



ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, February 14, 2020.

MEETING NOTICES

The Administrative Regulation Review Subcommittee is tentatively scheduled to meet on March 9, 2020, at 1:00 p.m. in room 149 Capitol Annex.

ARRS Tentative Agenda - [2381](#) [Updated as needed online](#)

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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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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA, March 16, 2020, at 10:00 a.m., Room 149 Capitol Annex



1. CALL TO ORDER AND ROLL CALL

2. REGULATIONS FOR COMMITTEE REVIEW

COUNCIL ON POST SECONDARY EDUCATION

Interstate Reciprocity Agreements

013 KAR 004:010. State Authorization Reciprocity Agreement. (Amended After Comments)

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Education Professional Standards Board

Alternative Routes to Certification

016 KAR 009:060. The direct training program for preparation of candidates for initial teacher certification.

016 KAR 009:071. Repeal of 016 KAR 009:050 and 009:070.

STATE BOARD OF ELECTIONS

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031 KAR 004:120. Additional and emergency precinct officers. (Not Amended After Comments) (Deferred from April)

FINANCE AND ADMINISTRATION CABINET

Department of Revenue

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103 KAR 002:005. Life Mortality Table.

Sales and Use Tax; General Exemptions

103 KAR 030:170. Containers, wrapping, and packing materials.

Selective Excise Tax; Alcoholic Beverages

103 KAR 040:050. Transporter's reports.

BOARDS AND COMMISSIONS

Board of Pharmacy

201 KAR 002:095. Pharmacist interns. (Deferred from July)

Board of Veterinary Examiners

201 KAR 016:012. Repeal of 201 KAR 016:010, 201 KAR 016:015, 201 KAR 016:020, 201 KAR 016:030, 201 KAR 016:040, 201 KAR 016:050, 201 KAR 016:060, 201 KAR 016:080, 201 KAR 016:090, 201 KAR 016:100, and 201 KAR 016:110.

201 KAR 016:500. Code of ethical conduct for veterinarians. (Not Amended After Comments)

201 KAR 016:510. Fees for veterinarians. (Amended After Comments)

201 KAR 016:512. Fees for veterinary technicians. (Amended After Comments)

201 KAR 016:514. Fees for animal control agencies and animal euthanasia specialists. (Amended After Comments)

201 KAR 016:516. Fees – other fees. (Amended After Comments)

201 KAR 016:520. Approved veterinary colleges; approved programs for veterinary technicians. (Not Amended After Comments)

201 KAR 016:530. Examination requirements for veterinarians and veterinary technicians. (Not Amended After Comments)

201 KAR 016:540. Application requirements for veterinarians and veterinary technicians. (Not Amended After Comments)

201 KAR 016:550. Authorization for animal control agencies to apply for a restricted controlled substances certificate from DEA. (Amended After Comments)

201 KAR 016:560. Certification as an animal euthanasia specialist. (Amended After Comments)

201 KAR 016:570. License renewal for veterinarians and veterinary technicians. (Not Amended After Comments)

201 KAR 016:572. License renewal for registered animal control agencies and animal euthanasia specialists; renewal notice. (Amended After Comments)

201 KAR 016:580. Board issued licenses and certificates, inactive and retired statuses. (Amended After Comments)

201 KAR 016:590. Continuing education requirements, veterinarians and veterinary technicians. (Amended After Comments)

201 KAR 016:600. Prescription and dispensation of drugs for animal use. (Amended After Comments)

201 KAR 016:610. Procedures for grievances, investigations, and administrative charges. (Not Amended After Comments)

201 KAR 016:700. Material incorporated by reference. (Amended After Comments)

Board of Nursing

201 KAR 020:600. Standards for training programs for licensed certified professional midwives.

201 KAR 020:610. Approval process for training programs for licensed certified professional midwives.

201 KAR 020:620. Licensing requirements for licensed certified professional midwives.

201 KAR 020:630. Disciplinary actions for licensed certified professional midwives.

201 KAR 020:640. Requirements for informed consent for licensed certified professional midwives.

201 KAR 020:650. Licensed certified professional midwives permitted medical tests and formulary.

201 KAR 020:660. Licensed certified professional midwives duty to report.

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201 KAR 020:670. Licensed certified professional midwives consultation, collaboration, and referral provisions.
201 KAR 020:680. Licensed certified professional midwives client records.
201 KAR 020:690. Licensed certified professional midwives transfer guidelines.

Board of Physical Therapy

201 KAR 022:170. Physical Therapy Compact Commission.

Real Estate Appraisers

201 KAR 030:130. Education provider, instructor, and course. (Deferred from August)

TOURISM, ARTS AND HERITAGE CABINET

Department of Fish and Wildlife Resources

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301 KAR 002:185. Hunter education. (Deferred from September)
301 KAR 002:195. Falconry, raptor take, and raptor propagation.
301 KAR 002:300. Black bear seasons and requirements.

Wildlife

301 KAR 004:090. Taxidermy, cervid meat processors, and the buying and selling of inedible wildlife parts.

DEPARTMENT OF AGRICULTURE

Office of the Commissioner

Livestock Sanitation

302 KAR 020:012. Repeal of 302 KAR 020:030, 302 KAR 020:050, 302 KAR 020:052, 302 KAR 020:66, 302 KAR 020:090, 302 KAR 020:100, and 302 KAR 020:150.

Office of the State Veterinarian

Livestock, Poultry, and Fish

302 KAR 022:010. Authority to inspect, test, identify, remove and dispose of livestock, poultry, and fish. (Deferred from December)
302 KAR 022:020. Restriction of transportation of livestock, poultry, and fish. (Deferred from December)
302 KAR 022:040. Carcass transport and composting. (Deferred from December)
302 KAR 022:070. Restrictions on biological materials in Kentucky. (Deferred from January)
302 KAR 022:080. Feed restrictions. (Deferred from December)
302 KAR 022:150. Cervids.

ENERGY AND ENVIRONMENT CABINET

Department for Environmental Protection

Division of Water

Water Quality

401 KAR 005:091. Repeal of 401 KAR 005:090. (Not Amended After Comments)

Division for Air Quality

Permits, Registrations, and Prohibitory Rules

General Standards of Performance

401 KAR 063:010. Fugitive emissions. (Not Amended After Comments)

Department for Natural Resources

Division of Conservation

Administration

416 KAR 001:010. Administration of Kentucky Soil Erosion and Water Quality Cost-Share Fund.

JUSTICE AND PUBLIC SAFETY CABINET

Asset Forfeiture

500 KAR 009:011. Repeal of 500 KAR 009:010, 500 KAR 009:020, 500 KAR 009:030, and 500 KAR 009:040. (Deferred from June)

Kentucky State Corrections Commission

Kentucky Community Corrections Grant Program

500 KAR 010:001. Definitions for 501 KAR Chapter 10.
500 KAR 010:020. Administration and application procedure for community corrections grant program.
500 KAR 010:030. Community Corrections Board and Grant Recipient Requirements.
500 KAR 010:040. Review for compliance.
500 KAR 010:050. Prison Industry Enhancement Certification Program.

Motorcycle Safety Education Commission

500 KAR 015:010 & E. Motorcycle safety education program. ("E" expired 10-02-2019) (Not Amended After Comments) (Deferred from July)

TRANSPORTATION CABINET

Department of Vehicle Regulation

Division of Driver Licensing

Administration

601 KAR 002:030E. Ignition interlock. ("E" expires 05-04-2020) (Not Amended After Comments) (Deferred from January)

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Kentucky Board of Education

Department of Education

Pupil Transportation

702 KAR 005:080. Bus drivers' qualifications, responsibilities, and training.

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School Terms, Attendance, and Operation

702 KAR 007:125. Pupil attendance.

Office of Instruction

704 KAR 003:370. Kentucky framework for personnel evaluation.

Office of Learning Support Services

704 KAR 007:090. Homeless children and youth education program and ensuring educational stability of children in foster care.

COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Kentucky Fire Commission

739 KAR 002:140. Fire department reporting requirements. (Deferred from January)

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Board of Education

Department for Technical Education

Management of the Kentucky TECH System

780 KAR 002:060. Discipline of students. (Amended After Comments)

CABINET FOR HEALTH AND FAMILY SERVICES CABINET

Office of Inspector General

Division of Healthcare

Health Services and Facilities

902 KAR 020:036. Operation and services; personal care homes. (Amended After Comments) (Deferred from August)

Division of Audits and Investigations

Controlled Substances

902 KAR 055:130. Electronic prescribing of controlled substances. (Not Amended After Comments)

Department for Medicaid Services

Division of Provider Integrity

907 KAR 005:005. Health Insurance Premium Payment (HIPP) Program. (Amended After Comments)

Department for Community Based Services

Division of Child Care

Day Care

922 KAR 002:100. Certification of family child-care homes. (Deferred from February)

3. REGULATIONS REMOVED FROM MARCH'S AGENDA

BOARDS AND COMMISSIONS

Board of Dentistry

201 KAR 008:550. Anesthesia and sedation. (Comments Received; SOC ext. due 03-13-2020)

JUSTICE AND PUBLIC SAFETY CABINET

Parole Board

501 KAR 001:040 & E. Parole revocation hearing procedures. ("E" expires 06-17-2020) (Comments Received; SOC due 02-14-2020)

CABINET FOR HEALTH AND FAMILY SERVICES CABINET

Office of Human Resource Management

Division of Employee Management

Administration

920 KAR 001:070. Deaf and hard of hearing services. (Comments Received; SOC ext. due 03-13-2020)

Department for Community Based Services

Division of Child Care

Day Care

922 KAR 002:090. Child-care center licensure. (Comments Received; SOC ext. due 03-13-2020)

ADMINISTRATIVE REGULATION REVIEW PROCEDURE
Overview for Regulations Filed BEFORE noon, July 15, 2019
(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.

ADMINISTRATIVE REGULATION REVIEW PROCEDURE
Overview for Regulations Filed AFTER noon, July 15, 2019
(See KRS Chapter 13A for specific provisions)

Filing and Publication

Administrative bodies shall file all proposed administrative regulations with the Regulations Compiler. Filed regulations shall include public hearing and comment period information; a regulatory impact analysis and tiering statement; a fiscal note on state and local government; and, if applicable, a federal mandate comparison and any required incorporated material. 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 a proposed administrative regulation, which shall be held between the 21st and the last workday of the month following the month of publication. Written comments shall also be accepted until the end of the calendar month in which the public hearing was scheduled.

Information about the public comment period shall include: the place, time, and date of the hearing; the manner in which a person may submit written comments or a notification to attend the hearing; a statement specifying that unless a notification to attend the hearing is received no later than 5 workdays prior to the hearing date, the hearing may be cancelled; the deadline for submitting written comments; and the name, position, and contact information of the person to whom notifications and written comments shall be sent.

The administrative body shall notify the Compiler, by letter, whether the hearing was held or cancelled and whether or not 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 close of the public comment period.

Review Procedure

After the public hearing and public comment period processes are completed, the administrative regulation will be tentatively scheduled for review at the next meeting of the Administrative Regulation Review Subcommittee. 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. If a quorum is present, unless the administrative regulation is deferred or found deficient, the administrative regulation shall be considered in effect upon adjournment of the appropriate jurisdictional committee meets or 90 days after being referred by LRC, whichever occurs first.

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EMERGENCY ADMINISTRATIVE REGULATIONS

NONE

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

PERSONNEL CABINET
(As Amended at ARRS, February 10, 2020)

101 KAR 2:120. Incentive programs.

RELATES TO: KRS 18A.202, 199.555(1)

STATUTORY AUTHORITY: KRS 18A.030(2), 18A.110(1)(d),
18A.202(1), EO 2019-787

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.110(1)(d) requires the Secretary of Personnel to promulgate administrative regulations to implement work-related incentive programs for state employees. KRS 18A.202(1) authorizes the secretary to establish work-related incentive programs for state employees. Executive Order 2019-787 authorizes the secretary to promulgate administrative regulations for state employee adoption benefits. This administrative regulation establishes the requirements for an employee suggestion system incentive program and a state employee adoption benefit program.

Section 1. Employee Suggestion System. (1) Eligibility.

(a) An employee with status in the classified service or an employee governed by KRS Chapter 16 may be recognized and rewarded for submitting a suggestion that results in the improvement of state service or in the realization of financial savings by the state.

(b) A suggestion shall be a positive idea which:

1. Explains how to improve methods, equipment, or procedures;

2. Reduces time or cost of a work operation;

3. Creates a safer work environment;

4. Increases revenue; or

5. Improves relationships with or services for the public.

(2) Administration.

(a) ~~The secretary shall establish and maintain standard operating procedures to administer the Employee Suggestion System.~~

(b) Before January 1 of each calendar year, each cabinet or independent agency head shall appoint, in writing, an employee suggestion coordinator.

(b)1. An employee shall use the Employee Suggestion Form to submit a suggestion.

2. ~~(c)~~ Once an employee submits a suggestion to his or her cabinet or agency, the coordinator shall review the request to ensure it meets the ~~[above]~~ eligibility requirements in subsection (1) of this section and the requirements set forth in the standard operating procedures.

(c) ~~(d)~~ If the suggestion meets eligibility ~~and procedural~~ requirements, the request shall be forwarded for review and approval as follows:

1. To the coordinator of the affected agency, which is the agency implementing the suggestion, if applicable;

2. To a designated evaluator in the affected agency, who shall be a person with expertise in the area under consideration. The evaluator shall review the suggestion to determine whether the suggestion shall be implemented;

3. To a budget representative in the affected agency, who shall determine if sufficient funds are available to fund the award; and

4. To the appointing authority or his or her designee of the affected agency.

(d) ~~(e)~~ The decision of the appointing authority or his or her designee shall be final, except as provided by subsection (4) of this section.

(e) ~~(f)~~ Upon approval and implementation of the employee's suggestion, the agency that implemented the suggestion shall provide notice of the approval and implementation to the suggester's agency coordinator, to include total cash savings. If cash savings is unknown at the time of implementation, the

affected agency shall provide documentation of cash savings within one (1) year and one (1) month of the implementation date to the suggester's agency coordinator.

(3) General provisions.

(a) A suggestion shall be eligible for an award only after legislative action or administrative regulation changes, if required, have been completed which shall be the responsibility of the agency that desires to implement the suggestion.

(b) The following suggestions shall not be eligible for a cash award:

1. A suggestion that falls within the scope of the duties of the suggester, ~~which~~. "Scope of duties" shall include a specific set of tasks assigned to the suggester or set forth in the position description or job specification of the suggester upon submission of the suggestion;

2. A suggestion which includes a proposal to perform routine maintenance operations or follow manufacturer's recommendations;

3. A suggestion to make a change which has been documented in writing as already under consideration by those administratively responsible;

4. A suggestion which corrects an error or condition that exists because established procedures were not followed; or

5. A suggestion made by a coordinator.

(c) If more than one (1) suggester makes significant contributions to the idea, the suggestion may be submitted jointly, and an award granted shall be divided equally between or among the suggesters.

(d) 1. The first suggestion received shall take precedence over all future suggestions having the same purpose.

2. If two (2) or more similar suggestions are received on the same day, an award granted shall be divided equally between or among the suggesters.

(e) The suggester shall be notified in writing of the status of the suggestion within ninety (90) calendar days of receipt by the suggester's agency coordinator and every sixty (60) days thereafter.

(f) A suggestion shall be considered to be active and eligible for an award until the suggester is notified in writing that the suggestion has been approved, denied, or closed.

(g) If the suggestion is denied or closed, the suggester's agency coordinator shall notify the suggester in writing stating the reason it was denied or closed.

(4) Reconsideration.

(a) A suggester may request reconsideration of a suggestion that was denied or closed ~~by/has not received approval from~~ the cabinet or agency.

(b) 1. The suggester shall request reconsideration in writing and shall set forth the basis for the request.

2. a. The request shall be filed with the suggester's agency coordinator within thirty (30) calendar days of the date that written notice of denial or closing is provided to the suggester.

b. If the thirtieth day falls on a day that the cabinet or agency office is closed during regular work hours, the request may be filed on the next work day.

(c) Within thirty (30) calendar days, the cabinet or agency shall act on the request for reconsideration and notify the suggester in writing of the reason for the decision.

(d) If an eligible suggestion is denied or closed and conditions under which it was originally considered have changed, the suggester may resubmit the suggestion.

(5) Payment.

(a) An award of cash payment shall be in accordance with KRS 18A.202.

1. The cash payment shall be calculated based upon the amount saved over the period of one (1) year minus implementation costs.

2. a. The payment for the award shall be issued by the Personnel Cabinet.

b. Funds for payment shall come from the agency or agencies implementing the suggestion, if sufficient funds are available to fund the award.

c. If applicable, the funding agency may interaccount other agencies implementing the suggestion for a proportionate share of the total award amount.

(b) 1. If a suggestion has been approved by the appointing authority or his or her designee and has resulted in a financial savings to the state, the suggester shall be compensated in an amount of ten (10) percent of the amount saved over the twelve (12) month period following implementation of the suggestion, with a minimum of \$100 and a maximum of \$2,500.

2. If a suggestion approved by the appointing authority or his or her designee results in an intangible improvement in state service, the suggester shall be compensated in the amount of \$100.

