	803 KAR 030:010	351.350	400 KAR 001:001
	803 KAR 030:021		400 KAR 001:040
342.340	803 KAR 030:010		400 KAR 001:090
342.650	803 KAR 030:010		400 KAR 001:110
350	405 KAR 010:001	353	400 KAR 001:100

KRS SECTION	REGULATION	KRS SECTION	REGULATION
353.060	400 KAR 001:001		922 KAR 001:100
	400 KAR 001:040		922 KAR 001:305
	400 KAR 001:090		922 KAR 001:360
353.200	400 KAR 001:001		922 KAR 001:400
	400 KAR 001:040		922 KAR 001:530
	400 KAR 001:090		922 KAR 002:160
353.510	805 KAR 001:210		922 KAR 001:565
353.590	400 KAR 001:001	605.090	922 KAR 001:100
	400 KAR 001:040		922 KAR 001:140
	400 KAR 001:090		922 KAR 001:360
353.620	400 KAR 001:001	605.100	922 KAR 001:530
	400 KAR 001:040	605.110	505 KAR 001:080
	400 KAR 001:090	605.120	922 KAR 002:160
353.630	400 KAR 001:001		922 KAR 001:565
	400 KAR 001:040	605.130	922 KAR 001:530
	400 KAR 001:090		922 KAR 001:400
	805 KAR 001:210		922 KAR 001:565
353.640	400 KAR 001:001	605.150	922 KAR 001:400
	400 KAR 001:040		922 KAR 001:565
	400 KAR 001:090	610.110	922 KAR 001:360
	805 KAR 001:210		922 KAR 001:140
353.700	400 KAR 001:001		922 KAR 001:305
	400 KAR 001:040		922 KAR 001:565
	400 KAR 001:090	610.125	922 KAR 001:140
353.5901	400 KAR 001:001	610.127	922 KAR 001:140
	400 KAR 001:040	610.170	921 KAR 001:380
	400 KAR 001:090		922 KAR 001:530
363.590	302 KAR 085:010	610.110	922 KAR 001:305
363.610	302 KAR 085:010		922 KAR 001:400
367.680	040 KAR 002:345		922 KAR 001:500
367.686	040 KAR 002:345	615.030	922 KAR 001:010
367.688	040 KAR 002:345		922 KAR 001:100
367.689	040 KAR 002:345	620.020	922 KAR 001:140
367.690	040 KAR 002:345		922 KAR 001:400
369.101 - 369.120	895 KAR 001:035		922 KAR 001:560
	907 KAR 008:040		922 KAR 001:500
382.800 - 382.860	418 KAR 001:040		922 KAR 002:160
	418 KAR 001:050		922 KAR 001:565
352.390	805 KAR 007:080	620.030	908 KAR 001:370
387	922 KAR 001:565	620.050	922 KAR 001:100
387.025	922 KAR 001:140	620.060	922 KAR 001:140
403.190	102 KAR 001:320	620.090	922 KAR 001:140
403.211	921 KAR 001:380	620.140	922 KAR 001:140
403.270-403.355	922 KAR 001:565		922 KAR 001:305
403.707	201 KAR 020:411		922 KAR 001:400
405.024	922 KAR 001:565		922 KAR 001:500
405.430	921 KAR 001:380	620.180	922 KAR 001:140
405.467	921 KAR 001:380	620.360	922 KAR 001:100
405.520	921 KAR 001:380	625	922 KAR 001:010
406.021	921 KAR 001:380		922 KAR 001:050
406.025	921 KAR 001:380		922 KAR 001:060
407.5101 - 407.5903	921 KAR 001:380		922 KAR 001:100
421.500 - 421.575	201 KAR 020:411	625.040	922 KAR 001:140
422.317	907 KAR 003:170	625.045	922 KAR 001:100
	908 KAR 001:370	625.065	922 KAR 001:560
424	106 KAR 001:091	625.090	922 KAR 001:140
	400 KAR 002:100	625.108	922 KAR 001:100
424.110 - 424.150	902 KAR 008:170	2 C.F.R.	202 KAR 007:520
431.615	907 KAR 001:360		902 KAR 008:165
433.900 - 433.906	830 KAR 001:010		902 KAR 008:170
434.840 - 434.860	907 KAR 003:170	7 C.F.R.	405 KAR 010:001
439	501 KAR 006:020		921 KAR 003:025
439.3401	908 KAR 001:370		921 KAR 003:030
446.010	418 KAR 001:010		921 KAR 003:035
514	921 KAR 002:015		921 KAR 003:060
527.100	922 KAR 001:140		921 KAR 003:070
	922 KAR 001:565		922 KAR 002:160
527.110	922 KAR 001:140	10 C.F.R.	401 KAR 042:020
	922 KAR 001:565		902 KAR 100:022
600 - 645	505 KAR 001:100		902 KAR 100:052
	505 KAR 001:110		902 KAR 100:070
	505 KAR 001:180		902 KAR 100:072
	505 KAR 001:190		902 KAR 100:100
600.020	922 KAR 001:050		902 KAR 100:142

KRS SECTION	REGULATION	KRS SECTION	REGULATION
12 C.F.R.	808 KAR 003:061		908 KAR 001:370
	808 KAR 014:010		908 KAR 001:374
	808 KAR 015:030		911 KAR 001:010
20 C.F.R.	895 KAR 001:001	45 C.F.R.	806 KAR 009:360
	922 KAR 002:160		806 KAR 017:570
21 C.F.R.	012 KAR 002:031		900 KAR 002:040
	012 KAR 002:041		900 KAR 009:010
	012 KAR 002:051		902 KAR 020:260
	012 KAR 003:037		902 KAR 020:275
	902 KAR 045:090		902 KAR 100:072
	902 KAR 045:160		907 KAR 001:360
	908 KAR 001:374		907 KAR 003:170
	921 KAR 002:015		907 KAR 008:040
23 C.F.R.	603 KAR 005:070		908 KAR 001:370
24 C.F.R.	815 KAR 025:090		921 KAR 001:380
29 C.F.R.	106 KAR 001:081		921 KAR 002:055
	702 KAR 001:160		921 KAR 003:025
	803 KAR 002:180		922 KAR 001:060
	803 KAR 002:320		922 KAR 001:100
	803 KAR 002:505		922 KAR 001:140
	806 KAR 017:091		922 KAR 001:400
	815 KAR 035:060		922 KAR 001:500
	902 KAR 020:260		922 KAR 001:530
	902 KAR 020:275		922 KAR 002:160
30 C.F.R.	400 KAR 001:001	49 C.F.R.	902 KAR 100:070
	400 KAR 001:040	50 C.F.R.	400 KAR 003:020
	400 KAR 001:090	74 C.F.R.	806 KAR 017:570
	400 KAR 001:110	7 U.S.C.	302 KAR 027:050
	405 KAR 010:001		302 KAR 028:050
34 C.F.R.	011 KAR 004:080		302 KAR 029:020
	922 KAR 002:160		302 KAR 050:080
39 C.F.R.	400 KAR 001:090		921 KAR 003:025
40 C.F.R.	106 KAR 001:081		921 KAR 003:030
	106 KAR 001:091		921 KAR 003:035
	401 KAR 005:002		921 KAR 003:060
	401 KAR 039:060		922 KAR 002:160
	401 KAR 039:080	8 U.S.C.	921 KAR 002:015
	401 KAR 039:090	12 U.S.C.	808 KAR 003:050
	401 KAR 042:005	15 U.S.C.	012 KAR 003:012
	401 KAR 042:020		012 KAR 003:028
	401 KAR 042:060		012 KAR 003:039
	401 KAR 042:250		201 KAR 027:008
	401 KAR 042:330		201 KAR 027:011
	401 KAR 042:341		401 KAR 005:002
	401 KAR 052:050		808 KAR 012:055
	401 KAR 052:070		908 KAR 001:374
	405 KAR 010:001	18 U.S.C.	601 KAR 002:030
	902 KAR 100:022	20 U.S.C.	011 KAR 004:080
42 C.F.R.	806 KAR 017:570		011 KAR 015:010
	895 KAR 001:001		703 KAR 005:270
	895 KAR 001:010		702 KAR 007:065
	895 KAR 001:015		704 KAR 003:292
	895 KAR 001:030		704 KAR 003:365
	895 KAR 001:035		808 KAR 003:050
	895 KAR 001:055		922 KAR 001:500
	900 KAR 002:040	21 U.S.C.	012 KAR 002:041
	900 KAR 009:010		012 KAR 003:037
	902 KAR 020:300		902 KAR 020:111
	907 KAR 001:005		902 KAR 020:260
	907 KAR 001:022		902 KAR 045:090
	907 KAR 001:025		902 KAR 045:160
	907 KAR 001:270	23 U.S.C.	603 KAR 005:070
	907 KAR 001:330	25 U.S.C.	922 KAR 001:100
	907 KAR 001:340		922 KAR 001:140
	907 KAR 001:360		922 KAR 002:160
	907 KAR 001:560	26 U.S.C.	101 KAR 002:095
	907 KAR 001:563		102 KAR 001:320
	907 KAR 001:604		103 KAR 015:180
	907 KAR 001:755		105 KAR 001:145
	907 KAR 003:170		105 KAR 001:147
	907 KAR 005:005		301 KAR 003:100
	907 KAR 008:040		907 KAR 005:005
	907 KAR 010:820	29 U.S.C.	806 KAR 017:091
	908 KAR 001:341		806 KAR 017:570

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	895 KAR 001:001		922 KAR 001:360
	907 KAR 005:005		922 KAR 001:400
	922 KAR 002:160		922 KAR 001:500
30 U.S.C.	400 KAR 001:001		922 KAR 001:530
	400 KAR 001:040		922 KAR 002:160
	400 KAR 001:090	45 U.S.C.	921 KAR 002:055
	400 KAR 001:110	49 U.S.C.	302 KAR 029:020
	405 KAR 010:001		603 KAR 005:070
	803 KAR 030:010	50 U.S.C.	103 KAR 017:130
31 U.S.C.	921 KAR 002:055	52 U.S.C.	921 KAR 003:030
33 U.S.C.	045 KAR 001:050	2012 Ky Acts ch. 144, Part XII	806 KAR 017:091
	401 KAR 005:002	2016 Ky Acts ch. 149, Part 1	922 KAR 002:160
	803 KAR 030:010	Pres. EO 13166	921 KAR 003:030
34 U.S.C.	922 KAR 002:160	Pub. L 108-173	806 KAR 017:570
38 U.S.C.	921 KAR 002:055	Pub. L 114-94	603 KAR 005:070
	922 KAR 002:160	Pub L 14-198	201 KAR 020:065
42 U.S.C.	106 KAR 001:081		
	106 KAR 001:091		
	106 KAR 001:121		
	401 KAR 005:002		
	401 KAR 039:060		
	401 KAR 042:005		
	401 KAR 042:020		
	401 KAR 042:060		
	401 KAR 042:341		
	401 KAR 052:050		
	806 KAR 017:091		
	806 KAR 017:570		
	815 KAR 025:050		
	895 KAR 001:001		
	895 KAR 001:010		
	895 KAR 001:015		
	895 KAR 001:020		
	895 KAR 001:025		
	895 KAR 001:030		
	895 KAR 001:035		
	895 KAR 001:040		
	895 KAR 001:045		
	895 KAR 001:050		
	895 KAR 001:055		
	900 KAR 002:040		
	902 KAR 020:260		
	902 KAR 020:275		
	902 KAR 100:022		
	902 KAR 100:052		
	902 KAR 100:070		
	902 KAR 100:072		
	902 KAR 100:100		
	902 KAR 100:142		
	906 KAR 001:190		
	907 KAR 001:005		
	907 KAR 001:022		
	907 KAR 001:270		
	907 KAR 001:330		
	907 KAR 001:340		
	907 KAR 001:360		
	907 KAR 001:560		
	907 KAR 001:563		
	907 KAR 001:604		
	907 KAR 001:755		
	907 KAR 005:005		
	907 KAR 008:040		
	907 KAR 010:820		
	908 KAR 001:370		
	911 KAR 001:010		
	921 KAR 001:380		
	921 KAR 002:015		
	921 KAR 002:055		
	921 KAR 003:030		
	921 KAR 003:035		
	922 KAR 001:060		
	922 KAR 001:100		
	922 KAR 001:140		
	922 KAR 001:305		

CERTIFICATION LETTER SUMMARIES

The certification process is established in KRS 13A.3104. If the certification letter states the regulation shall be amended, the administrative body shall file an amendment to the regulation within 18 months of the date the certification letter was filed. If the certification letter states that the regulation shall remain in effect without amendment, the last effective date of the regulation is changed to the date the regulations compiler received the letter.