3. Upon the suggester's receipt of compensation, the suggestion shall become the property of the state [Administration. An employee with status in the classified service or an employee governed by KRS Chapter 16 may be recognized and rewarded for submitting a suggestion that results in the improvement of state service or in the realization of financial savings by the state.]

(a) 1. The employee suggestion system council, headed by the chairperson designated by the Secretary of Personnel, shall:

a. Ensure proper evaluation of each suggestion;

b. Review and act upon, by approval or denial, a suggestion presented to the council by a cabinet or agency; and

c. Reconsider denials as set forth in subsection (4) of this section.

2. A designated coordinator may present recommended suggestions to the council and request that the council vote on suggestions.

3. The council may defer action for up to one (1) year and one (1) month pending documentation of cash savings.

4. The council shall receive administrative support from the Personnel Cabinet.

5. The council shall prepare an annual report to be submitted to the Secretary of Personnel that shall include the number of suggestions received and the status of each suggestion.

6. The council shall meet:

a. At a minimum on a quarterly basis; or

b. Upon the request of the council chairperson or a majority of the coordinators.

(b) Each cabinet secretary or agency head shall designate, in writing, the appointment of a coordinator who shall also serve on the council. The coordinator shall receive suggestions and establish and maintain internal procedures to ensure appropriate evaluation of suggestions.

(c) The coordinator shall present suggestions recommended for approval by the cabinet or agency to the council for consideration.

(2) Eligibility.

(a) A suggestion shall be a positive idea which:

1. Explains how to improve methods, equipment or procedures;

2. Reduces time or cost of a work operation;

3. Creates a safer work environment;

4. Increases revenue; or

5. Improves relationships with or services for the public.

(b) The suggestion shall:

1. Present an improvement in state service or function;

2. Explain how the change would be accomplished;

3. Define what benefits would be realized by the state, particularly in terms of efficiency, effectiveness, safety, economy, conservation of energy resources, or public relations;

4. a. Be made by an employee to the employee's cabinet or agency; or

b. Be forwarded from other coordinators if the suggestion affects the coordinator's agency;

5. Within ninety (90) working days of implementation by the agency, be:

a. Submitted on the Employee Suggestion Form, P-35; and

b. Accompanied by exhibits or illustrations as needed;

6. Be practical, useful, and constructive; and

7. Be eligible for an award only after legislative action or administrative regulation changes, if required, have been completed which shall be the responsibility of the agency that desires to implement the suggestion.

(c) The following suggestions shall not be eligible for a cash award:

1. A suggestion that falls within the scope of the duties of the suggester and which the suggester has the authority to initiate or implement without other administrative approval. "Scope of duties" shall include a specific set of tasks as set forth in the position description of the suggester upon submission of the suggestion;

2. A suggestion related to a particular problem given to an employee to solve within the scope of the employee's duties and responsibilities;

3. A suggestion made by a member of the council, a cabinet, or agency suggestion review committee;

4. A suggestion which includes a proposal to perform routine maintenance operations or follow manufacturer's recommendations;

5. A suggestion to make a change which has been documented in writing as already under consideration by those administratively responsible; or

6. A suggestion which corrects an error or condition that exists because established procedures were not followed.

(d) If more than one (1) suggester makes significant contributions to the idea, the suggestion may be submitted jointly, and an award granted shall be divided equally between or among the suggesters.

(e) 1. The first suggestion received shall take precedence over all future suggestions having the same purpose.

2. If two (2) or more similar suggestions are received on the same day, an award granted shall be divided equally between or among the suggesters.

(f) A suggestion shall be considered a confidential communication among the suggesters and the employees and officers whose responsibility it is to process, investigate, review, or evaluate suggestions.

(3) General provisions.

(a) The cabinet or agency head shall establish an internal system for receipt, evaluation, and reconsideration of employee suggestions. This system shall, at a minimum, include the following:

1. A method to notify the suggester in writing that the suggestion has been received and to notify the suggester in writing of a change in the status of the suggestion;

2. A method to document the original suggestion, evaluation, and action taken; and

3. A method to prepare and present documentation of a suggestion for recommendation to the council.

(b) 1. Eligibility of a suggestion shall be evaluated according to the circumstances existing upon submission of the suggestion.

2. An evaluation shall be completed by a person with expertise in the area under consideration.

3. The results of the evaluation shall be recorded on the Evaluation of Employee Suggestion Form, Form P-36, and the form shall be dated and signed by the individual making the evaluation.

(c) 1. The suggester shall be notified in writing of the disposition of the suggestion within ninety-five (95) calendar days of receipt by the coordinator.

2. If all parties involved agree, an extension of time shall be granted if extenuating circumstances exist.

3. A suggestion shall be considered to be active and eligible for an award until the suggester is notified in writing that the suggestion has been approved or denied.

4. If a suggestion will not be implemented, the coordinator shall notify the suggester in writing stating the reason it was not implemented.

5. a. If an eligible suggestion is not adopted and conditions under which it was originally considered have changed, the suggester may request reevaluation by the cabinet or agency.

b. The request shall:

- (i) Be in writing;
- (ii) Be evaluated by the next level of supervision;
- (iii) Be received by the agency within one (1) year from the date of rejection; and
- (iv) Include information regarding the change in conditions.

(d) If a suggestion is approved and implemented by the cabinet or agency, the suggester's coordinator shall recommend approval of the suggestion to the council.

1. The recommendation shall contain:

- a. The suggestion as completed by the suggester on the Employee Suggestion Form, P-35;
- b. The evaluation forms completed according to the criteria set forth in this administrative regulation; and
- c. A statement of actual or projected cost savings using generally accepted accounting principles.

2. Upon receipt of the council's decision, the chairperson of the council shall send written notification of the council's action to the suggester's coordinator and the coordinator shall then provide written notification to the suggester regarding the decision.

3. If an eligible suggestion is denied by the council, the suggestion shall remain on active file with the council for a period of one (1) year from the date of denial.

(e) Award of cash payment shall be in accordance with KRS 18A.202.

1. The cash payment shall be calculated based upon the amount saved over the period of one (1) year minus implementation costs and shall be determined according to generally accepted accounting principles.

2.a. The award check shall be issued by the agency where the suggester is employed.

- b. Funds for payment shall come from the agency or agencies implementing the suggestion.
- c. If applicable the agency issuing the check may interaccount other agencies implementing the suggestion for a proportionate share of the total award amount.

3.a. If a suggestion may result in financial savings to the state and proper documentation of cost savings has not yet been obtained, the council shall request that each agency implementing the suggestion maintain records which document the cost savings for a period not to exceed one (1) year from the date of implementation.

- b. Documentation shall be conducted according to generally accepted accounting principles.
- c. This cost savings analysis shall be forwarded by the coordinator to the council chairperson within thirty (30) work days of completion of the analysis.
- (f) 1. If a suggestion has been approved by the council and has resulted in a financial savings to the state, the suggester shall be compensated in an amount of ten (10) percent of the amount saved over one (1) calendar year, with a minimum of \$100 and a maximum of \$2,500.
- 2. If a suggestion approved by the council results in an intangible improvement in state service, the suggester shall be compensated in the amount of \$100.
- 3. Upon the suggester's receipt of compensation, the suggestion shall become the property of the state.

(4) Reconsideration.

- (a) A suggester may request reconsideration of a suggestion that has not received approval from the cabinet or agency within ten (10) work days of the date that written notice of denial is received by the suggester.
- (b) 1. The suggester shall request reconsideration in writing and shall set forth the basis for the request.
- 2.a. The request shall be filed with the coordinator within ten (10) days of the date of the denial.
- b. If the tenth day falls on a day that the cabinet or agency office is closed during regular work hours, the request may be filed on the next work day.
- (c) Within thirty (30) work days, the cabinet or agency shall act on the request for reconsideration and notify the suggester in writing of the reason for the decision.

(5) Council review.

(a) 1. A suggestion may be reviewed by the council on its own motion, or upon request of the suggester.

2. If a suggestion has been reconsidered and denied by the cabinet or agency, the suggester may request a review by the council.

- a. The suggester shall request review within thirty (30) days of receipt of the written notification of the outcome of the reconsideration and shall set forth in writing the basis for the request.
- b. (i) The request shall be filed in the office of the employee suggestion system chairperson within the thirty (30) day period.
- (ii) If the 30th day falls on a day that the chairperson's office is closed during regular work hours, the request may be filed on the next work day.
- (b) The council shall complete the review within ninety (90) calendar days of the date that the chairperson receives the request for review.
- (c) The council chairperson shall notify the agency head of the council's findings and its recommendation concerning the suggestion's implementation or denial.

Section 2. Adoption Benefit Program. (1)(a) A state employee who finalizes a legal adoption procedure for the adoption of a child, other than the child of a spouse, between November 1, 1998 and October 21, 2019 [on or after November 1, 1998], shall be eligible to receive reimbursement for direct [actual] costs associated with the adoption of a special needs child, as defined by KRS 199.555(1), or any other child.

(b) The eligible employee shall receive:

- 1. Up to \$5,000 in unreimbursed direct costs related to the adoption of a special needs child; or
- 2. Up to \$3,000 in unreimbursed direct costs related to the adoption of any other child.

(2) (a) A state employee who finalized a legal adoption procedure for the adoption of a child, other than the child of a spouse, on or after October 22, 2019, shall be eligible to receive reimbursement of direct costs associated with the adoption of a child.

(b) In addition to or instead of reimbursement of direct costs, a state employee may request and receive a stipend.

(c) The combined total of stipend and reimbursement of direct costs per adoption of a special needs child shall not exceed \$7,000.

(d) The combined total of stipend and reimbursement of direct costs per adoption of every other child shall not exceed \$5,000 [Total state funds for this program shall not exceed \$150,000 in a fiscal year.

(2) The eligible employee shall receive:

- (a) Up to \$5,000 in unreimbursed direct costs related to the adoption of a special needs child; or
- (b) Up to \$3,000 in unreimbursed direct costs related to the adoption of any other child.

(3) Unreimbursed direct costs related to the adoption of a special needs child or other child shall include:

- (a) Licensed adoption agency fees;
- (b) Legal fees;
- (c) Medical costs not paid by insurance, Medicaid, or other available resources;

- (d) Court costs; and
- (e) Other fees or costs associated with child adoption in accordance with state and federal law [and after review and approval by the court at the finalization of the adoption].

(4) Application for financial assistance shall be made [by submitting a completed State Employee Adoption Assistance Application] to the Secretary of Personnel along with documentary evidence of:

- (a) Finalization of the adoption;
- (b) Certification by the Secretary of the Cabinet for Health and Family Services that the adopted child is a special needs child, if assistance [reimbursement] for special needs adoption is sought; and

(c) A copy of an affidavit of expenses with supporting documentation related to the adoption [filed with and approved by

the court at the finalization of the adoption].

(5) If both adoptive parents are ~~[executive branch]~~ state employees, the application for financial assistance shall be made jointly and the amount of reimbursement of costs and stipend shall be limited to that specified in subsections (1) and [subsection] (2) of this section.

(6) Upon approval of the application for financial assistance, if sufficient funds are available, the employee's agency shall dispense funds in the amount authorized by the Secretary of Personnel.

Section 3. Incorporation by Reference. (1) "Employee Suggestion Form", February 2020, 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.]

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

~~(a) "Employee Suggestion Form", P-35, October 2007;~~

~~(b) "Evaluation of Employee Suggestion Form" Form, P-36, February 2010; and~~

~~(c) "State Employee Adoption Assistance Application", May 2015.~~

~~(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.]~~

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.

**FINANCE AND ADMINISTRATION CABINET
Kentucky Teachers' Retirement System
(As Amended at ARRS, February 10, 2020)**

102 KAR 1:125. Omitted contributions; reinstatement of accounts.

RELATES TO: KRS 161.560

STATUTORY AUTHORITY: KRS 161.310, **161.470, 161.560**

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.560 **requires[provides that]** each agency employing members of the Teachers' Retirement System **to[shall]** deduct the appropriate member contributions and forward the contributions to the system on a monthly basis. This administrative regulation sets out the conditions under which these required contributions shall be paid in the event the employing agency fails to deduct these amounts from the member's salary and forward the contributions to the retirement system.

Section 1. In every case where a properly certified[certificated] member entitled to membership under KRS 161.470 was employed, or is employed in the future, and the employer[board of education] fails for any reason to deduct the retirement contribution due under the retirement Act, the employee if a member of the retirement system, and not retired, may pay the retirement contributions which should have been deducted by the employer plus eight (8) percent compound interest from the end of the year in which the service was performed to date of payment, and receive credit for those years, provided the teacher was not at fault in creating this delinquency.

Section 2. Members of the retirement system who have previously withdrawn their contributions, may reinstate these accounts by complying with the requirements of KRS 161.470(3), and by repaying the amount refunded plus interest at the rate of

eight (8) percent compounded annually from the date of withdrawal to date of repayment. **[**

Section 3. Payment may be made directly to the retirement system. Payments shall not be made in installments. A receipt shall be given to the member making a payment.]

CONTACT PERSON: Robert B. Barnes, Deputy Executive Secretary of Operations and General Counsel, Kentucky Teachers' Retirement System, 479 Versailles Road, Frankfort, Kentucky 40601, phone (502) 848-8508, fax (502) 573-0199 or email Beau.Barnes@trs.ky.gov.

**FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(As Amended at ARRS, February 10, 2020)**

103 KAR 26:120. Advertising agencies.

RELATES TO: KRS 139.010, 139.200, 139.260, 139.270, 139.280, 139.310, 139.330, **139.470, 139.480, 139.495**

STATUTORY AUTHORITY: KRS 131.130, 139.710
NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) and 139.710 authorize the Department of Revenue to promulgate administrative regulations for the assessment, collection, refunding, administration, and enforcement of the Kentucky tax laws. This administrative regulation establishes requirements and guidelines for the application of sales and use tax to purchases and sales of tangible personal property and digital property by advertising agencies.

Section 1. Definitions. (1) "Advertising agency" means a business engaged primarily in the professional service of developing strategy, concept, and design for the placement of advertising on radio or television stations, or in newspapers, magazines, or other media.

(2) "Advertising services" means all advertising agency activities involved in the conceptualization, development, production, and refinement of a master advertisement prior to its reproduction by the advertising agency or a third party including creative concept development, design, layout, consultation services, research, script and copy writing, art preparation, public relations, and account management services.

(3) "Master advertisement" means the original advertising material created by the advertising agency for reproduction as tangible personal property or digital property for the purpose of display or other advertising uses, such as master commercials, camera ready art, proofs, and corporate logos.

Section 2. Advertising Agencies as Consumers in Creation of Master Advertisement. (1) An advertising agency shall be the consumer of all[the] tangible personal property and digital property used in the performance of its advertising services to produce a master advertisement regardless of whether the property the agency purchases is acquired in the name or account of the advertising agency or its client. The tax shall apply to the advertising agency's purchase of:

(a) All tangible personal property or digital property for use in the performance of its advertising services, including the purchase or rental of stock photos and movie footage delivered as tangible personal property or digital property;

(b) Any materials that become a component of the master advertisement; and

(c) Any tangible personal property or digital property that is incidentally provided to the client as part of the advertising services.

(2) An advertising agency shall not claim that its purchase of tangible personal property or digital property is exempt from sales and use tax because the property is to be used in fulfilling a contract with:

(a) The federal government, state government, or political subdivision thereof;

(b) Any department, agency, or instrumentality of the federal government, state government, or political subdivision thereof; or

(c) A religious, educational, or charitable institution exempt from tax under KRS 139.495.

(3) The performance of advertising services shall not constitute manufacturing or processing production of tangible personal property or digital property for sale. Therefore, an advertising agency shall not claim that its purchase of tangible personal property or digital property used in the performance of its advertising services is exempt from sales and use tax under the:

(a) Raw material, industrial tool, and industrial supply exemption as provided in KRS 139.470(9)(4); or

(b) The machinery for new and expanded industry exemption as provided in KRS 139.480(10).

(4) If acting in the capacity of a consumer, an advertising agency shall not bill its client for tax on charges made for advertising services.

Section 3. Advertising Agencies as Retailers After Creation of Master Advertisement. (1) An advertising agency shall be a retailer of tangible personal property and digital property the advertising agency sells to its clients or to others on behalf of its clients regardless of whether the sale is at a marked-up price. This provision shall include property reproduced from a master advertisement whether the advertising agency or a third party actually reproduces the materials. This provision shall not include property described in Subsection 1 of Section 2(1) of this administrative regulation that the advertising agency uses in creating a master advertisement.

(2) An advertising agency engaged in business as a retailer shall:

(a) Complete a "Kentucky Tax Registration Application", Revenue Form 10A100, to register with the Department of Revenue for a retail sales and use tax permit; and

(b) Report and pay the applicable sales or use tax utilizing Revenue Form 51A102, "Sales and Use Tax Return".

(3) Taxable receipts from an advertising agency's retail sale of tangible personal property or digital property shall include all charges for services that are a part of the sale of tangible personal property and digital property including charges for:

(a) Inbound freight;

(b) Production supervision; or

(c) Print management that directly relate to the sale of particular tangible personal property.