* KRS 13A.010(6) - "Effective" means that an administrative regulation has completed the legislative review process established by KRS 13A.290, 13A.330, and 13A.331.

Regulation Number	First Effective Date	Previous Last Effective Date*	Letter Filed Date	Action
011 KAR 003:001	03-04-1993	01-10-1994	09-28-2018	Remain in Effect without Amendment
011 KAR 003:005	12-09-1992	09-12-1994	09-28-2018	Remain in Effect without Amendment
011 KAR 003:045	03-04-1993	03-04-1993	09-28-2018	Remain in Effect without Amendment
011 KAR 003:055	03-04-1993	03-04-1993	09-28-2018	Remain in Effect without Amendment
011 KAR 003:100	08-20-1992	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 004:020	02-04-1976	09-13-2004	09-28-2018	Remain in Effect without Amendment
011 KAR 004:030	11-01-1978	04-14-1997	09-28-2018	Remain in Effect without Amendment
011 KAR 004:040	10-09-1984	11-08-2004	09-28-2018	Remain in Effect without Amendment
011 KAR 004:050	05-14-1985	10-01-1998	09-28-2018	Remain in Effect without Amendment
011 KAR 004:060	10-01-1992	10-01-1992	09-28-2018	Remain in Effect without Amendment
011 KAR 005:001	08-01-1992	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 005:033	08-01-1992	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 005:110	11-04-1988	08-01-1992	09-28-2018	Remain in Effect without Amendment
011 KAR 005:130	03-23-1989	10-06-2006	09-28-2018	Remain in Effect without Amendment
011 KAR 005:140	02-03-1989	09-09-2013	09-28-2018	Remain in Effect without Amendment
011 KAR 005:145	08-01-1992	07-01-2016	09-28-2018	Remain in Effect without Amendment
011 KAR 005:150	02-03-1989	09-09-2002	09-28-2018	Remain in Effect without Amendment
011 KAR 005:160	02-03-1989	03-11-2005	09-28-2018	Remain in Effect without Amendment
011 KAR 005:170	02-03-1989	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 005:180	02-03-1989	06-03-2003	09-28-2018	Remain in Effect without Amendment
011 KAR 005:200	04-06-2007	07-13-2009	09-28-2018	Remain in Effect without Amendment
011 KAR 007:010	03-04-1986	02-07-1991	09-28-2018	Remain in Effect without Amendment
011 KAR 007:020	08-12-1986	02-07-1991	09-28-2018	Remain in Effect without Amendment
011 KAR 008:010	08-12-1986	08-09-1990	09-28-2018	Remain in Effect without Amendment
011 KAR 008:020	08-12-1986	08-09-1990	09-28-2018	Remain in Effect without Amendment
011 KAR 008:030	08-09-1990	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 008:040	08-09-1990	01-05-2009	09-28-2018	Remain in Effect without Amendment
011 KAR 010:010	04-14-1987	10-07-1993	09-28-2018	Remain in Effect without Amendment
011 KAR 010:020	04-14-1987	10-07-1993	09-28-2018	Remain in Effect without Amendment
011 KAR 012:010	08-02-1991	12-18-2002	09-28-2018	Remain in Effect without Amendment
011 KAR 012:020	08-02-1991	10-11-1999	09-28-2018	Remain in Effect without Amendment
011 KAR 012:030	08-02-1991	12-18-2002	09-28-2018	Remain in Effect without Amendment
011 KAR 012:040	08-02-1991	02-11-2002	09-28-2018	Remain in Effect without Amendment
011 KAR 012:050	08-02-1991	02-11-2002	09-28-2018	Remain in Effect without Amendment
011 KAR 012:060	08-02-1991	07-12-2010	09-28-2018	Remain in Effect without Amendment
011 KAR 012:070	08-02-1991	08-14-2000	09-28-2018	Remain in Effect without Amendment
011 KAR 012:090	08-02-1991	10-01-1992	09-28-2018	Remain in Effect without Amendment
011 KAR 013:010	03-06-1997	03-06-1997	09-28-2018	Remain in Effect without Amendment
011 KAR 014:010	10-01-1998	11-05-2001	09-28-2018	Remain in Effect without Amendment
011 KAR 014:020	10-01-1998	10-01-1998	09-28-2018	Remain in Effect without Amendment
011 KAR 014:030	10-01-1998	03-10-2000	09-28-2018	Remain in Effect without Amendment
011 KAR 014:040	10-01-1998	08-15-2001	09-28-2018	Remain in Effect without Amendment
011 KAR 014:050	10-01-1998	10-01-1998	09-28-2018	Remain in Effect without Amendment
011 KAR 014:060	10-01-1998	01-05-2009	09-28-2018	Remain in Effect without Amendment
011 KAR 014:070	10-01-1998	11-05-2001	09-28-2018	Remain in Effect without Amendment
011 KAR 014:080	10-01-1998	01-05-2009	09-28-2018	Remain in Effect without Amendment
011 KAR 015:010	10-01-1998	07-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 015:020	10-01-1998	01-28-2014	09-28-2018	Remain in Effect without Amendment
011 KAR 015:030	10-01-1998	12-21-2000	09-28-2018	Remain in Effect without Amendment
011 KAR 015:040	10-01-1998	09-09-2013	09-28-2018	Remain in Effect without Amendment
011 KAR 015:050	10-01-1998	12-21-2000	09-28-2018	Remain in Effect without Amendment
011 KAR 015:060	10-01-1998	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 015:070	10-01-1998	12-21-2000	09-28-2018	Remain in Effect without Amendment
011 KAR 015:080	09-09-2002	09-09-2002	09-28-2018	Remain in Effect without Amendment
011 KAR 015:090	03-01-1999	03-09-2018	09-28-2018	Remain in Effect without Amendment
011 KAR 015:100	10-12-2015	10-12-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 016:001	02-05-2001	09-09-2013	09-28-2018	Remain in Effect without Amendment
011 KAR 016:010	02-05-2001	09-09-2013	09-28-2018	Remain in Effect without Amendment
011 KAR 016:020	02-05-2001	02-05-2001	09-28-2018	Remain in Effect without Amendment
011 KAR 016:030	02-05-2001	02-05-2001	09-28-2018	Remain in Effect without Amendment

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011 KAR 016:040	02-05-2001	09-09-2013	09-28-2018	Remain in Effect without Amendment
011 KAR 016:050	02-05-2001	09-09-2013	09-28-2018	Remain in Effect without Amendment
011 KAR 016:060	02-05-2001	10-12-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 016:070	07-06-2007	07-06-2007	09-28-2018	Remain in Effect without Amendment
011 KAR 017:010	12-01-2003	11-05-2004	09-28-2018	Remain in Effect without Amendment
011 KAR 017:040	12-01-2003	01-04-2005	09-28-2018	Remain in Effect without Amendment
011 KAR 017:050	12-01-2003	12-01-2003	09-28-2018	Remain in Effect without Amendment
011 KAR 017:060	12-01-2003	12-01-2003	09-28-2018	Remain in Effect without Amendment
011 KAR 017:070	12-01-2003	12-01-2003	09-28-2018	Remain in Effect without Amendment
011 KAR 017:080	12-01-2003	12-01-2003	09-28-2018	Remain in Effect without Amendment
011 KAR 017:090	12-01-2003	12-01-2003	09-28-2018	Remain in Effect without Amendment
011 KAR 017:100	12-01-2003	11-05-2004	09-28-2018	Remain in Effect without Amendment
011 KAR 017:110	12-01-2003	12-01-2003	09-28-2018	Remain in Effect without Amendment
011 KAR 019:010	04-01-2011	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 019:020	04-01-2011	04-01-2011	09-28-2018	Remain in Effect without Amendment
011 KAR 019:030	04-01-2011	04-01-2011	09-28-2018	Remain in Effect without Amendment
011 KAR 020:001	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 020:010	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 020:020	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 020:030	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 020:040	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 020:050	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 020:060	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
011 KAR 020:070	02-06-2015	02-06-2015	09-28-2018	Remain in Effect without Amendment
031 KAR 002:010	12-01-1982	03-05-2010	03-06-2019	Remain in Effect without Amendment
031 KAR 002:020	03-05-2010	03-05-2010	03-06-2019	Remain in Effect without Amendment
031 KAR 003:020	03-02-2012	03-02-2012	03-06-2019	Remain in Effect without Amendment
031 KAR 004:020	12-07-1990	04-02-2010	03-06-2019	Remain in Effect without Amendment
031 KAR 004:030	12-07-1990	04-02-2010	03-06-2019	Remain in Effect without Amendment
031 KAR 004:050	12-07-1990	12-07-1990	03-06-2019	Remain in Effect without Amendment
031 KAR 004:080	01-09-1995	01-09-1995	03-06-2019	Remain in Effect without Amendment
031 KAR 004:090	02-08-1995	02-08-1995	03-06-2019	Remain in Effect without Amendment
031 KAR 004:110	07-26-1995	07-26-1995	03-06-2019	Remain in Effect without Amendment
031 KAR 004:150	11-15-2005	11-15-2005	03-06-2019	Remain in Effect without Amendment
031 KAR 004:160	07-26-2006	07-26-2006	03-06-2019	Remain in Effect without Amendment
031 KAR 006:010	04-12-2004	06-04-2010	03-06-2019	Remain in Effect without Amendment
031 KAR 006:030	02-03-2006	07-01-2011	03-06-2019	Remain in Effect without Amendment
031 KAR 006:040	06-06-2008	06-06-2008	03-06-2019	Remain in Effect without Amendment
103 KAR 017:120	01-05-2007	01-05-2007	11-06-2018	Remain in Effect without Amendment
103 KAR 018:010	02-05-1975	02-05-1975	11-06-2018	Remain in Effect without Amendment
103 KAR 018:060	02-05-1975	02-05-1975	11-06-2018	Remain in Effect without Amendment
103 KAR 018:172	01-05-2007	01-05-2007	11-06-2018	Remain in Effect without Amendment
105 KAR 001:020	05-14-1975	11-05-2004	11-05-2004	Remain in Effect without Amendment
105 KAR 001:070	11-08-1991	11-08-1991	11-08-1991	Remain in Effect without Amendment
105 KAR 001:120	11-08-1991	11-12-2002	11-12-2002	Remain in Effect without Amendment
105 KAR 001:215	11-08-1991	11-12-2002	11-12-2002	Remain in Effect without Amendment
105 KAR 001:300	03-19-2001	11-12-2002	11-12-2002	Remain in Effect without Amendment
105 KAR 001:320	12-19-2001	12-19-2001	12-19-2001	Remain in Effect without Amendment
105 KAR 001:340	12-19-2001	11-12-2002	11-12-2002	Remain in Effect without Amendment
105 KAR 001:345	02-06-2009	02-06-2009	02-06-2009	Remain in Effect without Amendment
105 KAR 001:350	11-12-2002	11-12-2002	11-12-2002	Remain in Effect without Amendment
105 KAR 001:380	01-05-2004	02-06-2009	02-06-2009	Remain in Effect without Amendment
201 KAR 005:037	11-07-1979	01-15-2003	01-23-2019	To be amended, filing deadline 07-23-20
201 KAR 005:040	07-02-1975	02-14-2008	01-23-2019	To be amended, filing deadline 07-23-20
201 KAR 005:050	07-02-1975	08-15-2001	01-23-2019	Remain in Effect without Amendment
201 KAR 005:100	02-16-2004	02-16-2004	01-23-2019	To be amended, filing deadline 07-23-20
201 KAR 005:120	06-05-2009	06-05-2009	01-23-2019	Remain in Effect without Amendment
201 KAR 009:021	10-09-1984	05-05-2006	03-29-2018	To Be Amended. Amendment filed 4-12-18, effective 7-18-2018.
201 KAR 009:023	10-09-1984	03-14-1994	03-29-2018	Remain in Effect without Amendment
201 KAR 009:024	10-09-1984	10-09-1984	03-29-2018	Remain in Effect without Amendment
201 KAR 009:031	10-09-1984	05-05-2006	03-29-2018	To Be Amended. Amendment filed 4-12-18, effective 7-18-2018.
201 KAR 009:041	10-09-1984	11-15-2006	09-28-2018	Remain in Effect without Amendment
201 KAR 009:051	10-09-1984	03-14-1994	07-06-2018	Remain in Effect without Amendment
201 KAR 009:061	10-09-1984	03-14-1994	07-06-2018	Remain in Effect without Amendment
201 KAR 009:071	10-09-1984	10-09-1984	07-07-2018	Remain in Effect without Amendment
201 KAR 009:082	10-09-1984	10-09-1984	12-20-2018	Remain in Effect without Amendment

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201 KAR 009:084	11-11-1986	02-02-2007	09-28-2018	Remain in Effect without Amendment
201 KAR 009:350	11-19-2003	11-19-2003	12-20-2018	Remain in Effect without Amendment
201 KAR 009:400	02-02-2007	02-02-2007	09-28-2018	Remain in Effect without Amendment
201 KAR 014:010	05-14-1975	05-14-1975	03-12-2019	Remain in Effect without Amendment
201 KAR 014:035	05-14-1975	05-14-1975	05-14-1975	To be amended, filing deadline 9-12-20
201 KAR 014:067	06-11-1975	02-01-1984	02-01-1984	To be amended, filing deadline 9-12-20
201 KAR 014:070	05-14-1975	02-01-1984	02-01-1984	To be amended, filing deadline 9-12-20
201 KAR 014:095	05-14-1975	05-14-1975	05-14-1975	To be amended, filing deadline 9-12-20
201 KAR 014:100	05-14-1975	11-29-1990	11-29-1990	To be amended, filing deadline 9-12-20
201 KAR 014:105	06-11-1975	01-04-2013	01-04-2013	To be amended, filing deadline 9-12-20
201 KAR 014:130	05-14-1975	11-29-1990	11-29-1990	To be amended, filing deadline 9-12-20
201 KAR 014:135	05-14-1975	05-14-1975	05-14-1975	To be amended, filing deadline 9-12-20
201 KAR 014:140	05-14-1975	11-29-1990	11-29-1990	To be amended, filing deadline 9-12-20
201 KAR 022:001	09-10-1975	06-06-2014	06-04-2018	Remain in Effect without Amendment
201 KAR 022:010	09-11-1975	12-02-1986	06-04-2018	Remain in Effect without Amendment
201 KAR 022:035	11-06-1980	05-31-2013	06-04-2018	Remain in Effect without Amendment
201 KAR 022:045	01-04-2005	10-19-2016	06-04-2018	Remain in Effect without Amendment
201 KAR 022:052	06-03-1981	01-04-2005	06-04-2018	Remain in Effect without Amendment
201 KAR 022:053	08-17-1990	06-02-2017	06-04-2018	Remain in Effect without Amendment
201 KAR 022:130	01-06-1983	09-18-2013	06-04-2018	Remain in Effect without Amendment
201 KAR 022:135	07-02-1987	07-21-2010	06-04-2018	Remain in Effect without Amendment
201 KAR 022:140	07-03-1987	11-15-2006	06-04-2018	Remain in Effect without Amendment
201 KAR 022:150	12-19-2001	01-04-2005	06-04-2018	Remain in Effect without Amendment
201 KAR 022:160	08-01-2014	08-01-2014	06-04-2018	Remain in Effect without Amendment
202 KAR 007:010	03-14-2002	11-19-2003	02-19-2019	Remain in Effect without Amendment
202 KAR 007:020	11-19-2003	11-19-2003	02-19-2019	Remain in Effect without Amendment
202 KAR 007:030	09-10-2001	01-05-2009	02-19-2019	Remain in Effect without Amendment
202 KAR 007:055	11-19-2003	11-19-2003	02-19-2019	Remain in Effect without Amendment
202 KAR 007:201	11-19-2003	11-19-2003	02-19-2019	Remain in Effect without Amendment
202 KAR 007:301	11-19-2003	11-19-2003	02-19-2019	Remain in Effect without Amendment
202 KAR 007:401	11-19-2003	11-19-2003	02-19-2019	Remain in Effect without Amendment
202 KAR 007:510	11-19-2003	12-05-2008	02-19-2019	Remain in Effect without Amendment
202 KAR 007:601	11-19-2003	10-17-2012	02-19-2019	Remain in Effect without Amendment
202 KAR 007:801	11-19-2003	11-19-2003	02-19-2019	Remain in Effect without Amendment
302 KAR 016:040	09-11-1984	06-05-2009	01-24-2019	Remain in Effect without Amendment
302 KAR 016:070	03-13-1991	06-05-2009	01-24-2019	Remain in Effect without Amendment
302 KAR 016:101	06-05-2009	06-05-2009	01-24-2019	Remain in Effect without Amendment
302 KAR 016:111	06-05-2009	06-05-2009	01-24-2019	Remain in Effect without Amendment
302 KAR 016:121	06-05-2009	06-05-2009	01-24-2019	Remain in Effect without Amendment
302 KAR 016:131	06-05-2009	06-05-2009	01-24-2019	Remain in Effect without Amendment
302 KAR 016:140	06-05-2009	06-05-2009	01-24-2019	Remain in Effect without Amendment
302 KAR 029:070	12-19-2001	12-19-2001	12-05-2018	Remain in Effect without Amendment
302 KAR 100:030	08-28-2009	08-28-2009	12-10-2018	Remain in Effect without Amendment
400 KAR 001:060	05-14-1987	05-14-1987	08-06-2018	Remain in Effect without Amendment
400 KAR 001:120	02-22-1995	08-04-2017	08-06-2018	Remain in Effect without Amendment
400 KAR 004:100	01-05-1977	10-26-1988	11-06-2018	Remain in Effect without Amendment
401 KAR 004:010	02-05-1975	08-25-2005	07-30-2018	Remain in Effect without Amendment
401 KAR 004:020	07-06-1977	07-06-1977	07-30-2018	Remain in Effect without Amendment
401 KAR 004:030	06-11-1975	06-11-1975	07-30-2018	Remain in Effect without Amendment
401 KAR 004:040	06-11-1975	06-11-1975	07-30-2018	Remain in Effect without Amendment
401 KAR 004:050	11-06-1980	11-06-1980	07-30-2018	Remain in Effect without Amendment
401 KAR 004:060	10-02-1987	03-09-2007	07-30-2018	Remain in Effect without Amendment
401 KAR 004:070	05-05-2017	05-05-2017	07-30-2018	Remain in Effect without Amendment
401 KAR 004:200	08-07-1984	08-07-1984	07-30-2018	Remain in Effect without Amendment
401 KAR 004:220	06-26-1991	06-26-1991	07-30-2018	Remain in Effect without Amendment
401 KAR 004:300	04-28-1993	04-28-1993	07-30-2018	Remain in Effect without Amendment
401 KAR 005:010	05-07-1980	03-06-2009	05-11-2018	Remain in Effect without Amendment
401 KAR 005:090	08-03-1983	09-04-1986	05-11-2018	Remain in Effect without Amendment
401 KAR 005:310	11-17-2009	11-17-2009	05-11-2018	Remain in Effect without Amendment
401 KAR 006:001	10-08-2008	10-08-2008	09-05-2018	Remain in Effect without Amendment
401 KAR 006:200	08-07-1984	08-07-1984	09-05-2018	Remain in Effect without Amendment
401 KAR 006:310	08-13-1985	10-08-2008	09-05-2018	Remain in Effect without Amendment
401 KAR 006:320	11-15-1990	10-08-2008	09-05-2018	Remain in Effect without Amendment
401 KAR 006:350	10-08-2008	10-08-2008	09-05-2018	Remain in Effect without Amendment
401 KAR 008:010	11-15-1990	09-08-2017	10-03-2018	Remain in Effect without Amendment
401 KAR 008:020	11-15-1990	09-08-2017	10-03-2018	Remain in Effect without Amendment
401 KAR 008:022	03-18-2002	09-25-2009	10-03-2018	Remain in Effect without Amendment

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401 KAR 008:030	11-15-1990	02-05-2010	10-03-2018	Remain in Effect without Amendment
401 KAR 008:040	11-15-1990	09-08-2017	10-03-2018	Remain in Effect without Amendment
401 KAR 008:050	11-15-1990	07-06-2009	10-03-2018	Remain in Effect without Amendment
401 KAR 008:075	04-09-2001	09-08-2017	10-03-2018	Remain in Effect without Amendment
401 KAR 008:100	11-15-1990	09-08-2017	10-03-2018	Remain in Effect without Amendment
401 KAR 008:150	11-15-1990	08-05-2010	10-03-2018	Remain in Effect without Amendment
401 KAR 008:200	11-15-1990	12-05-2014	10-03-2018	Remain in Effect without Amendment
401 KAR 008:250	11-15-1990	09-08-2017	10-03-2018	Remain in Effect without Amendment
401 KAR 008:300	11-15-1990	12-05-2014	10-03-2018	Remain in Effect without Amendment
401 KAR 008:700	11-15-1990	12-05-2014	10-03-2018	Remain in Effect without Amendment
401 KAR 009:010	08-21-2008	08-21-2008	09-05-2018	Remain in Effect without Amendment
401 KAR 009:020	10-08-2008	10-08-2008	09-05-2018	Remain in Effect without Amendment
401 KAR 011:001	03-06-2009	02-05-2010	11-01-2018	Remain in Effect without Amendment
401 KAR 011:010	03-06-2009	02-05-2010	11-01-2018	Remain in Effect without Amendment
401 KAR 011:020	03-06-2009	02-05-2010	11-01-2018	Remain in Effect without Amendment
401 KAR 011:030	03-06-2009	08-05-2010	11-01-2018	Remain in Effect without Amendment
401 KAR 011:040	02-05-2010	02-05-2010	11-01-2018	Remain in Effect without Amendment
401 KAR 011:050	03-06-2009	02-05-2010	11-01-2018	Remain in Effect without Amendment
401 KAR 011:060	03-06-2009	03-06-2009	11-01-2018	Remain in Effect without Amendment
401 KAR 030:005	03-12-1997	06-13-2007	09-05-2018	Remain in Effect without Amendment
401 KAR 030:020	06-04-1980	06-13-2007	09-05-2018	Remain in Effect without Amendment
401 KAR 030:031	06-24-1992	03-12-1997	09-05-2018	Remain in Effect without Amendment
401 KAR 030:040	06-04-1980	06-13-2007	09-05-2018	Remain in Effect without Amendment
401 KAR 039:005	03-12-1997	12-07-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 039:060	12-02-1983	12-07-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 039:080	02-04-1986	12-07-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 039:090	03-10-1988	12-07-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 039:120	10-26-1988	12-07-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 040:001	03-12-1997	03-12-1997	10-09-2018	Remain in Effect without Amendment
401 KAR 040:010	06-04-1980	12-02-1983	10-09-2018	Remain in Effect without Amendment
401 KAR 040:020	06-04-1980	12-02-1983	10-09-2018	Remain in Effect without Amendment
401 KAR 040:040	06-04-1980	12-02-1983	10-09-2018	Remain in Effect without Amendment
401 KAR 040:060	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 042:005	11-14-1995	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:011	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:020	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:030	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:040	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:045	12-19-1990	02-05-2016	10-09-2018	Remain in Effect without Amendment
401 KAR 042:050	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:060	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:070	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:080	11-14-1995	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:090	12-19-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:095	10-06-2011	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:200	09-25-1990	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:250	09-13-2006	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:290	03-12-1993	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:300	03-12-1993	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:316	05-19-1999	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:320	03-12-1993	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:330	07-09-1997	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:335	06-09-1999	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 042:340	06-09-1999	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 045:010	06-24-1992	05-05-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 045:020	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:025	04-28-1993	04-28-1993	09-05-2018	Remain in Effect without Amendment
401 KAR 045:030	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:040	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:050	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:060	06-24-1992	12-07-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 045:070	06-24-1992	05-05-2006	09-05-2018	Remain in Effect without Amendment
401 KAR 045:080	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:090	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:100	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:110	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:130	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment

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401 KAR 045:135	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:140	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:160	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:210	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 045:250	06-24-1992	06-24-1992	09-05-2018	Remain in Effect without Amendment
401 KAR 046:101	05-05-2017	05-05-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 046:110	05-05-2017	05-05-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 046:120	05-05-2017	05-05-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 047:005	03-12-1997	03-12-1997	10-09-2018	Remain in Effect without Amendment
401 KAR 047:025	04-28-1993	04-28-1993	10-09-2018	Remain in Effect without Amendment
401 KAR 047:030	05-08-1990	03-18-2004	10-09-2018	Remain in Effect without Amendment
401 KAR 047:070	02-01-1982	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:080	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:090	05-08-1990	08-05-2010	10-09-2018	Remain in Effect without Amendment
401 KAR 047:095	03-19-2003	03-19-2003	10-09-2018	Remain in Effect without Amendment
401 KAR 047:100	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:110	09-08-1999	09-08-1999	10-09-2018	Remain in Effect without Amendment
401 KAR 047:120	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:130	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:136	03-13-1991	03-13-1991	10-09-2018	Remain in Effect without Amendment
401 KAR 047:140	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:150	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:160	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:170	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:180	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:190	05-08-1990	05-08-1990	10-09-2018	Remain in Effect without Amendment
401 KAR 047:205	10-06-2011	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 047:207	10-06-2011	10-06-2011	10-09-2018	Remain in Effect without Amendment
401 KAR 048:005	11-07-1994	12-07-2017	08-13-2018	Remain in Effect without Amendment
401 KAR 048:050	05-08-1990	11-07-1994	08-13-2018	Remain in Effect without Amendment
401 KAR 048:060	05-08-1990	05-08-1990	08-13-2018	Remain in Effect without Amendment
401 KAR 048:070	05-08-1990	05-08-1990	08-13-2018	Remain in Effect without Amendment
401 KAR 048:080	05-08-1990	05-08-1990	08-13-2018	Remain in Effect without Amendment
401 KAR 048:090	05-08-1990	12-07-2017	08-13-2018	Remain in Effect without Amendment
401 KAR 048:170	05-08-1990	05-08-1990	08-13-2018	Remain in Effect without Amendment
401 KAR 048:200	05-08-1990	05-08-1990	08-13-2018	Remain in Effect without Amendment
401 KAR 048:205	10-06-2011	10-06-2011	08-13-2018	Remain in Effect without Amendment
401 KAR 048:206	10-06-2011	10-06-2011	08-13-2018	Remain in Effect without Amendment
401 KAR 048:207	10-06-2011	10-06-2011	08-13-2018	Remain in Effect without Amendment
401 KAR 048:208	10-06-2011	10-06-2011	08-13-2018	Remain in Effect without Amendment
401 KAR 048:300	05-08-1990	11-07-1994	08-13-2018	Remain in Effect without Amendment
401 KAR 048:310	05-08-1990	11-07-1994	08-13-2018	Remain in Effect without Amendment
401 KAR 048:320	09-08-1999	09-08-1999	08-13-2018	Remain in Effect without Amendment
401 KAR 049:005	03-12-1997	03-12-1997	09-05-2018	Remain in Effect without Amendment
401 KAR 049:011	09-23-1992	09-08-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 049:080	01-21-2005	09-08-2017	09-05-2018	Remain in Effect without Amendment
401 KAR 049:100	03-12-1993	03-12-1993	09-05-2018	Remain in Effect without Amendment
401 KAR 050:010	06-06-1979	11-08-2006	11-21-2018	Remain in Effect without Amendment
401 KAR 050:012	06-06-1979	11-12-1997	11-21-2018	Remain in Effect without Amendment
401 KAR 050:015	06-06-1979	10-26-1988	11-21-2018	Remain in Effect without Amendment
401 KAR 050:020	06-06-1979	06-06-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 050:025	06-06-1979	06-01-1983	11-21-2018	Remain in Effect without Amendment
401 KAR 050:038	11-29-1993	04-12-1995	11-21-2018	Remain in Effect without Amendment
401 KAR 050:040	06-06-1979	03-01-1984	11-21-2018	Remain in Effect without Amendment
401 KAR 050:042	06-10-1986	06-10-1986	11-21-2018	Remain in Effect without Amendment
401 KAR 050:045	06-06-1979	07-13-2005	11-21-2018	Remain in Effect without Amendment
401 KAR 050:047	06-24-1992	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 050:050	06-06-1979	06-06-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 050:055	06-06-1979	09-22-1982	11-21-2018	Remain in Effect without Amendment
401 KAR 050:060	06-06-1979	06-06-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 050:065	10-11-1995	10-11-1995	11-21-2018	Remain in Effect without Amendment
401 KAR 050:066	11-12-1997	11-12-2008	11-21-2018	Remain in Effect without Amendment
401 KAR 051:001	06-24-1992	12-07-2012	07-30-2018	Remain in Effect without Amendment
401 KAR 051:005	06-06-1979	06-06-1979	07-30-2018	Remain in Effect without Amendment
401 KAR 051:017	09-22-1982	12-07-2012	07-30-2018	Remain in Effect without Amendment
401 KAR 051:052	09-22-1982	12-07-2012	07-30-2018	Remain in Effect without Amendment
401 KAR 051:150	02-03-2006	02-03-2006	07-30-2018	Remain in Effect without Amendment

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401 KAR 051:160	08-15-2001	02-03-2006	07-30-2018	Remain in Effect without Amendment
401 KAR 051:170	08-15-2001	08-15-2001	07-30-2018	Remain in Effect without Amendment
401 KAR 051:180	08-15-2001	08-15-2001	07-30-2018	Remain in Effect without Amendment
401 KAR 051:190	08-15-2001	08-15-2001	07-30-2018	Remain in Effect without Amendment
401 KAR 051:195	08-15-2001	08-15-2001	07-30-2018	Remain in Effect without Amendment
401 KAR 051:210	02-02-2007	02-02-2007	07-30-2018	Remain in Effect without Amendment
401 KAR 051:220	02-02-2007	06-13-2007	07-30-2018	Remain in Effect without Amendment
401 KAR 051:230	02-02-2007	02-02-2007	07-30-2018	Remain in Effect without Amendment
401 KAR 052:001	01-15-2001	01-03-2011	09-12-2018	Remain in Effect without Amendment
401 KAR 052:020	01-15-2001	01-15-2001	09-12-2018	Remain in Effect without Amendment
401 KAR 052:030	01-15-2001	01-15-2001	09-12-2018	Remain in Effect without Amendment
401 KAR 052:040	01-15-2001	01-15-2001	09-12-2018	Remain in Effect without Amendment
401 KAR 052:060	01-15-2001	01-15-2001	09-12-2018	Remain in Effect without Amendment
401 KAR 052:090	01-15-2001	01-15-2001	09-12-2018	Remain in Effect without Amendment
401 KAR 052:100	01-15-2001	01-15-2001	09-12-2018	To be amended, filing deadline 03-12-20
401 KAR 053:005	06-06-1979	04-14-1988	09-12-2018	Remain in Effect without Amendment
401 KAR 053:010	06-06-1979	07-19-2016	09-12-2018	Remain in Effect without Amendment
401 KAR 055:005	06-06-1979	04-14-1988	09-12-2018	Remain in Effect without Amendment
401 KAR 055:010	06-06-1979	04-14-1988	09-12-2018	Remain in Effect without Amendment
401 KAR 055:015	06-06-1979	06-06-1979	09-12-2018	Remain in Effect without Amendment
401 KAR 055:020	06-06-1979	06-06-1979	09-12-2018	Remain in Effect without Amendment
401 KAR 057:002	07-14-1999	11-14-2007	09-12-2018	Remain in Effect without Amendment
401 KAR 058:005	01-25-1989	07-07-1998	07-30-2018	To be amended, filing deadline 01-03-20
401 KAR 058:010	01-25-1989	01-25-1989	07-30-2018	Remain in Effect without Amendment
401 KAR 058:025	01-07-1985	11-14-2007	07-30-2018	Remain in Effect without Amendment
401 KAR 058:040	11-06-1987	11-06-1987	07-30-2018	Remain in Effect without Amendment
401 KAR 059:001	06-24-1992	11-08-2006	11-21-2018	Remain in Effect without Amendment
401 KAR 059:005	06-06-1979	12-01-1982	11-21-2018	Remain in Effect without Amendment
401 KAR 059:010	06-06-1979	04-14-1988	11-21-2018	Remain in Effect without Amendment
401 KAR 059:020	06-06-1979	11-21-2018	11-21-2018	Remain in Effect without Amendment
401 KAR 059:021	11-15-1990	11-15-1990	11-21-2018	Remain in Effect without Amendment
401 KAR 059:023	11-15-1990	11-15-1990	11-21-2018	Remain in Effect without Amendment
401 KAR 059:046	06-29-1979	06-29-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 059:050	06-29-1979	04-14-1988	11-21-2018	Remain in Effect without Amendment
401 KAR 059:080	06-06-1979	06-06-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 059:085	06-06-1979	06-06-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 059:090	06-06-1979	06-06-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 059:095	06-29-1979	06-29-1979	11-21-2018	Remain in Effect without Amendment
401 KAR 059:101	06-29-1979	09-28-1994	11-21-2018	Remain in Effect without Amendment
401 KAR 059:105	06-06-1979	04-07-1982	11-21-2018	Remain in Effect without Amendment
401 KAR 059:174	01-12-1998	03-04-2016	11-21-2018	Remain in Effect without Amendment
401 KAR 059:175	06-06-1979	02-08-1993	11-21-2018	Remain in Effect without Amendment
401 KAR 059:185	06-29-1979	01-04-2005	11-21-2018	Remain in Effect without Amendment
401 KAR 059:190	06-29-1979	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:210	06-29-1979	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:212	02-04-1981	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:214	02-04-1981	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:225	02-04-1981	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:230	02-04-1981	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:240	02-04-1981	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:260	03-02-1983	04-01-1984	11-21-2018	Remain in Effect without Amendment
401 KAR 059:315	06-24-1992	06-24-1992	11-21-2018	Remain in Effect without Amendment
401 KAR 059:760	03-11-2005	03-11-2005	11-21-2018	Remain in Effect without Amendment
401 KAR 061:001	06-24-1992	11-08-2006	01-25-2019	Remain in Effect without Amendment
401 KAR 061:005	06-29-1979	04-03-2009	01-25-2019	Remain in Effect without Amendment
401 KAR 061:010	06-06-1979	06-06-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:011	11-15-1990	11-15-1990	01-25-2019	Remain in Effect without Amendment
401 KAR 061:013	02-07-1991	02-07-1991	01-25-2019	Remain in Effect without Amendment
401 KAR 061:020	06-06-1979	04-14-1988	01-25-2019	Remain in Effect without Amendment
401 KAR 061:025	06-06-1979	06-06-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:030	06-06-1979	06-06-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:035	06-06-1979	04-07-1982	01-25-2019	Remain in Effect without Amendment
401 KAR 061:036	04-13-1998	04-13-1998	01-25-2019	Remain in Effect without Amendment
401 KAR 061:040	06-06-1979	06-06-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:045	06-29-1979	06-29-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:050	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:055	06-29-1979	08-24-1982	01-25-2019	Remain in Effect without Amendment