(4) Gross receipts subject to sales tax shall not include periodic print management fees or other retainer fees not related to the sale of particular tangible personal property or digital property and paid whether or not there is a transfer of tangible personal property or digital property in a given fee period.

(5) An advertising agency may purchase tangible personal property and digital property it sells to or for its clients as a sale for resale without payment of the tax if the advertising agency:

(a) Provides to its suppliers a properly completed:

1.(a) Kentucky "Resale Certificate", (Revenue Form 51A105);

2.(b) Multistate Tax Commission (Uniform Sales and Use Tax Certificate Multijurisdiction);

3.(c) Streamlined Sales and Use Tax Agreement – Certificate of Exemption (Revenue Form 51A260); or

4.(d) Other documentation containing the information required by KRS 139.280; and

(b) Reports and pays the applicable sales or use tax on their sales of the tangible personal property, digital property, and services included in KRS 139.200 utilizing Revenue Form 51A102, "Sales and Use Tax Return".

Section 4. Joint Activities by Advertising Agencies. (1) If an advertising agency contracts with a client to provide both advertising services and the sale of tangible personal property or digital property, receipts subject to tax shall be determined by the following guidelines if provided the charges for the advertising services are clearly delineated from the charges for the tangible personal property or digital property on the customer's invoice.

(a) Any transfer of tangible personal property or digital property

for a consideration, other than the master advertisement and the items described in Subsection 1 of Section 2(1) of this administrative regulation used in the creation of the master advertisement, to a client or a third party on behalf of a client shall be considered a retail sale of tangible personal property or digital property subject to sales tax.

(b) Receipts from agency fees, service charges, or commissions exclusively for advertising services shall not be subject to sales tax, including charges for placing advertisements in print, broadcast, or other media.

(c) The amount separately stated for the tangible personal property or digital property shall not be less than the fair market value of similar property sold in a similar transaction not involving the provision of advertising services.

(2) If an advertising agency contracts with a client to provide both advertising services and the sale of tangible personal property or digital property and does not clearly delineate the charges on the customer's invoice, the total billing amount shall be subject to tax.

Section 5. Forms. The forms listed herein may be inspected, copied, or obtained, subject to applicable copyright law, at:

(1) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40601(40620);

(2) At a Kentucky Taxpayer Service Center during business hours; or

(3) On the department Web site at <http://revenue.ky.gov>.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

**FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(As Amended at ARRS, February 10, 2020)**

103 KAR 27:020. Blueprints and[photostat] copies.

RELATES TO: KRS 139.010, 139.200

STATUTORY AUTHORITY: KRS 131.130(1)(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations for the administration and enforcement of Kentucky tax laws. This administrative regulation interprets the sales and use tax law as it relates to the production of blueprints and other copied documents[To interpret the sales and use tax law as it relates to blueprints and photostat copiers].

Section 1. The sale of copies, stock blueprints, and products of a similar nature constitute a retail sale of tangible personal property or digital property, and the tax shall apply to the total charge for these[such] products. This treatment shall apply regardless of whether the product is produced to the special order of the customer, the product is made from materials furnished by the customer, or the product is made from materials furnished by the retailer[Photostat copiers, producers of blueprints and articles of a similar nature are retailers and the tax applies to the total charge for such products. This rule is applicable when the article is produced to the special order of the customer and when the article is made from materials furnished by the customer].

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

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FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(As Amended at ARRS, February 10, 2020)

103 KAR 27:120. Photographers, photo finishers, and x-ray labs.

RELATES TO: KRS 139.010, 139.260

STATUTORY AUTHORITY: KRS 131.130(1)(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations for the administration and enforcement of Kentucky tax laws. This administrative regulation interprets [To interpret] the sales and use tax law as it applies to photographers, photo finishers, and x-ray laboratories.

Section 1. Photographers. (1) Photographers are primarily engaged in the business of rendering a nontaxable professional service in the taking, development, and printing, and provision of an original photograph. The photographer is thus the consumer of all tangible personal property and digital property used in the performance of his or her professional service, and the tax shall apply at the time of the sale of the property to the photographer. This treatment shall apply to digital photography and print-based photography [the tangible personal property which he uses in the performance of this professional service and the tax will apply at the time of the sale of such material to him].

(2) In making additional prints, however, the photographer is producing and selling tangible personal property, and the tax shall apply [applies] to the selling price of the prints. The tax shall [does] not apply to sales of property [materials] to the photographer which become an ingredient or component part of the prints to be sold pursuant to KRS 139.260.

Section 2. Photo Finishers. (1) The tax shall apply [applies] to charges for printing pictures or making enlargements from negatives furnished by the customer but not to charges for developing the negatives if the [such] charges are separately stated. Tax shall [does] not apply to charges for tinting or coloring pictures furnished to the finisher by the customer.

(2) Tax shall apply [applies] to sales to photo finishers of all tangible personal property and digital property consumed [used] by them in developing negatives, finishing pictures, and coloring or tinting pictures furnished by customers. Property resold to the customer, such as sensitized paper upon which prints are made and frames and mounts sold along with finished pictures, may be purchased by the photo finisher exempt from the tax pursuant to KRS 139.260, except sensitized paper upon which the prints are made, and frames and mounts sold along with the finished pictures].

Section 3. X-Ray Laboratories. (1) Developers [Producers] of x-ray film for the purpose of diagnosis are the consumers of materials and supplies used in the production thereof. The tax shall apply to the sale of these [such] materials and supplies to the laboratories developing x-ray film for the purpose of diagnosis [Thus, the tax applies to the sale of such materials and supplies to laboratories producing x-ray film for the purpose of diagnosis].

(2) The tax treatment described in subsection (1)(1) of this section shall apply if [Whether] the laboratory is a "lay laboratory" or is operated by a physician, surgeon, dentist, or hospital [is immaterial].

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant II, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-9526, fax (502) 564-3875, email Lisa.Swiger@ky.gov.

FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems
(As Amended at ARRS, February 10, 2020)

105 KAR 1:149. Quasi-governmental employer cessation window.

RELATES TO: KRS 18A.205, 18A.225, 61.510 to 61.705, [18A.225, 18A.205,] 26 U.S.C. 401, 402, 403

STATUTORY AUTHORITY: KRS 61.522(9), 61.645(9)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(e) requires the Board of Trustees of Kentucky Retirement Systems to promulgate administrative regulations necessary or proper in order to carry out the provisions of KRS 61.510 to 61.705. KRS 61.522(6) authorizes [permits] certain quasi-governmental employers in the Kentucky Employees Retirement System to cease participation of its nonhazardous employees under the provisions and requirements of KRS 61.522(8). The ceased quasi-governmental employer shall pay the full actuarial cost of benefits accrued by its current and former nonhazardous employees through June 30, 2020, except as provided by KRS 61.522(8)(g)4. KRS 61.522(9) requires the board to promulgate administrative regulations to administer the provisions of the statute. This administrative regulation establishes the temporary procedures and requirements for quasi-governmental employer cessation from participation in the Kentucky Employees Retirement System pursuant to KRS 61.522.

Section 1. Definitions. (1) "Alternative retirement program" means a plan provided by a ceased quasi-governmental employer, which meets the qualification requirements of 26 U.S.C. 401(a) or 26 U.S.C. 403(b), is eligible to receive direct trustee-to-trustee transfers of pre-tax and post-tax contributions, and does [shall] not include a defined benefit plan.

(2) "Ceased employer" means a quasi-governmental employer who, on or after April 1, 2020, but prior to May 1, 2020, submits a resolution to cease participation in Kentucky Employees Retirement System ("KERS"), which is accepted by the board on or before June 30, 2020.

(3) "Employer", for the purposes of this administrative regulation, means a quasi-governmental employer including local and district health departments governed by KRS Chapter 212, state-supported universities and community colleges, the Kentucky Higher Education Student Loan Corporation, and any other agency otherwise eligible to voluntarily cease participating in KERS pursuant to KRS 61.522.

(4) "Employer election" means an election by ceasing employers set forth in the resolution to cease participation in KERS regarding whether nonhazardous employees hired prior to June 30, 2020, who began participating in KERS prior to January 1, 2014, will continue to participate in KERS after June 30, 2020. Nonhazardous employees of employers who do not elect for their employees to continue participating in KERS will not accrue additional service credit or benefits with KERS through the ceased employer after June 30, 2020.

(5) "Nonhazardous employee" means a regular full-time employee participating in KERS in a position other than a position classified as hazardous by the board pursuant to KRS 61.592.

Section 2. (1) An employer may request an estimate of the actuarial cost of ceasing participation in KERS of its nonhazardous employees prior to December 31, 2019. The request shall be made by completing the Form 7726, ["Request for Estimated Cost of Voluntary Cessation from KERS under KRS 61.522(8)."]

(2) Kentucky Retirement Systems (hereafter "Systems") shall provide the estimate of the cost within sixty (60) days of receipt of the Form 7726, however, no estimate shall be required to be provided prior to January 31, 2020.

(3) Systems shall provide the estimate of the cost based on the information currently in its database and projecting the service and creditable compensation of all nonhazardous employees as if they remain employed in a regular full-time position through June 30, 2020.

(4) The estimated actuarial cost of ceasing participation shall not be binding on the Systems.

(5) The employer shall not rely on the estimated actuarial cost of ceasing participation.

(6) Systems shall notify the employer of the administrative cost to process the Form 7726. The administrative cost shall be calculated as follows:

(a) If the number of employees and former employees to be submitted to the actuary for purposes of determining the estimated actuarial cost of cessation equals one (1) to 100 employees, the administrative cost shall be \$1,500.

(b) If the number of employees and former employees to be submitted to the actuary for purposes of determining the estimated actuarial cost of cessation equals 101 or more employees, the administrative cost shall be \$4,000.

(7) Systems shall process the Form 7726 after the employer has remitted its payment for the administrative cost.

Section 3. (1) The governing body of an employer seeking to cease participation in KERS through KRS 61.522(8) shall pass a resolution to cease participation and submit the resolution to the board on or after April 1, 2020, but prior to May 1, 2020.

(2) The resolution shall contain the following statements:

(a) That the employer has decided to voluntarily cease participation in KERS;

(b) The employer election and acknowledgement as to whether nonhazardous employees hired prior to June 30, 2020, who began participating in the Systems prior to January 1, 2014, will, as a result of the employer election, either continue to participate or cease earning service credit and benefits after June 30, 2020;

(c) That the employer acknowledges it is unable to rescind the resolution to cease participation after April 30, 2020;

(d) That the employer acknowledges it is subject to the requirements and restrictions of KRS 61.522 and this administrative regulation;

(e) That the employer acknowledges that in order to cease participation in KERS pursuant to KRS 61.522(8), the employer shall pay the actuarial cost of ceasing participation and all administrative costs associated therewith;

(f) That the employer agrees to cooperate with the Systems to educate its employees about the effect of cessation and the employer election on the employees' retirement accounts and the employees' options regarding their retirement accounts;

(g) That the employer shall not mandate, force, or require its employees to take a refund of their accumulated account balance as defined by KRS 61.510(41), or retaliate against its employees who chose not to take refunds of their accumulated account balance as defined in KRS 61.510(41); and

(h) That the employer shall hold the Commonwealth and the Systems, including board members and employees of the Systems, harmless from damages, attorney's fees and costs from legal claims for any cause of action brought by any member or retired member of the ceasing employer related to the cessation of the employer.

(3) The board shall accept the resolution on or before June 30, 2020, in order for the employer to cease participation.

(4) ~~If in the event that~~ a resolution to cease participation in the KERS is not received by the board prior to May 1, 2020, the employer shall continue to participate in the KERS and pay the full actuarially determined contributions for fiscal years occurring on or after July 1, 2020.

Section 4. (1) An employer shall file a completed Form 7727, ~~Actuarial Study for Quasi-Governmental Employer Cessation~~ with its resolution on or after April 1, 2020, but prior to May 1, 2020, with the executive director of the Systems.

(2) The employer shall submit the following documents with its Form 7727:

(a) Documentation of the alternative retirement program created by or being created by the employer for its employees, such as the determination letter issued by the Internal Revenue Service or a written description of the alternative retirement program;

(b) The employer's most recent five (5) audited financial statements and independent auditor's reports; and

(c) The employer's most recent five (5) Comprehensive Annual Financial Reports, if applicable.

(3) The employer shall submit with its Form 7727, an encrypted electronic file in a format prescribed by the Systems listing each current and former nonhazardous employee, employed in a full-time position as defined by KRS 61.510(21), who was employed during any period the employer participated in KERS, containing:

(a) Full name;

(b) Last known address;

(c) Date of birth;

(d) Social security number or Systems member identification number;

(e) Beginning date of employment;

(f) Date employment ended, if applicable;

(g) Sick leave balance;

(h) Beginning and ending dates of any active duty military service when the employee was not employed by the employer filing the Form 7727, if available; and

(i) Beginning and ending dates of any active duty military service when the employee was employed by the employer filing the Form 7727.

Section 5. (1) The employer shall pay the administrative costs incurred by the Systems for the actuarial study completed in accordance with the Form 7727 to determine the final cost, as well as all other administrative costs incurred for ceasing participation pursuant to KRS 61.522(3)(a).

(2) The employer shall pay \$10,000 as a deposit with the Form 7727.

(3) Systems shall place the deposit in a designated account and shall utilize the funds to pay the administrative costs of processing the employer's Form 7727.

(4) Systems shall charge a reasonable fee for its administrative costs associated with processing of the employer's Form 7727 and send an invoice to the employer upon completion of the actuarial study.

(a) Systems shall apply the deposit received pursuant to subsection (2) of this section to any administrative costs incurred by the Systems attributable to the employer's cessation in accordance with KRS 61.522(8).

(b) Following the application of the deposit to the outstanding administrative costs, Systems shall submit an invoice to the employer for the additional administrative costs and the employer shall pay the invoice for the remaining administrative costs within thirty (30) days of the date of the invoice.

(5) If the total administrative cost is less than the deposit paid by the employer, Systems shall credit the remaining balance of the deposit to the employer.

Section 6. (1) Systems shall ~~attempt~~**make reasonable efforts** to notify each nonhazardous employee identified on the list provided by the ceased employer that the employer is ceasing participation pursuant to KRS 61.522(8).

(2) For those eligible nonhazardous employees, the Systems shall provide notice informing the employee of the right to request an irrevocable refund, pursuant to KRS 61.522(3)(a)5., of their accumulated account balance as defined in KRS 61.510(41) by submitting a completed Form 1500, ~~KRS 61.522 60-Day Transfer Request~~ within sixty (60) days of June 30, 2020 to Kentucky Retirement Systems. The notice shall be sent no later than June 19, 2020.

(a) Systems shall send the notice to the active nonhazardous employees listed by the employer who has filed a Form 7727 on its most recent report required by KRS 61.675 submitted prior to the date the notices are mailed.

(b) The employer shall submit the name and contact information of each nonhazardous employee it hired between the completion of the Form 7727 and before June 30, 2020, within five (5) days of the date the employee begins working for the employer.

(c) A Form 1500 submitted on or before June 30, 2020, shall be void.

(d) A Form 1500 submitted after August 31, 2020, shall be void.

(e) The employee shall be employed by the employer who has filed a Form 7727 on June 30, 2020, to be eligible to request a refund of his accumulated account balance pursuant to KRS 61.522(3)(a)5.

(f) An employee who submitted Form 1500 to the Systems may rescind the form by submitting written notice to the Systems on or before August 31, 2020.

(g) If an employee requests a refund pursuant to KRS 61.522(3)(a)5., the employee's accumulated account balance shall be transferred to the employer's alternative retirement program pursuant to this section even if the employee terminates employment with the employer after June 30, 2020, unless the employee rescinds the Form 1500 on or before August 31, 2020.

(3)(a) The employer shall establish an alternative retirement program on or before August 31, 2020, as provided in KRS 61.522(3)(a)5.

(b) The employer shall submit the final plan documents for its alternative retirement program as well as an affirmative statement that the alternative retirement program does not include a defined benefit plan.

(c) The employer shall submit verification that it has established an alternative retirement program qualified under 26 U.S.C. 401(a) or 26 U.S.C. 403(b) that is eligible to receive direct trustee-to-trustee transfers of pre-tax and post-tax contributions and does not include a defined benefit plan. Systems shall accept one (1) of the following as verification that the employer has established a valid alternative retirement program:

1. A determination letter from the Internal Revenue Service providing that the alternative retirement program established by the employer is a qualified plan pursuant to 26 U.S.C. 401(a) or 26 U.S.C. 403(b) capable of accepting trustee-to-trustee transfers;

2. A letter from the employer's legal counsel certifying that the alternative retirement program satisfies the requirements of 26 U.S.C. 401(a) or 26 U.S.C. 403(b) capable of accepting trustee-to-trustee transfers; or

3. Other reliable verification as determined by the Systems.

(d) Refunds requested pursuant to KRS 61.522(3)(a)5. shall be transferred to the alternative retirement program established by the ceased employer by trustee-to-trustee transfer after August 31, 2020.

1. The alternative retirement program shall accept and separately account for post-tax employee contributions.

2. The ceased employer's legal counsel shall provide written certification that its alternative retirement program shall accept and separately account for post-tax employee contributions.