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401 KAR 061:056	06-29-1979	09-28-1994	01-25-2019	Remain in Effect without Amendment
401 KAR 061:060	06-29-1979	06-29-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:065	06-06-1979	06-06-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:070	06-06-1979	06-06-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:075	06-06-1979	12-01-1982	01-25-2019	Remain in Effect without Amendment
401 KAR 061:080	06-06-1979	04-01-1984	01-25-2019	Remain in Effect without Amendment
401 KAR 061:085	06-06-1979	02-08-1993	01-25-2019	Remain in Effect without Amendment
401 KAR 061:090	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:095	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:100	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:105	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:110	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:120	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:122	02-04-1981	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:124	02-04-1981	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:125	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:130	06-29-1979	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:132	02-04-1981	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:135	06-29-1979	06-29-1979	01-25-2019	Remain in Effect without Amendment
401 KAR 061:137	02-04-1981	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:140	06-06-1979	09-04-1986	01-25-2019	Remain in Effect without Amendment
401 KAR 061:145	06-06-1979	01-07-1981	01-25-2019	Remain in Effect without Amendment
401 KAR 061:150	02-04-1981	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:155	02-04-1981	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:160	02-04-1981	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 061:165	01-07-1981	06-04-1985	01-25-2019	Remain in Effect without Amendment
401 KAR 061:170	03-02-1983	04-14-1988	01-25-2019	Remain in Effect without Amendment
401 KAR 061:175	12-02-1986	06-24-1992	01-25-2019	Remain in Effect without Amendment
401 KAR 063:001	06-24-1992	11-08-2006	09-12-2018	Remain in Effect without Amendment
401 KAR 063:005	06-06-1979	07-13-2005	09-12-2018	Remain in Effect without Amendment
401 KAR 063:010	06-29-1979	06-29-1979	09-12-2018	Remain in Effect without Amendment
401 KAR 063:015	06-06-1979	06-06-1979	09-12-2018	Remain in Effect without Amendment
401 KAR 063:020	06-06-1979	06-06-1979	09-12-2018	Remain in Effect without Amendment
401 KAR 063:021	11-11-1986	01-19-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 063:025	06-06-1979	06-24-1992	09-12-2018	Remain in Effect without Amendment
401 KAR 063:031	08-24-1982	02-08-1993	09-12-2018	Remain in Effect without Amendment
401 KAR 063:060	11-29-1993	03-03-2017	09-12-2018	Remain in Effect without Amendment
401 KAR 065:001	11-29-1993	11-08-2006	09-12-2018	Remain in Effect without Amendment
401 KAR 065:005	06-06-1979	06-06-1979	09-12-2018	Remain in Effect without Amendment
401 KAR 068:010	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 068:020	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 068:048	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 068:065	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 068:090	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 068:100	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 068:150	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 068:200	10-13-1999	10-13-1999	09-12-2018	Remain in Effect without Amendment
401 KAR 100:030	03-18-2004	03-18-2004	08-13-2018	Remain in Effect without Amendment
401 KAR 101:001	07-06-2009	07-06-2009	08-13-2018	Remain in Effect without Amendment
401 KAR 101:010	07-06-2009	07-06-2009	08-13-2018	Remain in Effect without Amendment
401 KAR 101:020	07-06-2009	07-06-2009	08-13-2018	Remain in Effect without Amendment
401 KAR 101:030	07-06-2009	07-06-2009	08-13-2018	Remain in Effect without Amendment
401 KAR 101:040	07-06-2009	07-06-2009	08-13-2018	Remain in Effect without Amendment
401 KAR 102:005	02-03-2014	02-03-2014	08-13-2018	Remain in Effect without Amendment
401 KAR 102:010	01-14-2002	02-03-2014	08-13-2018	Remain in Effect without Amendment
401 KAR 102:020	02-03-2014	02-03-2014	08-13-2018	Remain in Effect without Amendment
402 KAR 003:010	11-13-1984	11-02-2017	07-03-2018	Remain in Effect without Amendment
402 KAR 003:020	05-19-1999	05-05-2006	07-03-2018	Remain in Effect without Amendment
402 KAR 003:030	05-19-1999	11-02-2017	07-03-2018	Remain in Effect without Amendment
402 KAR 003:040	05-05-2006	05-05-2006	07-03-2018	Remain in Effect without Amendment
402 KAR 003:050	09-03-2015	09-03-2015	07-03-2018	Remain in Effect without Amendment
405 KAR 002:010	08-11-1982	08-11-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 005:002	08-26-2004	08-26-2004	07-03-2018	Remain in Effect without Amendment
405 KAR 005:015	02-22-1995	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 005:021	02-22-1995	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 005:032	08-26-2004	03-08-2013	07-03-2018	Remain in Effect without Amendment
405 KAR 005:036	08-26-2004	08-26-2004	07-03-2018	Remain in Effect without Amendment

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405 KAR 005:040	02-22-1995	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 005:042	08-26-2004	08-26-2004	07-03-2018	Remain in Effect without Amendment
405 KAR 005:048	08-26-2004	08-26-2004	07-03-2018	Remain in Effect without Amendment
405 KAR 005:050	02-22-1995	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 005:055	02-22-1995	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 005:062	08-26-2004	08-26-2004	07-03-2018	Remain in Effect without Amendment
405 KAR 005:065	02-22-1995	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 005:070	02-22-1995	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 005:078	08-26-2004	08-26-2004	07-03-2018	Remain in Effect without Amendment
405 KAR 005:082	08-26-2004	08-26-2004	07-03-2018	Remain in Effect without Amendment
405 KAR 005:085	02-22-1995	02-03-2012	07-03-2018	Remain in Effect without Amendment
405 KAR 007:001	04-03-1992	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 007:015	08-07-1984	12-12-1994	07-03-2018	Remain in Effect without Amendment
405 KAR 007:030	02-02-1983	11-09-1992	07-03-2018	Remain in Effect without Amendment
405 KAR 007:035	11-26-1991	11-26-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 007:040	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 007:050	05-04-1983	05-04-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 007:060	01-06-1983	02-04-1986	07-03-2018	Remain in Effect without Amendment
405 KAR 007:070	05-14-1985	09-10-1987	07-03-2018	Remain in Effect without Amendment
405 KAR 007:080	01-06-1983	09-28-1994	07-03-2018	Remain in Effect without Amendment
405 KAR 007:095	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 007:097	06-09-1999	06-09-1999	07-03-2018	Remain in Effect without Amendment
405 KAR 007:100	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 007:110	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 008:001	04-03-1992	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 008:010	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 008:020	01-06-1983	11-26-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 008:030	01-06-1983	01-05-2015	07-03-2018	Remain in Effect without Amendment
405 KAR 008:040	01-06-1983	01-05-2015	07-03-2018	Remain in Effect without Amendment
405 KAR 008:050	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 010:001	04-03-1992	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 010:015	09-06-2012	11-07-2013	07-03-2018	Remain in Effect without Amendment
405 KAR 010:025	12-05-2014	12-05-2014	07-03-2018	Remain in Effect without Amendment
405 KAR 010:030	01-06-1983	09-06-2012	07-03-2018	Remain in Effect without Amendment
405 KAR 010:035	10-09-1984	10-09-1984	07-03-2018	Remain in Effect without Amendment
405 KAR 010:040	01-06-1983	04-24-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 010:050	01-06-1983	09-22-1993	07-03-2018	Remain in Effect without Amendment
405 KAR 010:070	11-07-2013	11-07-2013	07-03-2018	Remain in Effect without Amendment
405 KAR 010:080	11-07-2013	11-07-2013	07-03-2018	Remain in Effect without Amendment
405 KAR 010:090	11-07-2013	11-07-2013	07-03-2018	Remain in Effect without Amendment
405 KAR 012:001	04-03-1992	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 012:010	01-06-1983	09-22-1993	07-03-2018	Remain in Effect without Amendment
405 KAR 012:020	01-06-1983	02-03-2012	07-03-2018	Remain in Effect without Amendment
405 KAR 012:030	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 016:001	04-03-1992	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 016:010	01-06-1983	12-12-1994	07-03-2018	Remain in Effect without Amendment
405 KAR 016:020	01-06-1983	09-06-2012	07-03-2018	Remain in Effect without Amendment
405 KAR 016:030	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 016:040	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 016:050	01-06-1983	08-13-1985	07-03-2018	Remain in Effect without Amendment
405 KAR 016:060	01-06-1983	07-07-1998	07-03-2018	Remain in Effect without Amendment
405 KAR 016:070	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 016:080	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 016:090	01-06-1983	10-09-2002	07-03-2018	Remain in Effect without Amendment
405 KAR 016:100	01-06-1983	06-10-1998	07-03-2018	Remain in Effect without Amendment
405 KAR 016:110	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 016:120	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 016:130	01-06-1983	08-13-1985	07-03-2018	Remain in Effect without Amendment
405 KAR 016:140	01-06-1983	11-17-2009	07-03-2018	Remain in Effect without Amendment
405 KAR 016:150	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 016:160	01-06-1983	06-10-1998	07-03-2018	Remain in Effect without Amendment
405 KAR 016:170	01-06-1983	08-13-1985	07-03-2018	Remain in Effect without Amendment
405 KAR 016:180	01-06-1983	06-24-1992	07-03-2018	Remain in Effect without Amendment
405 KAR 016:190	01-06-1983	11-26-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 016:200	01-06-1983	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 016:210	01-06-1983	11-26-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 016:220	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment

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405 KAR 016:250	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 018:001	04-03-1992	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 018:010	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 018:020	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 018:030	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 018:040	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 018:050	01-06-1983	08-13-1985	07-03-2018	Remain in Effect without Amendment
405 KAR 018:060	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 018:070	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 018:080	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 018:090	01-06-1983	10-09-2002	07-03-2018	Remain in Effect without Amendment
405 KAR 018:100	01-06-1983	06-10-1998	07-03-2018	Remain in Effect without Amendment
405 KAR 018:110	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 018:120	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 018:130	01-06-1983	08-13-1985	07-03-2018	Remain in Effect without Amendment
405 KAR 018:140	01-06-1983	11-17-2009	07-03-2018	Remain in Effect without Amendment
405 KAR 018:150	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 018:160	01-06-1983	06-10-1998	07-03-2018	Remain in Effect without Amendment
405 KAR 018:170	01-06-1983	08-13-1985	07-03-2018	Remain in Effect without Amendment
405 KAR 018:180	01-06-1983	06-24-1992	07-03-2018	Remain in Effect without Amendment
405 KAR 018:190	01-06-1983	11-26-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 018:200	01-06-1983	02-22-1995	07-03-2018	Remain in Effect without Amendment
405 KAR 018:210	01-06-1983	06-08-2001	07-03-2018	Remain in Effect without Amendment
405 KAR 018:220	01-06-1983	11-26-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 018:230	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 018:260	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 020:001	04-03-1992	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 020:010	01-06-1983	12-17-1991	07-03-2018	Remain in Effect without Amendment
405 KAR 020:030	01-06-1983	08-13-1985	07-03-2018	Remain in Effect without Amendment
405 KAR 020:040	01-06-1983	02-04-1986	07-03-2018	Remain in Effect without Amendment
405 KAR 020:050	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 020:060	01-06-1983	05-22-2000	07-03-2018	Remain in Effect without Amendment
405 KAR 020:070	01-06-1983	02-04-1986	07-03-2018	Remain in Effect without Amendment
405 KAR 020:080	01-06-1983	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 020:090	01-05-2018	01-05-2018	07-03-2018	Remain in Effect without Amendment
405 KAR 024:001	04-03-1992	04-03-1992	07-03-2018	Remain in Effect without Amendment
405 KAR 024:020	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 024:030	01-06-1983	12-13-1988	07-03-2018	Remain in Effect without Amendment
405 KAR 024:040	01-06-1983	06-28-1989	07-03-2018	Remain in Effect without Amendment
405 KAR 026:001	01-06-1983	01-06-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:010	03-01-1982	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:015	08-07-1984	08-07-1984	07-03-2018	Remain in Effect without Amendment
405 KAR 030:020	03-01-1982	11-02-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:025	06-25-1983	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:035	06-25-1982	06-25-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:040	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:050	06-02-1982	06-02-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:060	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:070	03-01-1982	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:080	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:090	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:100	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:110	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:121	06-02-1982	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:125	06-02-1982	06-02-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:130	08-02-1981	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:140	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:150	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:160	11-02-1983	11-02-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:170	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:180	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:210	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:220	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:230	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:240	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:250	03-01-1982	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:260	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment

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405 KAR 030:270	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:280	03-01-1982	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:290	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:300	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:310	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:320	03-01-1982	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:330	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:340	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:350	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:360	11-02-1983	11-02-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:370	10-05-1983	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:390	03-01-1982	10-05-1983	07-03-2018	Remain in Effect without Amendment
405 KAR 030:400	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
405 KAR 030:410	03-01-1982	03-01-1982	07-03-2018	Remain in Effect without Amendment
416 KAR 001:010	08-24-1995	08-24-1995	06-27-2018	Remain in Effect without Amendment
500 KAR 007:020	01-07-1989	01-07-1989	03-13-2019	Remain in Effect without Amendment
500 KAR 008:010	02-07-1991	12-01-2017	12-17-2018	Remain in Effect without Amendment
500 KAR 008:020	11-08-1991	05-24-2004	12-17-2018	Remain in Effect without Amendment
500 KAR 008:030	11-08-1991	12-01-2017	12-17-2018	Remain in Effect without Amendment
505 KAR 001:010	02-18-1999	10-31-2003	03-13-2019	Remain in Effect without Amendment
505 KAR 001:050	02-18-1999	10-31-2003	03-13-2019	Remain in Effect without Amendment
505 KAR 001:060	02-18-1999	10-31-2003	03-13-2019	Remain in Effect without Amendment
505 KAR 001:070	02-18-1999	10-31-2003	03-13-2019	Remain in Effect without Amendment
505 KAR 001:090	06-12-2000	06-12-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:010	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:020	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:030	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:040	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:050	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:060	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:070	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:080	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:090	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:100	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:110	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:120	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:130	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:140	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:150	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:160	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:170	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:180	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:190	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:200	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:210	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:220	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
505 KAR 002:230	02-14-2000	02-14-2000	03-13-2019	Remain in Effect without Amendment
600 KAR 003:020	10-04-1989	05-18-1994	02-11-2019	Remain in Effect without Amendment
600 KAR 003:030	06-01-1999	11-09-2006	02-18-2019	Remain in Effect without Amendment
600 KAR 006:080	04-05-1996	01-25-2012	10-08-2018	Remain in Effect without Amendment
600 KAR 006:080	04-05-1996	01-25-2012	02-18-2019	Remain in Effect without Amendment
601 KAR 001:018	05-22-2000	07-07-2017	02-18-2019	Remain in Effect without Amendment
601 KAR 001:019	07-06-2012	07-06-2012	10-08-2018	Remain in Effect without Amendment
601 KAR 001:019	07-06-2012	07-06-2012	02-18-2019	Remain in Effect without Amendment
601 KAR 001:146	05-18-1998	04-05-2013	02-18-2019	Remain in Effect without Amendment
601 KAR 001:147	05-18-1998	10-01-2013	02-18-2019	Remain in Effect without Amendment
601 KAR 001:200	09-03-1996	08-06-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 001:201	03-02-1999	09-07-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 001:201	03-02-1999	09-07-2010	02-18-2019	Remain in Effect without Amendment
601 KAR 001:220	05-07-2010	05-07-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 002:020	09-01-1998	08-10-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 002:020	09-01-1998	08-10-2010	02-25-2019	Remain in Effect without Amendment
601 KAR 009:012	09-01-1976	10-05-1993	02-11-2019	Remain in Effect without Amendment
601 KAR 009:015	05-14-1975	11-05-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 009:015	05-14-1975	11-05-2010	02-11-2019	Remain in Effect without Amendment
601 KAR 009:080	01-04-1984	09-10-1987	02-18-2019	Remain in Effect without Amendment
601 KAR 009:085	01-04-1984	04-04-2014	02-18-2019	Remain in Effect without Amendment

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601 KAR 009:090	01-04-1984	11-02-2012	10-08-2018	Remain in Effect without Amendment
601 KAR 009:090	01-04-1984	11-02-2012	02-11-2019	Remain in Effect without Amendment
601 KAR 009:160	05-23-1994	03-14-2012	10-08-2018	Remain in Effect without Amendment
601 KAR 009:160	05-23-1994	03-14-2012	02-11-2019	Remain in Effect without Amendment
601 KAR 009:200	05-02-1995	12-06-2013	02-11-2019	Remain in Effect without Amendment
601 KAR 009:205	01-03-2011	01-03-2011	10-08-2018	Remain in Effect without Amendment
601 KAR 009:210	12-19-2001	04-01-2011	10-08-2018	Remain in Effect without Amendment
601 KAR 009:210	12-19-2001	04-01-2011	02-11-2019	Remain in Effect without Amendment
601 KAR 009:220	12-07-1995	12-07-1995	02-11-2019	Remain in Effect without Amendment
601 KAR 011:010	04-05-1991	10-07-2005	02-25-2019	Remain in Effect without Amendment
601 KAR 011:020	04-05-1991	01-09-1997	02-25-2019	Remain in Effect without Amendment
601 KAR 011:030	04-05-1991	10-07-2014	02-25-2019	Remain in Effect without Amendment
601 KAR 011:035	10-04-2011	10-04-2011	10-08-2018	Remain in Effect without Amendment
601 KAR 011:035	10-04-2011	10-04-2011	02-25-2019	Remain in Effect without Amendment
601 KAR 011:050	04-05-1991	04-05-1991	02-25-2019	Remain in Effect without Amendment
601 KAR 011:080	06-23-1994	06-23-1994	02-25-2019	Remain in Effect without Amendment
601 KAR 012:020	06-11-1975	03-04-1997	02-25-2019	Remain in Effect without Amendment
601 KAR 012:050	09-04-1986	09-04-1986	02-25-2019	Remain in Effect without Amendment
601 KAR 012:060	10-01-1991	07-02-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 012:060	10-01-1991	07-02-2010	02-25-2019	Remain in Effect without Amendment
601 KAR 012:070	10-03-1995	10-03-1995	02-25-2019	Remain in Effect without Amendment
601 KAR 013:025	08-09-1990	11-01-2013	02-25-2019	Remain in Effect without Amendment
601 KAR 013:031	11-16-1993	11-16-1993	02-25-2019	Remain in Effect without Amendment
601 KAR 013:040	09-11-1984	09-11-1984	02-25-2019	Remain in Effect without Amendment
601 KAR 013:070	12-04-1990	11-07-2008	02-25-2019	Remain in Effect without Amendment
601 KAR 013:110	03-04-1997	02-01-2013	02-25-2019	Remain in Effect without Amendment
601 KAR 014:020	02-10-1994	07-07-2015	03-11-2019	Remain in Effect without Amendment
601 KAR 014:030	11-05-2010	11-05-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 014:030	11-05-2010	11-05-2010	03-11-2019	Remain in Effect without Amendment
601 KAR 023:010	02-05-2010	02-05-2010	10-08-2018	Remain in Effect without Amendment
601 KAR 023:010	02-05-2010	02-05-2010	02-11-2019	Remain in Effect without Amendment
603 KAR 001:020	05-14-1976	10-03-1979	02-11-2019	Remain in Effect without Amendment
603 KAR 004:035	11-03-1982	02-15-2012	10-08-2018	Remain in Effect without Amendment
603 KAR 004:035	11-03-1982	02-15-2012	03-05-2019	Remain in Effect without Amendment
603 KAR 004:040	01-09-1995	09-07-2004	03-05-2019	Remain in Effect without Amendment
603 KAR 004:050	06-01-1999	12-19-2001	03-05-2019	Remain in Effect without Amendment
603 KAR 005:050	05-14-1975	04-05-2013	03-05-2019	Remain in Effect without Amendment
603 KAR 005:061	03-12-1985	08-05-1987	03-11-2019	Remain in Effect without Amendment
603 KAR 005:077	01-06-1981	02-03-1990	03-05-2019	Remain in Effect without Amendment
603 KAR 005:115	04-07-1982	02-10-1997	03-11-2019	Remain in Effect without Amendment
603 KAR 005:220	02-10-1987	02-10-1987	03-11-2019	Remain in Effect without Amendment
603 KAR 005:230	03-06-1987	11-06-2009	03-11-2019	Remain in Effect without Amendment
603 KAR 005:240	10-02-1990	10-02-1990	03-05-2019	Remain in Effect without Amendment
603 KAR 005:250	07-02-1991	07-02-1991	03-11-2019	Remain in Effect without Amendment
603 KAR 007:080	01-25-2012	01-25-2012	10-08-2018	Remain in Effect without Amendment
603 KAR 007:090	10-02-2001	10-02-2001	03-11-2019	Remain in Effect without Amendment
603 KAR 009:010	08-03-1993	06-01-1995	03-11-2019	Remain in Effect without Amendment
603 KAR 009:020	06-01-1995	06-01-1995	03-11-2019	Remain in Effect without Amendment
605 KAR 001:020	01-07-1989	01-07-1989	03-05-2019	Remain in Effect without Amendment
605 KAR 001:030	12-01-1982	10-01-1991	10-01-1991	Remain in Effect without Amendment
605 KAR 001:031	01-04-2008	01-04-2008	03-05-2019	Remain in Effect without Amendment
605 KAR 001:060	07-07-2004	03-06-2009	03-05-2019	Remain in Effect without Amendment
605 KAR 001:160	11-06-1987	10-01-1991	10-01-1991	Remain in Effect without Amendment
605 KAR 001:170	03-10-1988	03-10-1988	02-18-2019	Remain in Effect without Amendment
605 KAR 001:170	03-10-1988	03-10-1988	03-05-2019	Remain in Effect without Amendment
701 KAR 005:055	08-04-1994	12-05-1996	11-16-2018	Remain in Effect without Amendment
701 KAR 005:080	03-13-1991	03-13-1991	11-16-2018	Remain in Effect without Amendment
701 KAR 005:090	09-06-1991	11-12-2002	11-16-2018	Remain in Effect without Amendment
701 KAR 005:100	09-06-1991	06-01-1995	11-16-2018	Remain in Effect without Amendment
701 KAR 005:120	01-19-1999	01-19-1999	11-16-2018	Remain in Effect without Amendment
701 KAR 005:130	03-07-2008	03-07-2008	11-16-2018	Remain in Effect without Amendment
702 KAR 001:035	03-02-1977	07-15-2002	11-16-2018	Remain in Effect without Amendment
702 KAR 001:080	03-10-1976	12-05-1996	11-16-2018	Remain in Effect without Amendment
702 KAR 001:100	02-02-1977	10-14-1990	11-16-2018	Remain in Effect without Amendment
702 KAR 001:140	07-06-1995	07-06-1995	11-16-2018	Remain in Effect without Amendment
702 KAR 001:150	01-15-2001	03-19-2003	11-16-2018	Remain in Effect without Amendment
702 KAR 003:020	11-13-1974	01-14-2002	11-16-2018	Remain in Effect without Amendment