(e) If the ceased employer fails to establish an alternative retirement program pursuant to paragraph (a) of this subsection, the refund requests pursuant to KRS 61.522(3)(a)5. shall be void. The employees who filed the refund requests pursuant to KRS 61.522(3)(a)5. shall remain members of the system and shall be included in the full actuarial cost.

(4) Former employees of the ceased employer who are currently participating in the State Police Retirement System, County Employees Retirement System, or Kentucky Employees Retirement System, due to employment with a participating agency, shall not be eligible to take a refund of their accumulated account balance until terminating employment with the current participating employer.

(5) Current employees of the ceased employer who are also employed by another employer participating in the State Police Retirement System, County Employees Retirement System, or Kentucky Employees Retirement System shall not be eligible to take a refund of their accumulated account balance until terminating employment with the participating employer.

(6) Current employees of the ceased employer on June 30, 2020, may request a refund pursuant to KRS 61.522(3)(a)5.

(7)(a) Former employees of the ceased employer who are not participating in State Police Retirement System, County Employees Retirement System, or Kentucky Employees Retirement System shall not be eligible to take a refund of their accumulated account balance pursuant to KRS 61.522(3)(a)5.

(b) The account balance of former employees of the ceased employer who are not participating in State Police Retirement System, County Employees Retirement System, or Kentucky Employees Retirement System, but who were employed with the ceased employer on June 30, 2020, and who submitted a valid Form 1500 pursuant to this section, shall be transferred to the employer's alternative retirement program unless the employee rescinds the Form 1500 on or before August 31, 2020.

(8) The four (4) percent employer pay credit and applicable interest accrued shall vest as of June 30, 2020, for those nonhazardous employees who began participating on or after January 1, 2014, and who request a refund pursuant to KRS 61.522(3)(a)5.

Section 7. (1)(a) The employer shall continue to file reports and remit employer contributions on all employees in accordance with KRS 61.675 and 105 KAR 1:140 for creditable compensation paid through June 30, 2020.

(b) If the employer elects for nonhazardous employees to continue participation through the employer election, the employer shall continue to file reports in accordance with KRS 61.675 and 105 KAR 1:140. In addition, the employer shall continue to report all applicable pick up installments for pre-tax service purchases pursuant to KRS 61.552(14)(c). However, pursuant to KRS 61.522(8)(d)2., the employer shall not remit employer contributions for nonhazardous employees after June 30, 2020, as those amounts are factored into the cost calculation established by KRS 61.522(7).

(c) The employer shall continue to remit employer contributions for all hazardous employees.

(2)(a) If a member who is an employee of a ceased employer files for disability retirement benefits but does not establish a last day of paid employment prior to June 30, 2020, and does not continue participation, the Systems shall use June 30, 2020, as the member's last day of paid employment.

(b) If a member who is an employee of a ceased employer continues participation because of the employer election and files for disability retirement benefits, the member's last day of paid employment shall be established pursuant to KRS 61.510(32).

(3)(a) The ceased employer shall continue to pick-up payments for installment purchase of service for any employee who is purchasing service pursuant to KRS 61.552(14) and 105 KAR 1:150 through June 30, 2020.

(b) An employee that ceases participation in KERS on June 30, 2020, shall have sixty (60) days from the date of cessation to pay in full any outstanding balance on the installment purchase agreement pursuant to KRS 61.552(14) and 105 KAR 1:150.

Section 8. (1) Employees of a ceased employer shall comply with the provisions of KRS 61.590, 61.625 and 61.637.

(2) Employees of a ceased employer shall terminate employment with all participating employers of the State Police Retirement System, County Employees Retirement System, Kentucky Employees Retirement System and the ceased employer prior to retiring pursuant to KRS 61.590 or taking a refund pursuant to KRS 61.625.

(3)(a) Employees of a ceased employer shall comply with KRS 61.637 and 105 KAR 1:390 after retirement.

(b) The ceased employer shall certify that the employee seeking to retire or take a refund is terminating employment or has terminated employment with no prearranged agreement to return to work for the ceased employer.

Section 9. (1) Employees shall receive service credit for sick leave accrued pursuant to KRS 61.546 as of June 30, 2020.

(a) If the ceased employer participates in a sick leave program established in KRS 61.546 the employer shall report to the Systems the number of hours of each employee's accumulated sick leave as of June 30, 2020.

(b) Systems shall credit the months of sick leave service reported pursuant to this section to the employee's total service credit to determine the ceased employer's actuarial cost.

(c) If the ceased employer elects that nonhazardous

employees hired prior to June 30, 2020, who began participating in the Systems prior to January 1, 2014, will continue participation pursuant to KRS 61.522(8)(d), then those employees shall continue to receive service credit for sick leave accrued pursuant to KRS 61.546 after June 30, 2020, while participating through the ceased employer.

(2)(a) Systems shall credit the months of military service pursuant to KRS 61.555 prior to June 30, 2020, and include the months in the calculation of the ceased employer's actuarial cost.

(b) If the ceased employer elects that nonhazardous employees hired prior to June 30, 2020, who began participating in the Systems prior to January 1, 2014, will continue participation pursuant to KRS 61.522(8)(d), then those employees shall continue to be able to obtain military service pursuant to KRS 61.555 if otherwise eligible.

Section 10. (1) The ceased employer shall pay or otherwise resolve all its invoices and correct all reporting in accordance with KRS 61.675 and 105 KAR 1:140 by July 25, 2020.

(2)(a) Systems shall provide the ceased employer with the amount of the full actuarial cost by sending a notice of actuarial cost and the report of the actuary to the employer.

(b) Systems shall provide the ceased employer with the payment amounts required if the ceased employer elects to pay the actuarial cost in installment payments.

(3)(a) The ceased employer shall elect on the Form 7728, ~~[""]~~Payment Election for Quasi-Governmental Employer Cessation~~[""]~~ whether to pay the actuarial cost of cessation by lump-sum payment or in installment payments not to exceed thirty (30) years from June 30, 2020.

(b) The Form 7728 shall be received in the retirement office on or before thirty (30) days after the date on which the Systems mailed the notice of actuarial cost and the report of the actuary to the ceased employer.

(c) A ceased employer intending to pay the full actuarial cost by lump-sum shall submit with the Form 7728 documentation of the source of the funds the employer intends to use to pay the full actuarial cost.

(d) A ceased employer intending to pay the actuarial cost by installment payment plan shall submit with the Form 7728 documentation of:

1. Source of funds to pay the installment payments;
2. List of real property owned by the ceased employer, including deeds of conveyance, title, all liens or encumbrances on the real property, and any current written contractual lease or rental agreement of the real property identified;
3. List of liabilities of the ceased employer; and
4. Inventory of all personal property owned by the ceased employer or in which the employer has an interest that may be used as collateral by the employer, including chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letters of credit rights, and money.

(4)(a) Ceased employers who elect to pay the full actuarial cost by lump-sum shall make the payment by June 30, 2021, pursuant to KRS 61.522(3)(a)7.

(b) If the lump-sum payment is not received by the Systems at the retirement office on or before June 30, 2021, then the ceased employer shall make installment payments and the payment amount shall be recalculated based upon this adjustment with interest added for fiscal year 2021-2022. The ceased employer shall also remit all outstanding installment payments.

(c) Systems shall notify any ceased employer who has not submitted the lump-sum payment on June 21, 2021, of the impending deadline and the consequences of failing to timely pay.

(5)(a) If the ceased employer elects to pay the actuarial cost of cessation in installment payments, the cost shall be financed by the Systems pursuant to KRS 61.522(8)(g).

(b) If the ceased employer elects for nonhazardous employees who began participating in the Systems prior to January 1, 2014, to continue participating in KERS, and the employer is not projected to pay the full actuarial cost in thirty (30) years, then the Systems shall adjust the payments so that the full actuarial costs are paid at the end of the thirty (30) year period.

(c) If the ceased employer elects for nonhazardous employees who began participating in the Systems prior to January 1, 2014 to cease participating in KERS, and the employer is not projected to pay the full actuarial cost in thirty (30) years, then the employer shall pay the amount financed through the Systems pursuant to KRS 61.522(8)(g)1. and no adjustments shall be made to the monthly payments nor shall additional amounts be charged after the thirty (30) year period.

(6)(a) Interest shall be assigned to the principal amount annually for both lump-sum and installment payment plans beginning on July 1, 2020. A ceased employer who elects to pay the actuarial cost by installments may at any time submit payments towards the remaining balance.

(b) If the employer elects to pay the costs in installment payments, the annual payments beginning on or after July 1, 2020, including interest will be calculated as a set dollar value and then divided into monthly installments.

(c) If the ceased employer submits more than the required payments for a fiscal year, the total cost will be reduced but the monthly installment amounts will remain unchanged because the monthly amounts are based upon the set dollar value of the annual payments. Pursuant to KRS 61.522(8)(g), interest amounts are separate from total cost and interest and interest attributable to the actuarial cost will not be calculated until the cost is finalized. However, any early or additional payments may reduce the number of payments required if the full actuarial cost is paid in less than thirty (30) years from June 30, 2020.

(7) Payments made prior to the notice of full actuarial cost shall be credited to the amount and considered early or additional payments pursuant to subsection (6)(c) of this section.

Section 11. (1)(a) If a ceased employer elects to make installment payments, the Systems shall submit invoices to the employer for payments owed, which are not paid through the normal monthly reports.

(b) The employer shall remit payment to the Systems by the due date provided on the invoice.

(2)(a) If a ceased employer that elected to make installment payments is delinquent for ninety (90) days or more from the due date of an outstanding invoice, and the ceased employer elected for nonhazardous employees with participation dates prior to January 1, 2014, to continue participating, then the participation of those employees in KERS through the ceasing employer will be suspended until the ceased employer has remitted the required payments. The employees shall not earn service credit, including service credit purchased pursuant to KRS 61.552, or benefits in KERS through the ceased employer during the suspension period.

(b) Any employee contributions provided to the Systems will be held until the ceased employer remits the required payments.

(3) Systems shall notify the Finance and Administration Cabinet of any ceased employer that is delinquent for ninety (90) days or more in making installment payments pursuant to KRS 61.675(4)(c).

(4) Systems may file an action in Franklin Circuit Court to collect delinquent installment payments and attach general fund appropriations in order to satisfy the payments owed.

Section 12. (1)(a) Current and former employees of the ceased employer shall not be eligible to purchase service credit pursuant to KRS 61.552 after June 30, 2020, unless the current employee has continued participation in KERS because of the employer election.

(b) A current employee of a ceased employer continuing participation in KERS because of the employer election may purchase service credit pursuant to KRS 61.552 even if that service is related to employment with the ceased employer.

(2) Former employees shall not be eligible to purchase service credit related to employment with a ceased employer, pursuant to KRS 61.552 after June 30, 2020.

(3) A person eligible to purchase service credit pursuant to KRS 61.552 related to employment with the ceased employer, shall/must either complete the purchase or enter into a service purchase agreement with the Systems no later than June 30, 2020

unless the individual is a current employee of the ceased employer who has continued participation in KERS because of the employer election.

(4) A person may purchase service credit pursuant to KRS 61.552(20) if the service is not related to employment with the ceased employer, unless the person is a current employee that has continued participation in KERS because of the employer election.

(5) A former employee of a ceased employer who becomes employed with a participating employer after terminating employment with the ceased employer may purchase service credit pursuant to KRS 61.552 that is not related to employment with a ceased employer.

Section 13. If any due date in this administrative regulation or if an installment payment falls on a Saturday, Sunday, or day that the Systems is closed due to state holiday, the due date or time period deadline shall extend to the close of business of the next business day.

Section 14. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form 7726, "Request for Estimated Cost of Voluntary Cessation from KERS under KRS 61.522(8)," August 2019;

(b) Form 7727, "Actuarial Study for Quasi-Governmental Employer Cessation", November 2019;

(c) Form 1500, "KRS 61.522 60-Day Transfer Request", November 2019; and

(d) Form 7728, "Payment Election for Quasi-Governmental Employer Cessation", November 2019.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CONTACT PERSON: Mark C. Blackwell, Executive Director Office of Legal Services, Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 696-8800 ext. 8645, fax (502) 696-8801, email Legal.Non-Advocacy@kyret.ky.gov.

FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems
(As Amended at ARRS, February 10, 2020)

105 KAR 1:250. Participation of county attorney employees.

RELATES TO: KRS 61.685, 78.5302

STATUTORY AUTHORITY: KRS 61.645

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(e) requires the board to promulgate administrative regulations necessary or proper to carry out the provisions of KRS 78.510 to 78.852. This administrative regulation sets out the procedures for determining membership in either the Kentucky Employees Retirement System or County Employees Retirement System for each employee of a county attorney who is paid from [the county attorney's delinquent tax fees, federal or state grant funds received for collection of child support or] any [other] source of funds outside the control of the fiscal court, urban-county government, or Prosecutors Advisory Council.

Section 1. Submission of Form by County Attorney. For each employee paid in whole or in part from any [delinquent tax fees, federal or state grant funds received for collection of child support or other] funds outside the control of the fiscal court, urban-county government, or Prosecutors Advisory Council, the county attorney shall complete and submit a Form 2110, Retirement System Determination – County Attorney Employees [Employee]. [Form 110, Retirement System Membership Determination, dated August 1992,] to the retirement office. The county attorney shall submit the form on or before the date the first contributions are reported on each employee or prior

to the employee assuming the new job function and duties, which causes the employee's participation in a retirement system to change between the County Employees Retirement System and Kentucky Employees Retirement System.

Section 2. Procedures for Determining Membership. The county attorney shall determine the system in which each employee shall participate based on the following:

(1) For an employee [currently] participating in the County Employees Retirement System or Kentucky Employees Retirement System, the county attorney shall continue to make the required contributions for [the supplementary wages] creditable compensation paid to the employee, in whole or in part, from any funds outside the control of the fiscal court, urban-county government, or Prosecutors Advisory Council, to the system in which the employee is participating unless the employee experiences a modification in job function such that the employee's duties are more appropriately related to participation in a different system pursuant to KRS 78.5302(2).

(2) ~~The [For employees not currently participating in a retirement system, the] employee shall participate in the Kentucky Employees Retirement System if a majority of the employee's job function [time] is related to the [spent in performing] prosecutorial duties of the county attorney's office. The employee shall participate in the County Employees Retirement System if a majority of the employee's job function [time] is related to the [spent performing] civil legal representation of the fiscal court and other county officials, the employee shall participate in the County Employees Retirement System].~~

(3) For those employees whose time is spent performing duties related to child support collection cases, whether criminal or civil, the employee shall participate in the retirement system that [which] the county attorney has selected for child support enforcement employees consistent with the funding and operational methods of the county attorney's office.

(4) For purposes of this section, prosecutorial duties shall include duties and functions related to the prosecution of criminal cases in the district or circuit courts of the Commonwealth. Civil legal representation shall include duties and functions related to the representation of the fiscal court, its officers or employees, or other elected county officers in any civil or administrative proceeding in state or federal courts and administrative agencies.

Section 3. Audit of County Attorney's Determination. (1) Pursuant to KRS 61.685, Kentucky Retirement Systems may, at any time, conduct an audit of a county attorney's determination regarding employee participation in the Kentucky Employees Retirement System or the County Employees Retirement System to verify compliance with KRS 78.5302.

(2) Upon request, the county attorney shall provide Kentucky Retirement Systems with information regarding an employee's job duties, funding source for the employee's position, and respond to inquiries from the Systems to confirm the employee's correct system participation. [

~~Section 3. Once the county attorney has determined the system in which an employee shall participate, the employee shall participate in the designated system as long as he remains an employee of the county attorney regardless of any change in the employee's duties or responsibilities.]~~

Section 4. Incorporation by Reference. (1) "Form 2110, Retirement System Determination – County Attorney Employees", March 2018, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [

Section 4. The form required by this administrative regulation is incorporated by reference and may be obtained from the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through

Friday.]

CONTACT PERSON: Mark C. Blackwell, Executive Director
Office of Legal Services, Kentucky Retirement Systems, 1260
Louisville Road, Frankfort, Kentucky 40601, phone (502) 696-8800
ext. 8645, fax (502) 696-8801, email Legal.Non-
Advocacy@kyret.ky.gov.

**FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems
(As Amended at ARRS, February 10, 2020)**

105 KAR 1:445. Electronic ballots in Trustee elections.

RELATES TO: KRS 61.645

STATUTORY AUTHORITY: KRS 61.645(4)(j), ~~[61.645](9)(e)~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(e) requires the Board of Trustees of Kentucky Retirement Systems to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS ~~16.505 to 16.652~~, 61.510 to 61.705, ~~16.505 to 16.652~~, and 78.510 to 78.852 and to conform to federal statutes and regulations. KRS 61.645(4)(j) ~~[specifically]~~ authorizes Kentucky Retirement Systems to promulgate an administrative regulation to implement the use of electronic ballots in the trustee election process ~~and requires[while still permitting]~~ paper ballots ~~to be mailed~~ upon request ~~of any eligible voter~~. This administrative regulation establishes the procedures and requirements for casting electronic and paper ballots, ~~and[as well as]~~ the tabulation of the ballots ~~[.]~~ for trustee elections.

Section 1. Definitions. (1) "Ballot" means a voting instrument, either electronic or paper, that ~~includes[shall include]~~ the candidate's:

- (a) Name;
- (b) Recent photograph;
- (c) City and county of residence;
- (d) Employing agency and position title, or the employing agency from which the candidate last worked or retired and the position title of the last position held;
- (e) Education including schools ~~and[and/or]~~ universities attended and degrees earned;
- (f) Whether or not the candidate has been convicted of a felony;
- (g) Any professional licenses or certifications held by the ~~candidate[candidates]~~;
- (h) Any organization of which the candidate is a member that is listed on the candidate's application; and
- (i) The ~~Web site[website]~~ address where each candidate's application filed by the candidate and the candidate's resume ~~is[shall be]~~ available for viewing.

(2) "Candidate" means:

- ~~(a)1.~~ A participating employee;
- ~~2.[.]~~ Former employee whose membership has not been terminated under KRS 61.535; ~~[.]~~ or
- ~~3.~~ A retired member, who meets the requirements of KRS 61.645(6); ~~[.]~~ and

~~(b)~~ Is one (1) of not more than three (3) nominees from the Board of Trustees for each vacant position, nominated by petition by the membership of the system for which the vote is being taken, or who is written-in on a valid ballot.

(3) "Eligible voter" means any person who was a member or retired member of the retirement system for which the vote is being taken on or before December 31 of the year preceding the election year and who has provided Kentucky Retirement Systems ("Systems") with a valid email address or, if a paper ballot is requested pursuant to KRS 61.645(4)(j), a valid physical address.

(4) "Term of Office" means the period of membership on the Board of Trustees, which ~~begins[shall begin]~~ on April 1 of the year elected or appointed and ~~ends[shall end]~~ on March 31 four (4) years thereafter.

(5) "Valid Ballot" means a ballot either emailed or mailed by an

eligible voter that has properly designated the voter's choice of eligible candidate or candidates for the number of vacancies being filled. ~~[If an electronic ballot, the ballot must be cast on or before March 1. If a paper ballot, the ballot must be postmarked to the required address on or before March 1. Any ballot that does not meet this standard shall be invalid and not accepted. Moreover, each eligible voter shall only submit one (1) ballot and any subsequent ballot received will be invalid.]~~

Section 2. **Paper Ballot Request.** (1) Between November 1 and November 30 of the year preceding the expiration of the term of office and the trustee election, an eligible voter may request a paper ballot through Member ~~or[and/or]~~ Retiree Self-Service. The Systems shall notify the eligible voter that an electronic ballot will be provided unless a paper ballot is requested during the requisite time. The Systems shall request that the eligible voter verify the email address attached to ~~his or her[their]~~ account.

(2) An eligible voter may also submit a written request for a paper ballot if received on or before November 30 of the year preceding the expiration of the term of office and the trustee election. Once an eligible voter elects to receive a paper ballot, the voter shall receive paper ballots for all subsequent elections unless the voter requests to vote electronically. A request to modify the type of ballot shall be received on or before November 30 of the year preceding the expiration of the term of office and the trustee election in order to be effective for the upcoming election.

Section 3. **Ballot Preparation.** (1) The Systems shall prepare the official ballot no later than three (3) months prior to the expiration of the term of office. The ballot, whether electronic or paper, shall contain instructions defining what constitutes a valid ballot. The Systems shall notify the eligible voter on the ballot that any invalid ballot shall not be counted.

(2) For both electronic and paper ballots, the eligible voter shall check a square opposite of the candidate of ~~his or her[their]~~ choice pursuant to KRS 61.645(4)(f), or write-in the name of an eligible member, for each position to be elected.

Section 4. **Delivery of Ballots.** (1)(a) Electronic ballots shall be emailed to the eligible voter on or before January 20 of the year of the expiration of the term of office and the trustee election.

(b) The Systems shall use the email address on file on or before December 31 of the year preceding the expiration of the term of office and the trustee election. If the eligible voter does not have an email address on file or the Systems receives notification that the email address is invalid so that the electronic ballot cannot be sent, the Systems shall mail a paper ballot to the mailing address on file with the Systems. If the Systems receives a returned paper ballot with notification of a new mailing address from the United States Postal Service, the ballot will be sent to the new address ~~if[as long as]~~ the notification is received on or before one (1) week prior to the date the vote ~~shall[must]~~ be cast.

(c) The Systems shall be held harmless for any incorrect email address submitted by the member or inadvertently entered by the Systems.

(2)(a) Paper ballots shall be mailed to the eligible voter on or before January 20 of the year of the expiration of the term of office and the trustee election.

(b) The Systems shall use the mailing address on file with the Systems on or before December 31 of the year preceding the expiration of the term of office and the trustee election. If the Systems receives a returned paper ballot with notification of a new mailing address from the United States Postal Service, the ballot will be sent to the new address ~~if[as long as]~~ the notification is received on or before one (1) week prior to the date the vote ~~shall[must]~~ be cast.

(c) The Systems shall be held harmless for any incorrect mailing address submitted by the member or inadvertently entered by the Systems.

Section 5. **Casting of Ballots.** (1) ~~If an electronic ballot, the ballot shall be cast on or before March 1.~~

~~(2) If a paper ballot, the ballot shall be postmarked to the~~

required address on or before March 1.

(3) Any ballot that does not meet this standard as established in subsection (1) or (2) of this Section shall be invalid and not accepted.

(4) Each eligible voter shall only submit one (1) ballot and any subsequent ballot received will be invalid.

Section 6. Review of Ballots. (1) The ballots shall be submitted to the board's contracted auditing firm. Access to the ballots shall be limited to the contracted auditing firm. The contracted auditor shall review each ballot to ascertain whether it is a valid ballot.

(2) Ballots returned to the Systems for faulty addresses, or ballots that are incorrectly returned or mailed to the street address of the Systems, shall be invalid. All invalid ballots shall remain unopened and returned to the board's contracted auditor. Once the final results are announced, the invalid ballots shall be shredded by the board's contracted auditing firm and a certificate shall be provided to the Systems confirming the shredding of the invalid ballots.

Section 7[6]. Tabulation of Ballots. (1) After totaling the votes cast, the board's contracted auditing firm shall certify the results of the election in writing to the Chair of the Board of Trustees in care of the Executive Director. The certified results shall be received at the retirement office on or before March 15.

(2) Once all electronic and paper ballots have been counted and the election is final, the contracted auditing firm shall destroy all ballots, including data generated and stored from electronic ballots, and provide a certificate confirming the destruction of the ballots to the Systems.

Section 8[7]. Term of Office. Candidates elected by a plurality of the votes cast by eligible voters shall begin their term of office on April 1.

Section 9[8]. Deadlines. If any due date in this administrative regulation falls on a Saturday, Sunday, or day that the Systems is closed due to state holiday, the due date or time period deadline shall extend to the close of business of the next business day.

CONTACT PERSON: Mark C. Blackwell, Executive Director
Office of Legal Services, Kentucky Retirement Systems, 1260
Louisville Road, Frankfort, Kentucky 40601, phone (502) 696-8800
ext. 5501, fax (502) 696-8801, email Legal.Non-
Advocacy@kyret.ky.gov.

**TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, February 10, 2020)**

301 KAR 2:251. Hunting and trapping seasons and limits for furbearers.

RELATES TO: KRS 150.170, 150.180, 150.370, 150.399, 150.415, 150.416, 150.990, 150.995

STATUTORY AUTHORITY: KRS 150.025(1), 150.175(7), (9), 150.360, 150.400, 150.410

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.175(7), (9) authorizes the department to issue licenses, permits, and tags for hunting and trapping. KRS 150.360 requires restrictions on the taking of wildlife and authorizes the department to promulgate administrative regulations establishing the requirements for hunting coyotes at night. KRS 150.400 authorizes the department to establish the types of traps that can legally be used by trappers. KRS 150.410 authorizes the department to regulate trap tags, trap visitation, and trap placement to protect domestic animals. This administrative regulation establishes seasons, bag limits, legal

methods of take, and checking and recording requirements for hunting and trapping furbearers.

Section 1. Definitions. (1) "Body-gripping trap" means a commercially manufactured spring-loaded trap designed to kill an animal upon capture.

(2) "Dry land set" means a trap that is placed[set] so that no portion of the trap touches the water of a river, stream, pond, lake, wetland, or other water course.

(3) "Foothold trap" means a commercially manufactured spring-loaded trap with smooth, metallic or rubber soft-catch jaws that close upon an animal's foot.

(4) "Furbearer" means mink, muskrat, beaver, raccoon, opossum, gray fox, red fox, least weasel, long-tailed weasel, river otter, bobcat, coyote, or striped skunk.

(5) "Hunter" means a person legally taking furbearers by means other than trapping.

(6) "Otter Zone 1" means the following counties: Anderson, Ballard, Bath, Boone, Bourbon, Bracken, Breckinridge, Bullitt, Caldwell, Calloway, Campbell, Carlisle, Carroll, Christian, Crittenden, Daviess, Fayette, Fleming, Franklin, Fulton, Gallatin, Grant, Graves, Grayson, Hancock, Hardin, Harrison, Henderson, Henry, Hickman, Hopkins, Jefferson, Kenton, Larue, Livingston, Lyon, Marshall, Mason, McCracken, McLean, Meade, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Pendleton, Robertson, Rowan, Scott, Shelby, Spencer, Trigg, Trimble, Union, Webster, and Woodford.

(7) "Otter Zone 2" means all Kentucky counties not included in subsection (6) of this section.

(8) "Snare" means a wire, cable, or string with a knot, loop, or a single piece closing device, the deployment of which is or is not spring-assisted, but any spring-assisted device is not for the purpose of applying tension to the closing device.

(9) "Squaller" means a hand-operated, mouth-operated, or electronic call capable of mimicking the vocalizations of furbearers.

(10) "Trap" means a body-gripping trap, box trap, deadfall, foothold trap, snare, or wire cage trap used to catch furbearers, in the set or unset position.

(11) "Water set" means a trap placed[set] in the water of a river, stream, pond, lake, wetland, or other water course so that a portion of the trap body is underwater.

(12) "Youth" means a person under the age of sixteen (16) by the date of the hunt or the trapping date.

Section 2. License Requirements. Unless exempted by KRS 150.170, a person shall carry on his or her person[proof of purchase of] a:

- (1) Valid hunting license while hunting furbearers; or
- (2) Valid trapping license while trapping furbearers.

Section 3. Furbearer Hunting Seasons. Except as established in 301 KAR 2:049, a person shall only take furbearers by hunting during the seasons established in subsections (1) through (5) of this section:

(1) Bobcat, from one-half (1/2) hour before sunrise on the fourth Saturday in November through the last day of February;

(2) Coyote, year-round;

(3) Raccoon and opossum, October 1 through the last day of February;

(4) All other furbearers except as established in subsection (5) of this section, from one-half (1/2) hour before sunrise on the third day of modern gun deer season through the last day of February; and

(5) Furbearers taken by falconry, September 1 through March 30.

Section 4. Furbearer Trapping Season. Except as established in 301 KAR 2:049, a person shall only take furbearers by trapping from one-half (1/2) hour before sunrise on the third day of the modern gun deer season through the last day of February.

Section 5. License-Exempt Youth Season. For seven (7) consecutive days beginning on the Saturday after Christmas, a

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youth may hunt or trap furbearers without a license, but all other statewide requirements shall apply.

Section 6. Legal Hunting Weapons. Except as established in Section 7(8) of this administrative regulation, a hunter shall only use the weapons established in subsections (1) through (7) of this section to hunt furbearers:

- (1) Centerfire gun;
- (2) Rimfire gun;
- (3) Shotgun;
- (4) Muzzleloader;
- (5) Bow and arrow;
- (6) Crossbow; or
- (7) An air gun using pellets at least .22 caliber in size.

Section 7. Hunter Restrictions. (1) Furbearers may be taken during daylight hours only, except for the following, which may also be taken after daylight hours:

- (a) Coyote;
- (b) Opossum; or
- (c) Raccoon.

(2) A person shall not take a raccoon or opossum during daylight hours during the modern gun deer season, as established in 301 KAR 2:172.

(3) A person hunting from a boat shall not use a light in conjunction with taking a raccoon or opossum.

(4) A person shall not use the following while chasing a raccoon or opossum from noon on March 1 through September 30;

- (a) A firearm;
- (b) Slingshot;
- (c) Tree climber; or

(d) Any device to kill, injure, or force a raccoon or opossum from a tree or den.

(5) A person may use a squaller year-round.

(6) There shall not be a closed season on:

(a) Chasing red and gray foxes during daylight hours for sport and not to kill; or

(b) Chasing raccoons or opossums for sport and not to kill.

(7) A hunter may use a hand or mouth-operated call, electronic call, or any other attracting device during a furbearer hunting season.

(8) A person may take a coyote after daylight hours, except that:

(a) It shall not be allowed in a county or area where a deer or elk firearm season is open;

(b) A person shall not use artificial light or other means designed to make wildlife visible at night from June 1 through November 30[January 31];

(c)[(b)] Any artificial light or other means designed to make wildlife visible at night shall not be connected to or cast from a mechanized vehicle;

(d)[(e)] A person shall not use any weapon other than a shotgun on public land;[and]

(e)[(d)] A person shall not use any weapon other than a shotgun or rifle of 6.5mm Creedmoor[.243] caliber or smaller on private land from December 1 through March 31;~~[a shell with a single projectile]~~

(f) A person using a shotgun shall not use a shell with a single projectile;~~and~~

(g) Hunters shall not hunt on private land without carrying written permission from the landowner from December 1 through March 31.

Section 8. Legal Traps. (1) A person who is trapping with a dry land set shall only use traps as established in paragraphs (a) through (e) of this subsection:

- (a) Deadfall;
- (b) Wire cage or box trap;
- (c) Foothold trap with a maximum inside jaw spread of six (6) inches measured perpendicular to the hinges;
- (d) A snare; or
- (e) Except as established in 301 KAR 2:049, a body-gripping trap with a maximum inside jaw spread of seven and one-half (7

1/2) inches measured parallel with the trigger:

1. In the center of the trap; and
2. In the unset position.

(2) There shall be no restrictions on the size or type of trap used as a water set, except that any body-gripping trap greater than twenty (20) inches in width shall be set so that the trap is completely submerged underwater.

Section 9. Trapper Restrictions. (1) A person trapping on private land shall not place traps used as dry land sets any closer than ten (10) feet apart unless possessing written permission from the landowner or the landowner's designee, except that there shall not be more than three (3) traps placed[set] within any ten (10) foot spacing.

(2) The trap spacing requirement established in subsection (1) of this section shall not apply to:

- (a) Box or cage live traps; or
- (b) Properties of five (5) acres or less.

(3) A trap shall not be set in a trail or path commonly used by a human or a domestic animal.

(4) A trapper may use lights from a boat or a vehicle in conjunction with trapping furbearers.

Section 10. Trap Tags. (1) Each trap shall have a metal tag attached to it that clearly shows:

(a) The name and address of the person setting, using, or maintaining the trap; or

(b) A wildlife identification number issued by the department and the 1-800-25ALERT department hotline phone number.

(2) A person applying for a wildlife identification number shall apply by:

(a) Completing the Wildlife Identification Number for Trap Tags – Application available on the department's Web site at fw.ky.gov; or

(b) Calling the department's information center at 1-800-858-1549.

(3) The following information shall be required for a person to apply for a wildlife identification number:

- (a) Name;
- (b) Current home address;
- (c) Social Security number;
- (d) Current phone number;
- (e) Date of birth; and
- (f) Driver's license number, if available.

(4) A person shall:

(a) Not use a trap tag that has an inaccurate or outdated address;

(b) Not use a trap tag that has a wildlife identification number that corresponds to an inaccurate or outdated address or phone number; and

(c) Contact the department to provide updated address and phone number.

(5) A wildlife identification number shall be valid for the life of the holder.

Section 11. Bag Limits. (1) There shall not be a bag limit on furbearers, except as established in subsections (2) through (6) of this section.

(2) A person shall not take more than five (5) bobcats per season, no more than three (3) of which shall be taken with a gun.

(3) A person shall not take more than ten (10) river otters per season in Otter Zone 1.

(4) A person shall not take more than six (6) river otters per season in Otter Zone 2.

(5) The total river otter bag limit per season shall be ten (10) per person, only six (6) of which can be taken from Otter Zone 2.

(6) A falconer hunting within the falconry season, but outside the dates specified in Section 3(3) and (4) of this administrative regulation, shall not take more than two (2) of any furbearer per day.

Section 12. Harvest Recording. (1) Immediately after harvesting a river otter or bobcat, and prior to moving the carcass,

a person shall record in writing the:

- (a) Species;
 - (b) Date;
 - (c) County where taken; and
 - (d) Sex of the river otter or bobcat.
- (2) The information required by subsection (1)(a) through (d) of this section shall be documented on:

- (a) The hunter's log section on the reverse side of a license or permit;
 - (b) A hunter's log printed from the department's Web site at fw.ky.gov;
 - (c) A hunter's log available from any KDSS agent; or
 - (d) An index card or similar card.
- (3) A person shall retain and possess the completed hunter's log while hunting or trapping during the current season.