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702 KAR 003:030	11-13-1974	07-02-2010	11-16-2018	Remain in Effect without Amendment
702 KAR 003:045	03-12-1975	08-01-1992	11-16-2018	Remain in Effect without Amendment
702 KAR 003:050	03-12-1975	12-09-1990	11-16-2018	Remain in Effect without Amendment
702 KAR 003:060	11-03-1974	01-16-2003	11-16-2018	Remain in Effect without Amendment
702 KAR 003:070	03-12-1975	01-14-2002	11-16-2018	Remain in Effect without Amendment
702 KAR 003:075	11-13-1974	11-01-1999	11-16-2018	Remain in Effect without Amendment
702 KAR 003:080	11-13-1975	01-05-2009	11-16-2018	Remain in Effect without Amendment
702 KAR 003:090	11-13-1975	06-08-2009	11-16-2018	Remain in Effect without Amendment
702 KAR 003:135	10-01-1980	01-14-2002	11-16-2018	Remain in Effect without Amendment
702 KAR 003:150	11-13-1974	02-07-1991	11-16-2018	Remain in Effect without Amendment
702 KAR 003:190	10-09-1984	09-02-1993	11-16-2018	Remain in Effect without Amendment
702 KAR 003:246	02-12-1996	01-03-2011	11-16-2018	Remain in Effect without Amendment
702 KAR 003:250	09-06-1991	10-01-1992	11-16-2018	Remain in Effect without Amendment
702 KAR 003:270	12-01-1994	09-08-2008	11-16-2018	Remain in Effect without Amendment
702 KAR 003:275	02-02-1995	02-02-1995	11-16-2018	Remain in Effect without Amendment
702 KAR 003:285	01-09-1997	01-09-1997	11-16-2018	Remain in Effect without Amendment
702 KAR 003:310	02-03-2003	02-03-2003	11-16-2018	Remain in Effect without Amendment
702 KAR 004:005	06-11-1975	02-07-1991	11-16-2018	Remain in Effect without Amendment
702 KAR 004:050	10-08-1975	03-07-1992	11-16-2018	Remain in Effect without Amendment
702 KAR 004:090	06-11-1975	02-07-1991	11-16-2018	Remain in Effect without Amendment
702 KAR 004:100	12-10-1975	02-07-1991	11-16-2018	Remain in Effect without Amendment
702 KAR 004:170	03-02-1995	03-02-1995	11-16-2018	Remain in Effect without Amendment
702 KAR 004:180	10-06-1991	07-07-2008	11-16-2018	Remain in Effect without Amendment
702 KAR 005:010	06-11-1975	12-01-2006	11-16-2018	Remain in Effect without Amendment
702 KAR 005:020	10-08-1975	10-14-1990	11-16-2018	Remain in Effect without Amendment
702 KAR 005:060	06-11-1975	10-14-1990	11-16-2018	Remain in Effect without Amendment
702 KAR 005:080	03-16-1998	01-04-2008	11-16-2018	Remain in Effect without Amendment
702 KAR 005:100	06-11-1975	10-14-1990	11-16-2018	Remain in Effect without Amendment
702 KAR 005:120	01-05-1977	10-01-1992	11-16-2018	Remain in Effect without Amendment
702 KAR 005:130	06-04-1985	01-16-2003	11-16-2018	Remain in Effect without Amendment
702 KAR 005:150	12-07-1990	01-16-2003	11-16-2018	Remain in Effect without Amendment
702 KAR 006:010	10-02-1974	01-04-2010	11-16-2018	Remain in Effect without Amendment
702 KAR 006:020	03-12-1975	01-04-2010	11-16-2018	Remain in Effect without Amendment
702 KAR 006:040	03-12-1975	01-04-2010	11-16-2018	Remain in Effect without Amendment
702 KAR 006:045	03-23-1989	01-04-2010	11-16-2018	Remain in Effect without Amendment
702 KAR 006:050	10-02-1974	02-07-1991	11-16-2018	Remain in Effect without Amendment
702 KAR 006:060	03-12-1975	02-07-1991	11-16-2018	Remain in Effect without Amendment
702 KAR 006:075	10-14-1990	01-04-2010	11-16-2018	Remain in Effect without Amendment
702 KAR 007:130	01-05-2009	10-06-2010	11-16-2018	Remain in Effect without Amendment
703 KAR 003:205	09-02-1993	12-05-1996	11-16-2018	Remain in Effect without Amendment
704 KAR 003:285	07-05-1978	09-01-1999	11-16-2018	Remain in Effect without Amendment
704 KAR 003:307	04-01-1981	02-07-1991	11-16-2018	Remain in Effect without Amendment
704 KAR 003:325	10-09-1994	02-03-2006	11-16-2018	Remain in Effect without Amendment
704 KAR 003:406	08-04-1994	08-04-1994	11-16-2018	Remain in Effect without Amendment
704 KAR 003:410	12-09-1990	06-07-1999	11-16-2018	Remain in Effect without Amendment
704 KAR 003:420	06-07-1999	06-07-1999	11-16-2018	Remain in Effect without Amendment
704 KAR 003:440	08-01-1992	08-01-1992	11-16-2018	Remain in Effect without Amendment
704 KAR 003:455	01-09-1995	03-19-2003	11-16-2018	Remain in Effect without Amendment
704 KAR 003:480	03-01-1999	03-01-1999	11-16-2018	Remain in Effect without Amendment
704 KAR 003:490	01-15-2001	08-07-2006	11-16-2018	Remain in Effect without Amendment
704 KAR 003:500	11-05-2001	11-05-2001	11-16-2018	Remain in Effect without Amendment
704 KAR 003:510	03-19-2003	03-19-2003	11-16-2018	Remain in Effect without Amendment
704 KAR 003:530	08-07-2006	08-07-2006	11-16-2018	Remain in Effect without Amendment
704 KAR 004:010	11-13-1974	02-07-1991	11-16-2018	Remain in Effect without Amendment
704 KAR 005:060	12-02-1988	02-07-1991	11-16-2018	Remain in Effect without Amendment
704 KAR 007:070	12-02-1986	01-19-1999	11-16-2018	Remain in Effect without Amendment
704 KAR 007:120	10-07-1993	04-22-2005	11-16-2018	Remain in Effect without Amendment
704 KAR 007:130	09-04-1997	06-08-2001	11-16-2018	Remain in Effect without Amendment
704 KAR 007:140	01-16-2003	11-08-2004	11-16-2018	Remain in Effect without Amendment
704 KAR 010:022	11-03-1976	10-08-1989	11-16-2018	Remain in Effect without Amendment
705 KAR 003:141	08-04-1994	08-04-1994	11-16-2018	Remain in Effect without Amendment
705 KAR 004:081	08-04-1994	08-04-1994	11-16-2018	Remain in Effect without Amendment
705 KAR 004:240	01-19-1999	01-19-1999	11-16-2018	Remain in Effect without Amendment
707 KAR 001:270	03-01-1999	03-01-1999	11-16-2018	Remain in Effect without Amendment
707 KAR 001:290	08-14-2000	11-05-2007	11-16-2018	Remain in Effect without Amendment
707 KAR 001:300	08-14-2000	11-05-2007	11-16-2018	Remain in Effect without Amendment
707 KAR 001:320	08-14-2000	11-05-2007	11-16-2018	Remain in Effect without Amendment

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Regulation Number	First Effective Date	Previous Last Effective Date*	Letter Filed Date	Action
707 KAR 001:350	08-14-2000	11-05-2007	11-16-2018	Remain in Effect without Amendment
707 KAR 001:360	08-14-2000	11-05-2007	11-16-2018	Remain in Effect without Amendment
707 KAR 001:370	08-14-2000	11-05-2007	11-16-2018	Remain in Effect without Amendment
707 KAR 001:380	08-14-2000	11-05-2007	11-16-2018	Remain in Effect without Amendment
750 KAR 001:010	07-02-1986	04-02-2010	07-25-2018	Remain in Effect without Amendment
750 KAR 002:010	11-04-1993	02-04-1999	07-25-2018	Remain in Effect without Amendment
780 KAR 001:010	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 002:010	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 002:030	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 002:110	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:010	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:020	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:030	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:035	09-11-2000	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:040	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:060	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:065	07-17-2000	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:075	07-17-2000	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:090	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:100	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:110	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:150	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 003:160	07-05-1991	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:005	07-17-2000	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:010	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:020	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:030	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:040	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:050	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:062	07-17-2000	01-04-2010	11-16-2018	Remain in Effect without Amendment
780 KAR 006:065	07-17-2000	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:070	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:080	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:090	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 006:100	12-09-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 007:020	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
780 KAR 007:040	10-14-1990	05-01-2009	11-16-2018	Remain in Effect without Amendment
805 KAR 001:020	08-02-1978	09-25-1991	07-03-2018	Remain in Effect without Amendment
805 KAR 001:030	11-13-1975	10-23-2009	06-27-2018	Remain in Effect without Amendment
805 KAR 001:040	04-09-1975	04-09-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 001:050	04-09-1975	09-25-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 001:060	06-11-1975	12-07-2017	06-27-2018	Remain in Effect without Amendment
805 KAR 001:080	06-11-1975	06-11-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 001:100	08-13-1975	09-03-2015	06-27-2018	Remain in Effect without Amendment
805 KAR 001:110	09-01-1984	04-04-2008	06-27-2018	Remain in Effect without Amendment
805 KAR 001:120	09-25-1991	09-25-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 001:130	09-25-1991	09-04-2015	06-27-2018	Remain in Effect without Amendment
805 KAR 001:140	09-25-1991	09-04-2015	06-27-2018	Remain in Effect without Amendment
805 KAR 001:160	07-09-1997	07-09-1997	06-27-2018	Remain in Effect without Amendment
805 KAR 001:170	07-09-1997	09-04-2015	06-27-2018	Remain in Effect without Amendment
805 KAR 001:180	11-12-1997	11-12-1997	06-27-2018	Remain in Effect without Amendment
805 KAR 001:190	03-18-2004	11-17-2009	06-27-2018	Remain in Effect without Amendment
805 KAR 001:200	10-23-2009	10-23-2009	06-27-2018	Remain in Effect without Amendment
805 KAR 002:010	12-11-1974	12-11-1974	06-27-2018	Remain in Effect without Amendment
805 KAR 003:010	05-14-1975	09-22-1993	06-27-2018	Remain in Effect without Amendment
805 KAR 003:020	05-14-1975	07-09-1985	06-27-2018	Remain in Effect without Amendment
805 KAR 003:030	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 003:040	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 003:060	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 003:070	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 003:080	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 003:090	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 003:100	05-14-1975	02-05-2016	06-27-2018	Remain in Effect without Amendment
805 KAR 003:110	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 003:120	05-14-1975	05-14-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 004:005	09-01-1976	06-07-1993	06-27-2018	Remain in Effect without Amendment
805 KAR 004:010	06-11-1975	09-16-2002	06-27-2018	Remain in Effect without Amendment