Section 13. Checking a River Otter or Bobcat. (1) A person who harvests a river otter or bobcat shall check each animal by:

- (a) Completing the telecheck process after calling 800-245-4263 or completing the check-in process on the department's Web site at fw.ky.gov:

- 1. Before midnight on the day the river otter or bobcat is recovered;
- 2. Prior to processing the carcass; and
- 3. Prior to transporting the raw fur, pelt, or unskinned carcass out of Kentucky; and

- (b) Writing the check-in confirmation number on the hunter's log as established in this section ~~[13 of this administrative regulation]~~.

(2) A person who intends to sell the raw fur of a river otter or bobcat to a licensed fur processor, fur buyer, or taxidermist or wishing to export a river otter or bobcat pelt outside the United States shall:

- (a) Contact the department and request a Convention on International Trade of Endangered Species of Flora and Fauna (CITES) tag by providing:

- 1. A valid check-in confirmation number as established in subsection (1) of this section; and
- 2. A street address where the tag is to be mailed; or
- (b) Complete the CITES tag request form on the department's Web site at fw.ky.gov.

(3) A person who is transferring a river otter or bobcat that does not have an attached CITES tag shall attach to the carcass a handmade tag that contains the:

- (a) Confirmation number;
- (b) Hunter or trapper's name; and
- (c) Hunter or trapper's phone number.

(4) A person shall not knowingly provide false information when:

- (a) Completing the hunter's log;
 - (b) Checking a river otter or bobcat;
 - (c) Completing a CITES tag request form; or
 - (d) Creating a handmade carcass tag.
- (5) A CITES tag shall be attached to the raw fur, pelt, or unskinned carcass upon receipt of the tag from the department per the instructions provided by the department and remain attached until it is processed or exported outside the United States.
- (6) Possession of an unused CITES tag issued by the department shall be prohibited.

Section 14. Transporting and Processing a River Otter or Bobcat. (1) A person shall not sell the raw fur of a river otter or bobcat except to a licensed:

- (a) Fur buyer;
 - (b) Fur processor; or
 - (c) Taxidermist.
- (2) A taxidermist, fur buyer, or fur processor shall:

(a) Not accept a river otter or bobcat carcass or any part thereof without a proper carcass tag or CITES tag as established in Section ~~13~~14 of this administrative regulation; and

(b) Retain the information established in subparagraphs 1. through 4. of this paragraph from a hunter or trapper:

- 1. Name;

- 2. Address;
- 3. Confirmation number or CITES tag number; and
- 4. Date received for each river otter or bobcat.

Section 15. Incorporation by Reference. (1) The following material is incorporated by reference:

- (a) "Wildlife Identification Number for Trap Tags – Application", 2014 edition; and

- (b) "CITES Tag Request" form, 2014 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. Eastern time.

CONTACT PERSON: Jessica Tyler, 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.

ENERGY AND ENVIRONMENT CABINET

Department for Environmental Protection

Division for Air Quality

(As Amended at ARRS, February 10, 2020)

401 KAR 52:100. Public, affected state, and U.S. EPA review.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 C.F.R. Part 2, Part 51, Part 70, 42 U.S.C. 7410, 7661-7661f

STATUTORY AUTHORITY: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, [40 C.F.R. Parts 51, 70,] 42 U.S.C. 7410, 7661-7661f

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 authorizes the~~[requires the Environmental and Public Protection]~~ cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation establishes the procedures used by the cabinet to provide for the review of federally enforceable~~[federally-enforceable]~~ permits by the public, affected states, and the U.S. EPA.

Section 1. Applicability. This administrative regulation shall apply to the permit actions established~~[specified]~~ in 401 KAR 52:020 and 401 KAR 52:030 that require public, affected state, and U.S. EPA review.

Section 2. Public Comment Period. (1) For permit actions that require public review, the cabinet shall:

- (a) Provide a minimum of thirty (30) days for public comment; and

- (b) Prepare a response to the comments received during the comment period.

- (2) The comment period shall:

- (a) [Shall]Begin on the date the public notice is posted on the cabinet's Web site~~[Cabinet website]~~ at https://eec.ky.gov~~[published in the newspaper]~~; and

- (b) [Shall]End thirty (30) days after the date the public notice is posted on the cabinet's Web site~~[Cabinet website]~~ at https://eec.ky.gov~~[publication date]~~.

- (3) The cabinet shall consider:

- (a) All written comments received during the public comment period;

- (b) Comments received in alternate format to accommodate persons with disabilities; and

- (c) The permit applicant's written response concerning the public comments, if received not later than ten (10) days after the close of the public comment period.

- (4) The cabinet shall keep a record of the commentors and issues raised during the public comment period and shall make this record available, upon request, to the public and the U.S. EPA.

Section 3. Public Hearing. (1) A public hearing shall be held if the cabinet determines that:

(a) On the basis of written requests received, material issues have been raised concerning the terms and conditions of the permit; or

(b) The permit action is of significant interest to the public.

(2) A request for a public hearing shall not require an extension of the public comment period. ~~[-; however,]~~ The cabinet may allow additional time after the close of a public hearing for public hearing participants to submit ~~[their]~~ comments in writing.

(3) If a public hearing is held, the cabinet shall:

(a) Provide public notice on the cabinet's Web site[Cabinet website] at https://eec.ky.gov, at least thirty (30) days prior to the scheduled public hearing date; and

(b) Designate a presiding officer, who shall be responsible for the scheduling and orderly conduct of the public hearing.

(4) Any person may submit statements or data during the public hearing concerning the permit action.

(5) The cabinet may:

(a) Set reasonable limits on the time allowed for oral statements; and

(b) Require that statements be submitted in writing.

(6) The cabinet shall:

(a) Consider all comments received at the public hearing, including comments received in alternate format to accommodate persons with disabilities;

(b) Keep a record of the participants and issues raised at the public hearing and make this record available, upon request, to the public and the U.S. EPA; and

(c) Make available to the public at a reasonable reproduction cost;

1. A ~~[tape]~~recording or written transcript of the public hearing; and

2. If requested, a written transcript in large type or Braille.

Section 4. Public Notice. (1) The cabinet shall provide public notice of a public comment period and any scheduled public hearing on the cabinet's Web site[Cabinet website] at https://eec.ky.gov. This shall be the cabinet's consistent method of public notice.

~~(2)[by prominent publication in the newspaper having the largest general circulation in the area where a facility is applying for a permit.~~

~~(2) The newspaper publication may be a paid advertisement, legal notice, or other appropriate format as determined by the cabinet.~~

~~(3)] The cabinet may provide additional notice to the public through other methods, including newspapers, newsletters, and press releases.~~

Section 5. Information Included in Public Notice. The public notice shall include~~[the following information]~~:

(1) The contact name and address of the Energy and Environment[Environmental and Public Protection] Cabinet, Department ~~for[of]~~ Environmental Protection, Division for Air Quality;

(2) The name and address of the permit applicant and, if different, the name and address of the facility;

(3) A brief description of the business conducted at the facility and the activity involved in the permit action;

(4) A brief description of the comment procedures, including how to request a public hearing;

(5) The date, time, and place of the public hearing, if one (1) has been scheduled;

(6) The end date of the public comment period;

(7) The end date of the U.S. EPA's review period;

(8) A reference to the dates of previous public notices relating to the permit;

(9) A description of any emission change involved in a permit revision;

(10) For permits subject to review under 401 KAR 51:017, the degree of increment consumption expected to occur; and

(11) The name, address, and telephone number where

interested persons may obtain~~[the following information]~~:

(a) Copies of the draft permit or permit revision;

(b) Relevant supporting material, including permit applications, permits, compliance plans, and monitoring and compliance certification reports, except for confidential business information pursuant to 40 C.F.R. Part 2 and 400 KAR 1:060; and

(c) Other materials available to the cabinet that are relevant to the permit decision.

Section 6. Distribution of Public Notice. Copies of the public notice shall be distributed as established[specified] in this section.

(1) For permit actions~~[that are]~~ subject to review under 401 KAR 51:017 or 51:052, the public notice shall be sent to:

(a) The permit applicant;

(b) The administrator of the U.S. EPA, through the appropriate regional office;

(c) Affected states;

(d) All persons on the mailing list established[specified] in Section 7 of this administrative regulation; and

(e) The officials and agencies having authority over the area where the source will be located, as follows:

1. Local air pollution control agencies;

2. The chief executive of the city and county;

3. Any comprehensive regional land use planning agency; and

4. Federal land manager or Indian governing body whose land may be affected by the emissions from the proposed source, as established in 40 C.F.R. 51.165.

(2) For permit actions at a major source that are not subject to review under 401 KAR 51:017 or 401 KAR 51:052, the public notice shall be sent to:

(a) The permit applicant;

(b) The administrator of the U.S. EPA, through the appropriate regional office;

(c) Affected states; and

(d) All persons on the mailing list established[specified] in Section 7 of this administrative regulation.

(3) For permit actions at a synthetic minor or conditional major source, notice shall be sent to:

(a) The permit applicant;

(b) The administrator of the U.S. EPA, through the appropriate regional office; and

(c) All persons on the mailing list established[specified] in Section 7 of this administrative regulation.

Section 7. Mailing List. (1) The cabinet shall compile and maintain a mailing list of persons who request to be notified of permit actions.

(2) The cabinet ~~shall[may]~~:

(a) Notify the public of the opportunity to be on the list on the cabinet's Web site[Cabinet website] at https://eec.ky.gov~~[through periodic publication in the public press, state-funded publications, or state law journals]; and~~

(b) Delete from the list persons who fail to respond to the cabinet's request to show continued interest in receiving notice.

Section 8. Public Inspection of Documents. (1) During the public comment period, the cabinet shall make available for public inspection all information, except that which is confidential, contained in the:

(a) Permit application;

(b) Draft permit; and

(c) Supporting materials.

(2) The information shall be made available at:

(a) ~~The[main office of the]~~ Division for Air Quality, 300 Sower Boulevard, Frankfort, Kentucky 40601; and

(b) The Division for Air Quality Regional Office[Regional Office of the Division for Air Quality] having jurisdiction over the source; and

~~(c)The local public library or office of the county clerk in the county or counties where the source is located].~~

(3) The draft permit shall also be posted, for the duration of the public comment period, on the cabinet's Web site[internet] at https://eec.ky.gov~~[For general permits, the information specified in~~

~~subsection (1) of this section shall be made available in at least one (1) location of the cabinet's discretion].~~

Section 9. Affected States Review. Except as ~~established~~provided in subsection (3) of this section, for permit actions that require affected state review, the cabinet shall provide the draft permit or permit revision to affected states at the same time or before notice of the permit action is provided to the general public. (1) The cabinet may accept a recommendation made by an affected state if the recommendation:

- (a) Is received during the public comment period ~~established~~specified in Section 2 of this administrative regulation;
- (b) Is applicable to the permit action; and
- (c) Does not conflict with the requirements of Kentucky Revised Statutes or 401 KAR Chapters 50 ~~through~~to 65.

(2) If the cabinet does not accept a recommendation made by an affected state, the cabinet shall provide a written notice to the affected state and the U.S. EPA that:

- (a) Gives the reason for not accepting the recommendation; and
- (b) Is submitted to the state no later than the date the proposed permit is submitted to the U.S. EPA.

(3) For a minor permit revision at a major source, the cabinet shall:

- (a) ~~Shall~~ Provide notice to affected states with a brief description of the requested revision within five (5) workdays after a complete permit application is received; and
- (b) After submittal of a proposed minor permit revision to the U.S. EPA, ~~the cabinet~~:
 - 1. ~~Shall~~ Notify the affected state and the U.S. EPA if a recommendation is not accepted; and
 - 2. ~~Shall~~ Provide the reason for not accepting the recommendation.

Section 10. U.S. EPA Review. (1) For permit actions that require U.S. EPA review, the cabinet shall not issue a final permit, permit revision, or permit renewal until the U.S. EPA:

- (a) Has had an opportunity to review and comment on the permit action and has not objected to issuance of the permit within the forty-five (45) day period for an objection; or
- (b) Waives its right of review.
- (2) The cabinet shall provide a statement that sets forth the legal and factual basis for the draft permit conditions, including references to applicable statutory or regulatory provisions, and shall send the statement to the U.S. EPA and to any other person who requests it.
- (3) The cabinet shall provide the U.S. EPA with copies of the:
 - (a) Permit application, including attachments;
 - (b) Other permit-related information such as public comments, settlements, and decisions from permit appeals;
 - (c) Proposed permit or proposed permit revision; and
 - (d) Final permit or final permit revision.

(4) ~~[On a case-by-case basis and]~~With prior U.S. EPA approval, the cabinet may submit a summary form and the relevant portion of the permit application and compliance plan in lieu of the complete application and compliance plan.

(5) ~~[On a case-by-case basis and]~~With prior U.S. EPA approval, the cabinet may submit the draft permit or permit revision in lieu of a proposed permit or permit revision. For these submittals:

- (a) The cabinet shall provide the U.S. EPA with:
 - 1. The permit application, draft permit or permit revision, and supporting information no later than the first day of the public comment period; and
 - 2. All timely submitted public comments after the close of the public comment period;
- (b) The draft permit shall become the final permit or permit revision at the end of the U.S. EPA's forty-five (45) day review, unless:
 - 1. A substantial change is made in the permit or permit revision following the public comment period; or
 - 2. The U.S. EPA files an objection to the permit or permit revision.

(c) If a substantial change is made in the draft permit or permit revision, the cabinet shall make appropriate revisions and submit a proposed permit or permit revision to the U.S. EPA for another forty-five (45) day review period.

(6) If the U.S. EPA objects to the issuance of a permit or permit revision, the U.S. EPA shall:

- (a) File a statement of objection, in writing, within forty-five (45) days after receiving the permit or permit revision and supporting information;
- (b) Include in the statement the reasons for the objection and a description of the permit changes needed to resolve the objection; and
- (c) Provide the permit applicant with a copy of the filed objection.

(7) After an objection is filed, the cabinet shall make the appropriate revisions and submit a new proposed permit or permit revision to the U.S. EPA within ninety (90) days after the objection is filed.

(8) If the cabinet does not submit a revised proposed permit or permit revision within ninety (90) days after an objection is filed, the U.S. EPA ~~will~~may issue or deny the permit.

(9) If the U.S. EPA does not object to the issuance of a permit, a citizen may petition the U.S. EPA to file an objection.

(a) The U.S. EPA ~~will~~shall file the citizen objection if the petition is:

- 1. Made within sixty (60) days following the end of the U.S. EPA's forty-five (45) day review period; and
- 2. Based only on objections raised with reasonable specificity during the public comment period, unless:
 - a. The petitioner can demonstrate that it was impractical to raise the objection within the public comment period, or
 - b. The grounds for objection arose after the end of the public comment period.

(b) If the U.S. EPA objects to a permit action as a result of a petition filed, the cabinet shall not issue the permit until the U.S. EPA objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the forty-five (45) day review period and prior to the U.S. EPA objection.

(c) If the cabinet issues a permit or permit revision prior to receipt of a U.S. EPA objection:

- 1. The U.S. EPA ~~will~~may modify, terminate, or revoke the permit consistent with the procedures in 40 C.F.R. 70.7(g)(4) and (5);
- 2. The cabinet shall, upon receipt of the U.S. EPA objection, ~~then~~ issue a revised permit that satisfies the U.S. EPA objection; and
- 3. The source shall not be in violation for failing to submit a complete and timely application.

(10) To the extent possible, all information provided to the U.S. EPA shall be submitted in an electronic format that is compatible with the U.S. EPA's national database management system.

(11) The cabinet shall keep records of all information submitted to the U.S. EPA for a period of at least five (5) years.

(12)(a) If the cabinet is authorized by the source to submit confidential information to the U.S. EPA, a claim of confidentiality shall accompany the relevant information.

(b) If the cabinet is not authorized by the source to submit confidential information to the U.S. EPA, the source shall submit the confidential information directly to the U.S. EPA with a claim of confidentiality.

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EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(As Amended at Education Assessment and Accountability
Review Subcommittee, February 7, 2020)

703 KAR 5:280. School improvement procedures.

RELATES TO: KRS 158.6453, 158.6455, 158.782, 160.346, 20 U.S.C. 6301

STATUTORY AUTHORITY: KRS 156.029(7), 156.070(5), 158.6453, 158.6455, 160.346, 20 U.S.C. 6301

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.029(7) requires the Kentucky Board of Education (KBE) to adopt policies and administrative regulations that shall govern the Kentucky Department of Education (department) in planning and operating programs within its jurisdiction. KRS 156.070(5) requires the KBE, upon the recommendation of the Commissioner of Education, to establish policy or act on all programs, services, and other matters that are within the administrative responsibility of the department. KRS 158.6453(3)(a) requires the KBE to create an assessment system that measures achievement of the state learning goals, ensures compliance with Title I of the federal Elementary and Secondary Education Act of 1965 (ESEA), 20 U.S.C. sec. 6301, et seq., as amended by the Every Student Succeeds Act (2015) or its successor, and ensures school accountability. KRS 158.6455 requires the KBE to create an accountability system to classify schools and LEAs, and to establish appropriate consequences for schools failing to meet accountability measures. KRS 158.782 requires the KBE to promulgate administrative regulations establishing the process for monitoring and periodic review of schools' turnaround efforts for schools identified for comprehensive support and improvement pursuant to KRS 160.346. KRS 160.346 establishes the process for the required audit and turnaround efforts for schools identified for comprehensive support and improvement. Additionally, KRS 160.346 requires the KBE to create state-wide exit criteria for identified schools, additional action to support schools continuously failing to meet improvement goals, and additional support for LEAs with a significant number of schools identified for comprehensive and targeted support and improvement. Section 1111(c) of Title I of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, 20 U.S.C. 6311(c) and (d), requires the KBE to identify the state's lowest achieving schools as schools identified for comprehensive support and improvement and for those schools to follow the requirements of 20 U.S.C. 6311(c) and (d) regarding school improvement. This administrative regulation establishes the process and procedures for school improvement efforts.

Section 1. Definitions. (1) "Additional Targeted Support and Improvement" means the process for schools identified pursuant to KRS 160.346(2)(b) ["Adequate performance progress" means meeting the exit criteria pursuant to KRS 160.346].

(2) "Advisory leadership team" means the team established pursuant to KRS 160.346(7)(g) and Section 8 of this administration regulation.

(3) "Annual improvement" means a school reaching annual goals, established by the department, in the areas identified for comprehensive support and improvement.

(4) "Audit" means the process established in KRS 160.346(5) and (6).

(5) "Audit team" means the team selected by the LEA, pursuant to KRS 160.346(5), to complete a school or district audit.

(6) "Charter school" means a "public charter school" as defined in KRS 160.1590(12).

(7) "Charter school board of directors" or "governing board" means charter school board of directors as defined in KRS 160.1590(6).

(8) "Comprehensive Support and Improvement" means the process for schools identified pursuant to KRS 160.346(3).

(9) "District" or "school district" means the local school district governed by a local board of education.

(10) "District audit" means an audit that:

(a) Reviews the functioning of the district and the district's ability to manage an intervention in a school identified for comprehensive support and improvement; and

(b) Meets the requirements of Section 5 of this administrative regulation[KRS 160.346(6)].

(11) "Evidence based interventions" is defined in the Elementary and Secondary Education Act, as reauthorized by the Every Student Succeeds Act (2015), 20 U.S.C.A. Section 7801.

(12) "Local education agency" or "LEA" means a local school district as established in KRS 160.010 and KRS 160.020 or a charter school board of directors as established in KRS 160.1590.

(13) "Minority" is defined in KRS 160.345(1)(a).

(14) "School audit" means an audit that:

(a) Reviews the functioning of a school;

(b) Assesses principal capacity for leadership of school turnaround; and

(c) Meets the requirements of KRS 160.346(6).

(15) "School improvement assistance" means a program designed by the department to support improved teaching and learning.

(16) "School improvement plan" means the plan created by schools identified for targeted support and improvement or additional targeted support and improvement pursuant to KRS 160.346(4) and embedded in the comprehensive school improvement plan required pursuant to 703 KAR 5:225.

(17) "Targeted Support and Improvement" means the process for schools identified pursuant to KRS 160.346(2)(a).

(18) "Turnaround plan" means the plan created pursuant to KRS 160.346(7)(h) ~~[(+)(e)]~~ and embedded in the comprehensive school improvement plan required pursuant to 703 KAR 5:225.

(19) "Turnaround team" means the team selected pursuant to KRS 160.346(7)(a).

Section 2. Notification of Status for Comprehensive Support and Improvement. (1) Following notification of a school's identification for comprehensive support and improvement, an LEA shall, within thirty (30) days~~;~~:

~~{a} declare its intent to either utilize the department for the audit team or another option pursuant to KRS 160.346(5); and~~

~~{b} Declare its intent to either utilize the department for the turnaround team or another option pursuant to KRS 160.346(7)}.~~

(2) If the LEA declares its intent to use any option other than the department for the audit team, the LEA shall provide, to the Kentucky Department of Education, the following information:

(a) The name and address of each person included on the audit team;

(b) The role and responsibilities of each person included on the audit team;

(c) The occupation and any vendor affiliations of each person included on the audit team; and

(d) Each person or entity's documented expertise in diagnosing the causes of an organization's low performance and providing advice and strategies resulting in effective turnaround leadership.

(3) If the LEA declares its intent to use any other option other than the department for the audit team, the LEA shall ensure that all audit team members report potential conflicts of interest. The LEA shall report these conflicts of interest to the department and provide information regarding the LEA's work to remedy the conflicts of interest.

(4) Audit team members shall not be employed by or otherwise affiliated with the LEA or school under review.

~~(5) [If the LEA declares its intent to use any option other than the department for the turnaround team, the LEA shall provide the following information:~~

~~(a) The name and address of each person or entity fulfilling the status of turnaround team;~~

~~(b) The role and responsibilities of each person or entity fulfilling the status of turnaround team; and~~

~~(c) The evidence-based interventions that shall be utilized by the person or entity fulfilling the status of turnaround team.~~

~~(6) If the LEA utilize a private entity as the turnaround team for a school, the LEA shall submit to the department evidence of the~~

~~private entity's documented success at turnaround diagnosis, training, and improved performance of organizations.~~

(7) Upon receipt of the notification and appropriate information from the LEA, the department, within fifteen (15) days, shall review the proposals for non-department audit teams~~and turnaround teams~~ and either accept or deny the proposal. Denied proposals shall be returned to the LEA and the department shall advise the LEA to remedy the proposal.

(6)~~(8)~~ The LEA shall provide the information required in this Section utilizing the "[LEA]Notification of Non-Department Audit~~or Turnaround~~ Team Form incorporated by reference in this administrative regulation.

(7)~~(9)~~ Non-department audit teams shall complete a Kentucky-specific induction training prior to conducting an audit.

Section 3. Audit Team Membership. For audit teams directed by the department: (1) Members shall be selected from qualified applicants by the department, and approved by the Commissioner of Education, or his designee;

(2) Members shall complete department-provided or department-approved training in any areas needed to effectively perform their duties;

(3) Members shall hold appropriate certification or qualifications for the position being represented;

(4) The team shall not include any members currently employed by or otherwise affiliated with the LEA or school under review;

(5) The team shall include the following representation:

(a) The chairperson, who shall be designated by the department or its designee, and shall be:

1. A certified administrator approved by the department to provide school improvement assistance;

2. A certified administrator member of the review team; or

3. A similarly qualified professional approved by the department;

(b) An individual approved by the department to provide school improvement assistance;

(c) A teacher who is actively teaching or has taught within the last three (3) years;

(d) A principal who is currently serving or has served as a principal within the last three (3) years;

(e) An LEA administrator who is currently serving or has served in an LEA administrative position within the last three (3) years;

(f) A parent or legal guardian who has or has had a school-aged child; and

(g) A university representative who is currently serving or has served in that capacity within the last three (3) years;

(6) The chair may serve in addition to the six (6) members outlined in subsection (5) of this section, or may be selected from those six (6) members who also meet the qualifications of this section.

Section 4. School Audit. (1) A school audit shall be scheduled within forty-five (45) days of a school's identification for comprehensive support and improvement.

(2) The KBE recommends a school audit, in addition to the requirements established in KRS 160.346(6), consist of and incorporate into the audit process and report the following criteria:

(a) Analysis of state and local education data;

(b) An analysis and recommendation regarding the principal's capacity to lead turnaround in a school identified for comprehensive support and improvement and whether the principal should be replaced;

(c) Review of comprehensive school improvement plans and other planning documents;

(d) Interviews with students, parents, all school council members, if applicable, school and LEA personnel, and community members;

(e) Direct observation;

(f) Administration of teacher and principal working conditions surveys and student satisfaction surveys;

(g) Review of school council minutes and agendas, if

applicable; and

(h) Other information deemed necessary by the Commissioner of Education, or his designee.

(3) Where the audit team is directed by the department, the recommendation of the principal's ability to lead the intervention in the school, as required by KRS 160.346(6)(a)2, shall be based upon an assessment of whether:

(a) The principal demonstrates maintenance and communication of a visionary purpose and direction committed to high expectations for learning as well as shared values and beliefs about teaching and learning;

(b) The principal leads and operates the school under a governance and leadership style that promotes and supports student performance and system effectiveness;

(c) The principal establishes a data-driven system for curriculum, instructional design, and delivery, ensuring both teacher effectiveness and student achievement;

(d) The principal ensures that systems are in place for accurate collection and use of data;

(e) The principal ensures that systems are in place to allocate human and fiscal resources to support improvement and ensure success for all students; and

(f) The principal ensures that the school implements a comprehensive assessment system that generates a range of data about student learning and system effectiveness and uses the results to guide continuous improvement.

(4) An audit team not directed by the department may utilize the criteria established in subsection (3) of this section for the recommendation of principal capacity, as required by KRS 160.346(6)(a)2. An audit team not directed by the department shall include a recommendation as to the principal's capacity to serve as a leader in school intervention and turnaround at a school identified for comprehensive support and improvement. If that audit team chooses not to use the criteria established in subsection (3) of this Section, it shall provide notification to the department as well as the framework to be used in the analysis of principal capacity and submit the criteria that shall be utilized to the department for approval.

(5) Upon identification as a school in need of comprehensive support and improvement, the authority of the school council shall be suspended.

(6) Pursuant to KRS 160.346, the authority of the school council may be restored if the school is not classified under comprehensive support and improvement status for two (2) consecutive years.

(7) Charter schools shall be subject to a school audit that shall include an addendum providing a determination regarding the governing board's capacity to provide support for turnaround. Each addendum shall include:

(a) Analysis of state and local education data;

(b) A review of the governing board's level of functioning and recommendation to the Commissioner of Education as to whether the governing board has the capacity to manage the intervention in the charter school;

(c) Interviews with governing board members, students, parents, school personnel, authorizer, and community members.

(d) Direct observations;

(e) Administration of teacher and principal working conditions surveys and student satisfaction surveys;

(f) Review of charter school governing board minutes and agendas; and

(g) Other information deemed necessary by the Commissioner of Education, or his designee, to assess the functionality of the governing board to support school improvement.

(8) If the audit team chooses not to use the criteria established in subsection (7) of this Section, it shall provide notification to the department as well as the framework to be used in the analysis of the governing board's capacity and submit the criteria that shall be utilized to the department for approval.

Section 5. District Audit. (1) A district shall be subject to a district audit upon identification of a school within the district for comprehensive support and improvement.

(2) Within forty-five (45) days of identification by the department of a district containing a school identified for comprehensive support and improvement, an audit shall be scheduled to review the functioning of the district's administration and its specific leadership capacity related to each school identified for comprehensive support and improvement.

(3) Each district audit shall include:

(a) Analysis of state and local education data;

(b) A review of the district's level of functioning and recommendation to the Commissioner of Education as to whether the district has the capacity to manage the intervention in each identified school;

(c) Review of comprehensive district improvement plan and other planning documents;

(d) Interviews with local board members, students, parents, school and district personnel, and community members;

(e) Direct observation;

(f) Administration of teacher and principal working conditions surveys and student satisfaction surveys;

(g) Review of school board minutes and agendas; and

(h) Other information deemed necessary by the Commissioner of Education, or his designee, to assess the functionality of the district to support school improvement.

(4) If the audit team is directed by the department, the determination of the district's level of functioning and ability to manage the intervention in the school identified for comprehensive support and improvement shall be based upon an assessment of capacity in the following areas:

(a) The district demonstrates maintenance and communication of a visionary purpose and direction committed to high expectations for learning as well as shared values and beliefs about teaching and learning;

(b) The district leads and operates under a governance and leadership style that promotes and supports student performance and system effectiveness;

(c) The district establishes a data-driven system for curriculum, instructional design, and delivery, ensuring both teacher effectiveness and student achievement;

(d) The district ensures that systems are in place for accurate collection and use of data;

(e) The district ensures that systems are in place to allocate human and fiscal resources to support improvement and ensure success for all students; and

(f) The district ensures that a comprehensive assessment system, which generates a range of data about student learning and system effectiveness and uses the results to guide continuous improvement, is implemented.

(5)~~Pursuant to KRS 160.346,~~ An audit team not directed by the department may utilize the criteria established in subsection (4)~~(3)~~ of this Section for recommendation to the Commissioner of Education of the district's level of functioning and ability to manage the intervention in the school identified for comprehensive support and improvement. An audit team not directed by the department shall include a recommendation as to district functioning and capacity to manage the interventions at a school identified for comprehensive support and improvement. If that audit team chooses not to use the criteria established in subsection (4)~~(3)~~ of this Section, it shall provide notification to the department as well as the framework to be used in the analysis of district functioning and capacity to manage the intervention in each identified school to the department for approval.

(6) There shall be only one (1) district audit per district, per year, regardless of the number of schools identified for comprehensive support and improvement located in the district.

Section 6. Notification to Schools and LEAs of Audit Findings.

(1) Following any school audit, the audit team shall submit all findings and the principal capacity recommendation to the Commissioner of Education.

(2) Following any charter school or district audit, the district or governing board audit findings and capacity recommendations shall be submitted to the Commissioner of Education who shall then make a determination regarding the district or governing

board's level of functioning and whether the district or governing board has the capacity to manage the intervention in each identified school.

(3) After completion of the initial school or district audits and within thirty (30) days of receiving the audit findings, the Commissioner of Education shall notify in writing the school, district or charter governing board, and the charter authorizer of the audit findings and recommendation regarding principal or school leader's leadership capacity and authority and a determination regarding district or governing board's leadership capacity and authority. The superintendent shall then make any necessary determination regarding the principal or other certified staff pursuant to KRS 160.346(7)(c)-(e).

Section 7. Turnaround Team and Development of Turnaround Plan for School Identified for Comprehensive Support and Improvement. (1)~~(a)~~ Within ~~fifteen (15)~~~~[thirty (30)]~~ days after the Commissioner notifies the school, district or charter governing board, and the charter authorizer of the audit findings, as described in Section 6(3) of this administrative regulation~~are released~~, an LEA shall declare its intent to either utilize the department for the turnaround team or another option pursuant to KRS 160.346(7) and, if the LEA declares its intent to use any option other than the department for the turnaround team, the LEA shall use the "Notification of Non-Department Turnaround Team Form" to provide the following information to the department:

(a) The name and address of each person or entity fulfilling the status of turnaround team;

(b) The role and responsibilities of each person or entity fulfilling the status of turnaround team; and

(c) The evidence-based interventions that shall be utilized by the person or entity fulfilling the status of turnaround team.~~[the turnaround team shall develop a turnaround plan pursuant to KRS 160.346(7)(h). The turnaround team shall be selected pursuant to the requirements of KRS 160.346(7)(a).]~~

(2)~~(b)~~ If the LEA utilizes a private entity to serve as the turnaround team, pursuant to KRS 160.356(7)(a)(1), the LEA shall submit to the department evidence of the private entity's documented success at turnaround diagnosis, training, and improved performance of organizations~~[ensure compliance with Section 2 of this administrative regulation]~~ and provide ongoing oversight of the private entity's work, functioning, and accomplishments as the turnaround team.

(3)~~(e)~~ If the LEA utilizes the local staff and community partners to serve as the turnaround team, pursuant to KRS 160.346(7)(a)(2), the LEA shall ensure the following:

1. Schools having eight (8) percent or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member serving on the turnaround team; and

2. At least one (1) parent of a student in the identified school is selected as a member of the turnaround team.

(4) Upon receipt of the notification and appropriate information from the LEA, the department shall review within fifteen (15) days the proposals for non-department turnaround teams and either accept or deny the proposal. Denied proposals shall be returned to the LEA and the department shall advise the LEA to remedy the proposal.

(5)~~(d)~~ If the LEA utilizes the department to serve as the turnaround team, the turnaround team shall be comprised of team members selected and approved by the Commissioner of Education, or his designee, to provide school improvement assistance.

(6) Within ~~forty-five (45)~~~~[thirty (30)]~~ days after the Commissioner notifies the school, district or charter governing board, and the charter authorizer of the audit findings, as described in Section 6(3) of this administrative regulation, the turnaround team shall develop a turnaround plan pursuant to KRS 160.346(7)(h).

(7)~~(2)~~ In addition to the requirements established in KRS 160.346(7)(h), the turnaround plan shall be embedded in the comprehensive school improvement plan required pursuant to 703 KAR 5:225 and shall include:

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(a) Evidence-based interventions to be utilized to increase student performance and address the critical needs identified in the school audit;

(b) A comprehensive list of persons and entities involved in the turnaround efforts and the specific roles each shall play in the school's turnaround; and

(c) A review of resource inequities that shall include an analysis of school level budgeting to ensure resources are adequately channeled towards school improvement.

~~(8) [(3)] The [turnaround team shall, no later than thirty (30) days after the turnaround team is on-site, present the] turnaround plan shall be approved by the superintendent and local board of education, as required by KRS 160.346(7)(h), who shall [to the LEA, which shall give final approval,] provide the necessary support and resources for the turnaround plan[.] and submit the turnaround plan to the Commissioner of Education for final approval.~~

(9) [(4)] (a) Following receipt of the turnaround plan specified in subsection (8) [(3)] of this section and before the beginning of the school year following the audit, the Commissioner of Education, in consultation with the advisory leadership team, superintendent, and local board of education, shall determine the sufficiency of the school's turnaround plan to meet the needs of the school's turnaround effort.