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Regulation Number	First Effective Date	Previous Last Effective Date*	Letter Filed Date	Action
805 KAR 004:020	07-02-1975	07-02-1975	06-27-2018	Remain in Effect without Amendment
805 KAR 004:030	07-02-1975	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:040	06-11-1975	09-16-2002	06-27-2018	Remain in Effect without Amendment
805 KAR 004:050	06-11-1975	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:060	06-11-1975	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:075	09-01-1976	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:080	09-01-1976	09-01-1976	06-27-2018	Remain in Effect without Amendment
805 KAR 004:085	09-01-1976	12-11-1996	06-27-2018	Remain in Effect without Amendment
805 KAR 004:087	03-02-1977	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:090	09-01-1976	09-07-1983	06-27-2018	Remain in Effect without Amendment
805 KAR 004:093	12-11-1996	12-11-1996	06-27-2018	Remain in Effect without Amendment
805 KAR 004:095	09-01-1976	05-03-1978	06-27-2018	Remain in Effect without Amendment
805 KAR 004:100	09-01-1976	09-16-2002	06-27-2018	Remain in Effect without Amendment
805 KAR 004:105	09-01-1976	09-01-1976	06-27-2018	Remain in Effect without Amendment
805 KAR 004:110	09-01-1976	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:115	09-01-1976	05-03-1978	06-27-2018	Remain in Effect without Amendment
805 KAR 004:120	09-01-1976	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:125	09-01-1976	09-16-2002	06-27-2018	Remain in Effect without Amendment
805 KAR 004:130	09-01-1976	09-01-1976	06-27-2018	Remain in Effect without Amendment
805 KAR 004:135	09-01-1976	09-01-1976	06-27-2018	Remain in Effect without Amendment
805 KAR 004:140	09-01-1976	12-11-1996	06-27-2018	Remain in Effect without Amendment
805 KAR 004:145	09-01-1976	09-01-1976	06-27-2018	Remain in Effect without Amendment
805 KAR 004:150	09-01-1976	09-01-1976	06-27-2018	Remain in Effect without Amendment
805 KAR 004:155	06-26-1991	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:160	06-27-1991	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 004:165	06-28-1991	06-26-1991	06-27-2018	Remain in Effect without Amendment
805 KAR 005:010	09-01-1976	10-14-1996	06-27-2018	Remain in Effect without Amendment
805 KAR 005:030	11-09-1992	12-11-2009	06-27-2018	Remain in Effect without Amendment
805 KAR 005:070	12-11-1996	12-11-1996	06-27-2018	Remain in Effect without Amendment
805 KAR 007:010	10-05-1977	08-06-2007	06-27-2018	Remain in Effect without Amendment
805 KAR 007:020	10-05-1977	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 007:030	10-05-1977	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 007:040	10-05-1977	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 007:050	10-05-1977	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 007:060	07-05-1978	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 007:070	02-07-1979	10-13-1999	06-27-2018	Remain in Effect without Amendment
805 KAR 007:080	12-11-1996	03-06-2009	06-27-2018	Remain in Effect without Amendment
805 KAR 007:090	10-13-1999	10-13-1999	06-27-2018	Remain in Effect without Amendment
805 KAR 007:100	08-06-2007	08-06-2007	06-27-2018	Remain in Effect without Amendment
805 KAR 008:010	09-16-2002	09-16-2002	06-27-2018	Remain in Effect without Amendment
805 KAR 008:030	09-16-2002	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 008:040	09-16-2002	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 008:050	09-16-2002	02-02-2018	06-27-2018	Remain in Effect without Amendment
805 KAR 008:060	09-16-2002	09-02-2010	06-27-2018	Remain in Effect without Amendment
805 KAR 009:010	06-08-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:020	06-09-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:030	06-10-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:050	06-11-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:060	06-12-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:070	06-13-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:080	06-14-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:090	06-15-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 009:100	06-16-2005	06-08-2005	06-27-2018	Remain in Effect without Amendment
805 KAR 011:001	08-23-2007	08-23-2007	06-27-2018	Remain in Effect without Amendment
805 KAR 011:010	08-23-2007	08-23-2007	06-27-2018	Remain in Effect without Amendment
805 KAR 011:020	08-23-2007	08-23-2007	06-27-2018	Remain in Effect without Amendment
825 KAR 001:020	06-14-2002	12-07-2006	08-06-2018	Remain in Effect without Amendment
825 KAR 001:030	11-12-2002	11-12-2002	08-06-2018	Remain in Effect without Amendment
900 KAR 006:040	12-18-1996	12-18-1996	07-30-2018	Remain in Effect without Amendment
902 KAR 020:009	04-13-1998	12-12-2007	01-11-2019	Remain in Effect without Amendment
902 KAR 020:012	08-05-1981	01-12-1990	01-11-2019	Remain in Effect without Amendment
902 KAR 020:018	11-05-1981	03-14-2002	01-11-2019	Remain in Effect without Amendment
902 KAR 020:410	03-04-2011	03-04-2011	01-11-2019	Remain in Effect without Amendment
902 KAR 048:020	02-07-2002	02-07-2002	01-11-2019	Remain in Effect without Amendment
902 KAR 048:030	02-07-2002	02-07-2002	01-11-2019	Remain in Effect without Amendment
902 KAR 048:040	02-07-2002	02-07-2002	01-11-2019	Remain in Effect without Amendment
902 KAR 055:060	06-03-1981	01-10-1994	01-11-2019	Remain in Effect without Amendment

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Regulation Number	First Effective Date	Previous Last Effective Date*	Letter Filed Date	Action
902 KAR 055:065	03-15-1989	03-14-1994	01-11-2019	Remain in Effect without Amendment
902 KAR 055:080	07-17-1991	07-17-1991	01-11-2019	Remain in Effect without Amendment
902 KAR 055:105	12-16-1998	12-16-1998	01-11-2019	Remain in Effect without Amendment
902 KAR 055:115	12-16-1998	12-16-1998	01-11-2019	Remain in Effect without Amendment
906 KAR 001:100	03-07-1992	09-01-2006	01-11-2019	Remain in Effect without Amendment
906 KAR 001:110	08-28-1992	07-24-2006	01-11-2019	Remain in Effect without Amendment
906 KAR 001:120	02-17-1998	01-23-2004	01-11-2019	Remain in Effect without Amendment
906 KAR 001:140	10-15-2003	10-15-2003	01-11-2019	Remain in Effect without Amendment
906 KAR 001:160	02-01-2008	10-17-2012	01-11-2019	Remain in Effect without Amendment
906 KAR 001:170	01-05-2009	01-05-2009	01-11-2019	Remain in Effect without Amendment
906 KAR 001:180	06-04-2010	06-04-2010	01-11-2019	Remain in Effect without Amendment
907 KAR 001:260	06-28-1984	01-10-1992	07-23-2018	Remain in Effect without Amendment
907 KAR 001:680	07-26-1995	07-16-2003	07-23-2018	Remain in Effect without Amendment
907 KAR 001:720	11-14-1997	08-12-2002	07-23-2018	Remain in Effect without Amendment
907 KAR 001:755	04-21-1999	04-21-1999	07-23-2018	Remain in Effect without Amendment
907 KAR 001:780	08-18-1999	08-18-1999	07-23-2018	Remain in Effect without Amendment
907 KAR 003:100	08-16-1999	12-02-2010	07-23-2018	Remain in Effect without Amendment
907 KAR 003:125	03-06-2001	01-05-2007	07-23-2018	Remain in Effect without Amendment
907 KAR 003:225	11-01-2013	11-01-2013	07-23-2018	Remain in Effect without Amendment
907 KAR 003:230	11-01-2013	11-01-2013	07-23-2018	Remain in Effect without Amendment
907 KAR 005:005	11-05-2010	11-05-2010	07-23-2018	Remain in Effect without Amendment
907 KAR 006:005	05-06-2011	05-06-2011	07-23-2018	Remain in Effect without Amendment
907 KAR 010:815	06-06-2008	06-06-2008	07-23-2018	Remain in Effect without Amendment
907 KAR 014:005	10-21-2009	01-14-2013	07-23-2018	Remain in Effect without Amendment
910 KAR 001:200	01-10-1992	04-01-2011	08-10-2018	Remain in Effect without Amendment
910 KAR 001:260	12-01-2006	12-11-2012	08-10-2018	Remain in Effect without Amendment
910 KAR 003:020	05-01-2009	05-01-2009	08-10-2018	Remain in Effect without Amendment
920 KAR 001:060	08-18-1999	03-01-2007	07-23-2018	Remain in Effect without Amendment

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: Copies of the technical amendments are usually posted on the Legislative Research Commission Web site for a short time before they are finalized. Regulations are available for viewing on the Legislative Research Commission Web site at <https://legislature.ky.gov/law/kar/pages/default.aspx>.

‡ - 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
009 KAR 001:050	09-12-2018	401 KAR 061:160	02-14-2019
016 KAR 009:040	09-12-2018	401 KAR 061:170	02-14-2019
020 KAR 001:010	08-14-2018	401 KAR 061:175	02-14-2019
103 KAR 001:010	09-12-2018	401 KAR 063:010	02-14-2019
103 KAR 015:180	02-07-2019	401 KAR 063:021	02-14-2019
103 KAR 016:320	07-16-2018	703 KAR 005:280	09-10-2018
103 KAR 018:020	07-16-2018	804 KAR 004:370	08-01-2018
103 KAR 018:090	07-16-2018	831 KAR 001:030	11-13-2018
104 KAR 001:020	09-12-2018	900 KAR 006:040	08-02-2018
104 KAR 001:040	09-12-2018	900 KAR 011:010	07-13-2018
200 KAR 005:365	09-12-2018	901 KAR 005:120	01-25-2019
200 KAR 012:030	09-12-2018	902 KAR 030:180	07-18-2018
200 KAR 021:020	11-15-2018	902 KAR 048:020	09-13-2018
200 KAR 021:040	11-15-2018	902 KAR 048:030	09-13-2018
200 KAR 021:050	11-15-2018		01-25-2019
201 KAR 046:081	09-28-2018	907 KAR 017:020	06-05-2018
301 KAR 002:132	09-12-2018	908 KAR 002:250	09-17-2018
401 KAR 039:005	07-09-2018	910 KAR 001:240	09-17-2018
401 KAR 045:020	10-15-2018	920 KAR 001:060	07-25-2018
401 KAR 045:025	10-15-2018	921 KAR 001:400	08-22-2018
401 KAR 045:030	10-15-2018	921 KAR 001:410	08-22-2018
401 KAR 045:090	10-15-2018		
401 KAR 045:130	10-15-2018		
401 KAR 045:250	10-15-2018		
401 KAR 048:090	10-15-2018		
401 KAR 048:200	10-15-2018		
401 KAR 048:300	10-15-2018		
401 KAR 048:310	10-15-2018		
401 KAR 052:020	02-14-2019		
401 KAR 052:040	02-14-2019		
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