(b) If the Commissioner of Education finds that the plan is not sufficient to meet the needs of the school turnaround effort for a school identified for comprehensive support and improvement, the department shall provide feedback detailing the deficiencies and advise the LEA and school to make changes to the plan.

Section 8. Advisory Leadership Team. (1) The principal or charter school leader of a school identified for comprehensive support and improvement shall provide, in a format acceptable to the department, the names and addresses of advisory leadership team members appointed pursuant to KRS 160.346(7)(g) to the department.

(2) The department shall maintain a database of all advisory leadership team members appointed pursuant to KRS 160.346(7)(g).

(3) In establishing the advisory leadership team, the principal or charter school leader shall ensure that schools having eight (8) percent or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member serving on the advisory leadership team.

(4) [(2)] Meetings of the advisory leadership team shall be open to ~~the[be]~~ public.

(5) [(3)] Duties of the advisory leadership team shall include:

(a) Providing support for systems that seek to build capacity in school leadership;

(b) Promoting positive school climate and culture; and

(c) Supporting the continual use of data-driven decision-making to support school improvement.

Section 9. Monitoring and Periodic Review of Plan Implementation. (1) Pursuant to the Elementary and Secondary Education Act, as amended by the Every Student Succeeds Act, 20 U.S.C.A. Section 6301, all schools identified for comprehensive support and improvement shall be subject to monitoring and periodic review by the department.

(2) Monitoring shall include:

(a) Onsite support by department staff if the department is chosen by the LEA to serve as the turnaround team pursuant to KRS 160.346 or if more rigorous intervention by the department is warranted as established in Section 10 of this administrative regulation;

(b) Annual review of school and LEA state accountability data;

(c) Review of indicators of school quality; and

(d) Other measures deemed necessary by the department to ensure compliance with the Every Student Succeeds Act, or its successor.

(3) Periodic review of the turnaround plan shall include:

(a) Periodic site visits;

(b) Direct observation; and

(c) Interviews with students, parents, all school council members, if applicable, school and LEA personnel, and community members.

Section 10. More Rigorous Intervention. (1) Schools identified for comprehensive support and improvement that do not exit that status after three (3) years shall be subject to intervention by the department including but not limited to:

(a) A school audit conducted by the department;

(b) Onsite assistance by department staff; and

(c) Evaluation and modification of the school turnaround plan.

(2) Schools identified for comprehensive support and improvement that do not exit after three (3) years shall be subject to an audit by the department every two (2) years, or as deemed necessary by the Commissioner of Education.

(3) Schools identified for comprehensive support and improvement that do not make annual improvement for two (2) consecutive years shall be subject to intervention by the department, as established in subsections (1) and (2) of this Section, after the second year;

(4) Districts serving any number of schools identified for comprehensive support and improvement that do not exit after three (3) years, or two (2) years as established in subsection (2) of this Section, shall be subject to a district audit. Additional district audits for districts serving schools identified for comprehensive support and improvement that do not exit that status shall occur every two (2) years, or as deemed necessary by the Commissioner of Education. No district, regardless of the number of schools identified for comprehensive support and improvement that fail to exit that status, shall have more than one (1) district audit every two (2) years.

Section 11. Targeted Support and Improvement and Additional Targeted Support and Improvement. (1) Upon identification as a school for targeted support and improvement or additional targeted support and improvement, the identified school shall comply with the requirements of KRS 160.346(4). The school improvement plan shall be embedded in the comprehensive school improvement plan required pursuant to 703 KAR 5:225.

(2) LEAs with a school[schools] identified for targeted support and improvement or additional targeted support and improvement shall monitor and provide support to the school to ensure the successful implementation of the school improvement plan.

Section 12. Significant Number of Schools. (1) In addition to providing notification to LEAs as to the identification of schools for comprehensive support and improvement, additional targeted support and improvement, or targeted support and improvement, the department shall notify LEAs as to whether they shall be considered an LEA supporting a significant number of schools identified for either comprehensive support and improvement or targeted support and improvement, including additional targeted support and improvement.

(2) To determine whether an LEA meets this designation, the department shall calculate, based on the total number of A1 schools, as defined in 703 KAR 5:240, in the LEA, the LEA's percentage of schools identified for comprehensive support and improvement and the LEA's percentage of schools identified for targeted support and improvement, including additional targeted support and improvement. Any LEA containing two (2) or more schools identified for comprehensive support and improvement or targeted support and improvement, including additional targeted support and improvement, and whose percentage of identified schools exceeds ten (10) percent of all schools within the district[for either comprehensive support and improvement or targeted support and improvement schools] shall be designated an LEA supporting a significant number of schools identified for either comprehensive support and improvement or targeted support and improvement.

Section 13. Technical Assistance for LEAs Supporting a Significant Number of Schools Identified for Comprehensive Support and Improvement. (1) LEAs supporting a significant

number of schools identified for comprehensive support and improvement shall receive the following technical assistance:

- (a) A district audit, or school audit if a charter school, conducted by the department; and
- (b) Onsite support from department staff.
- (2) The district audit, or school audit if a charter school, completed by the department pursuant to subsection (1)(a) of this Section shall take the place of any district or school audit conducted under Sections 4 and 5 of this administrative regulation.
- (3) Department staff shall:
 - (a) Coordinate with the LEA to ensure direct support of schools identified for comprehensive support and improvement;
 - (b) Review, via the district or school audit, if a charter school, resources and allocations to determine if they are being used effectively for school improvement;
 - (c) Work with the LEA to address any identified resource inequities that negatively impact schools and students; and
 - (d) Work with the LEA to develop sustainable systems to support school improvement.

Section 14. Technical Assistance for LEAs Supporting a Significant Number of Schools Identified for Targeted Support and Improvement. (1) LEAs supporting a significant number of schools identified for targeted support and improvement, including additional targeted support and improvement, shall receive the following technical assistance:

- (a) Periodic site visits; and
- (b) Onsite support by department staff.
- (2) Department staff shall:
 - (a) Review LEA resources and allocations to determine if they are being used effectively for school improvement;
 - (b) Provide technical assistance to the LEA regarding resource allocation to support school improvement; and
 - (c) Connect LEAs with professional development opportunities to build capacity for school improvement efforts.

Section 15. Exit Criteria. (1) A school identified for comprehensive support and improvement pursuant to KRS 160.346(3)(a) or (c) shall exit that status if:

- (a) It no longer meets the criteria for identification; and
- (b) It demonstrates ~~continued~~ progress on the overall score, which encompasses all indicators included in Kentucky's accountability system as established in 703 KAR 5:270, for the group or groups that served as the basis for identification ~~the data that were the basis for identification~~.
- (2) Schools identified for comprehensive support and improvement pursuant to KRS 160.346(3)(b) shall exit that status if they no longer meet the criteria for identification.
- (3) Schools identified for comprehensive support and improvement as a result of more than one (1) criteria shall exit if all relevant exit criteria are met.
- (4) ~~(3)~~ Schools identified for targeted support and improvement pursuant to KRS 160.346(2)(a) or additional targeted support and improvement pursuant to KRS 160.346(2)(b) shall exit that status if they:

- (a) No longer meet the criteria for identification; and
- (b) Demonstrate progress on the data that served as the basis for identification ~~the identified subgroup is no longer below the performance of all students in the bottom five (5) percent of Title I schools or non-Title I schools within that range of Title I schools and demonstrates continued progress on the data that served as the basis for identification~~.
- (5) ~~(4)~~ [A school] [Schools] [identified for additional targeted support and improvement pursuant to KRS 160.346(2)(b) shall exit that status if the identified subgroup:
 - (a) Is no longer at or below the performance of all students in the bottom five (5) [ten (10)] [percent of Title I schools or non-Title I schools within that range; and
 - (b) Demonstrates progress on the overall score, which encompasses all indicators included in Kentucky's accountability system as established in 703 KAR 5:270.] ~~LEAs may include additional exit criteria at their discretion.]]~~
- (6) Schools identified for additional targeted support and

improvement pursuant to KRS 160.346(2)(b) that do not exit that status within three (3) years shall be identified for comprehensive support and improvement pursuant to KRS 160.346(3)(c).

Section 16. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "[LEA] Notification of Non-Department Audit ~~or Turnaround~~ Team Form", August 2019; ~~February 2018, is incorporated by reference.]~~

(b) "Notification of Non-Department Turnaround Team Form", August 2019.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Education, Office of Continuous Improvement and Support, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 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).

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.

LABOR CABINET

Department of Workers' Claims
(As Amended at ARRS, February 10, 2020)

803 KAR 25:260. Treatment guidelines.

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 if [so long as] those administrative regulations are consistent with KRS Chapter 342 and KRS Chapter 13A. KRS 342.035 (8)(a) requires the commissioner to develop or adopt practice parameters or evidence-based treatment guidelines for medical treatment for use by medical providers under KRS Chapter 342 and to promulgate administrative regulations to implement the developed or adopted practice parameters or evidence-based treatment guidelines. This administrative regulation adopts treatment guidelines and provides guidance to implement them. This administrative regulation does not abrogate the right, as provided in KRS 342.020, of an [the] injured employee to choose his treating physician, or an employer to participate in a managed health care system [as provided in KRS 342.020].

Section 1. Definitions. (1) "Carrier" is defined by KRS 342.0011(6) 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 342 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" is defined by KRS 342.0011(9) [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) "Department" is defined by KRS 342.0011(8) or "Department of Workers' Claims" means the governmental agency whose responsibilities are provided in KRS 342.228].

(4) "Employee" means those natural persons constituting an

employee subject to the provisions of KRS Chapter 342[the Act] as defined in KRS 342.640 and the employee's legal counsel.

(5) "Employer" means those persons constituting an employer as defined in KRS 342.630, the employer's carrier, 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.

(6) "Evidence-based medicine" means the process and use of relevant information from peer-reviewed clinical and epidemiologic research to address a clinical issue by[thereby] weighing the attendant risks and benefits to determine whether proposed diagnostic or therapeutic procedures are appropriate in light of their high probability of producing the best and most favorable outcome.

(7) "Insurance carrier" is defined by KRS 342.0011(22).

(8) "Maximum medical improvement" means the point of stabilization in an employee's recovery from a work injury where substantial improvement in the human organism is no longer likely.

(9)[(8)] "Medical emergency" means the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that in the absence of immediate medical attention may[could] reasonably be expected to result in placing the patient's health or bodily functions in serious jeopardy or serious dysfunction of any body organ or part.

(10) "Medical payment obligor" means any employer, carrier, insurance carrier, self-insurer, or[and] any person acting on behalf of or as an agent of the employer, carrier, insurance carrier, or self-insurer.

(11)[(9)] "Medical provider" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, osteopathic and chiropractic practitioners, physician assistants, and advanced practice registered nurses, acting within the scope of their license.;

(12)(a)[(40)] "Medically necessary" or "medical necessity" means healthcare services, including medications, that a medical provider, exercising prudent clinical judgment, would provide to a patient for the purpose of preventing, evaluating, diagnosing or treating an illness, injury, disease or its symptoms, and that are:

1.[(a)] In accordance with generally accepted standards of medical practice;

2.[and (b)] Clinically appropriate, in terms of type, frequency, extent, site and duration; and

3. Considered effective for the patient's illness, injury, or disease.

(b) Treatment primarily for the convenience of the patient, physician, or other healthcare provider does not constitute medical necessity.

(13) "Physician" is defined by KRS 342.0011(32).

(14)[(44)] "Preauthorization" means the process whereby payment for a medical service or course of treatment is assured in advance by a carrier.

(15)[(42)] "Statement for services" is defined by 803 KAR 25:096, Section 1(5).

(16)[(43)] "Treatment guidelines" or "guidelines" are the treatment guidelines developed or adopted by the commissioner pursuant to KRS 342.035(8)(a).

(17)[(44)] "Utilization Review" is defined by 803 KAR 25:190, Section 1(6).

Section 2. Purpose and Adoption. (1) The purpose of the treatment guidelines is to facilitate safe and appropriate treatment of work-related injuries and occupational diseases.

(2) The commissioner adopts the [current edition and any future published updates of the] ODG treatment guidelines as[currently] published by MCG Health for use by medical providers in the treatment of work related injuries and occupational diseases. The commissioner shall review the guidelines not less than annually and update or amend this administrative regulation, if necessary, to ensure that the guidelines are consistent with the provisions of KRS 342.020 and KRS 342.035.

Section 3. Application. (1) The treatment guidelines do not apply to treatment provided in a medical emergency.

(2) The treatment guidelines do not apply to urine drug

screens. KRS 342.020(13) governs an employer's liability for urine drug screens.

(3) The treatment guidelines shall be applied in the utilization review decision-making process.

(4) Treatment designated as "Recommended" under the guidelines shall be[recommended in the guidelines is] presumed [to be] reasonable and necessary and shall not require preauthorization. This presumption shall apply to utilization review and in the resolution of medical disputes. This presumption[and] shall be rebuttable only by clear and convincing evidence.

(5) If a medical provider seeks preauthorization for treatment designated as "Conditionally Recommended" and furnishes sound medical reasoning in support of undertaking that treatment, a medical payment obligor shall consider and address that sound medical reasoning and shall not deny preauthorization solely on the basis that conditions precedent have not been met. The failure of a medical payment obligor to comply with the time requirements in 803 KAR 25:190, Section 5(2) and (3) may result in sanctions.

(6) Treatment designated as "Not Recommended" under the guidelines[Treatment not recommended] or not addressed in the guidelines shall require preauthorization.

(7)[(6)] The employer shall not be responsible for payment of medical treatment designated as "Not Recommended" under the guidelines[not recommended] or not addressed in the treatment guidelines unless it was:

(a) Provided in a medical emergency;

(b)[was] Authorized by the medical payment obligor[employer]; or

(c)[was] Approved through the dispute resolution process by an administrative law judge.

(8)[(7)] Medical providers proposing treatment designated as "Not Recommended" under the guidelines [not recommended] or not addressed in the treatment guidelines shall articulate in writing sound medical reasoning for the proposed treatment, which may include:

(a) Documentation that reasonable treatment options allowable in the guidelines 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 recommended or approved treatment options.

(9) Sound medical reasoning furnished by a medical provider shall be considered before preauthorization of treatment may be denied.

(10)[(8)] Before an employer denies preauthorization of treatment not recommended or not addressed in the treatment guidelines, it must consider any sound medical reasoning furnished by the medical provider.

(9)] The treatment guidelines are not intended to establish a standard for determining professional liability. The guidelines are not a standard or mandate. Exceptions to and the proper application of the guidelines require assessment of each individual course of treatment.

(11)[(40)] The pharmaceutical formulary adopted in 803 KAR 25:270 shall be part of the medical treatment guidelines.

(12)[(44)] Maximum medical improvement shall not preclude the provision of medical treatment necessary for the cure and relief from the effects of an injury or occupational disease if the treatment is medically necessary to maintain function at the maximum medical improvement level or to improve function following an exacerbation of the injured employee's condition.

Section 4. Preauthorization. (1) Requests for preauthorization shall be subject to utilization review unless the medical payment obligor[employer] waives utilization review. The failure of a medical payment obligor to comply with the time requirement in 803 KAR 25:190, Section 5(2) and (3) may result in sanctions

(2) Except as modified in this Section, 803 KAR 25:190, Sections 5, 7, and 8 apply to all treatment for which

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preauthorization is required or requested under this administrative regulation. If the medical provider has provided sound medical reasoning for treatment, the medical payment obligor[employer] shall not deny the treatment solely on the basis that it is not designated as "Recommended" under the guidelines[recommended] or not addressed in the guidelines.

(3) If the medical payment obligor[carrier] denies preauthorization following utilization review, it shall issue a written notice of denial as required by 803 KAR 25:190, Section 7. The medical provider whose recommendation for treatment is denied may request reconsideration, and may require the reconsideration[of the denial to] include a peer-to-peer conference with a second 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 or dates for the conference not less than five (5) business days after the date of the request; and
 - (c) A one (1)-hour period during the date or dates specified during which the requesting medical provider, or a 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 reviewing physician participating in the peer-to-peer conference shall/must be [conducted by a physician] of the same specialty as the medical provider requesting reconsideration.

(5) Failure of the reviewing physician to participate during the date and time specified shall result in the approval of the request for preauthorization and approval of the recommended treatment unless good cause exists for the failure to participate. In the event of good cause for failure to participate in the peer-to-peer conference, the reviewing physician shall contact the requesting medical provider to reschedule the peer-to-peer conference. The rescheduled peer-to-peer conference shall be held no later than two (2) business days following the original conference date. 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 five (5) business 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 treatment 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 treatment 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) ~~[The employer shall not be required to file a medical dispute pursuant to 803 KAR 25:012, Section 4(6), to challenge a statement for services for treatment not recommended or not addressed by the guidelines when preauthorization was not requested. If the basis for denial of a statement for services is that the treatment was not recommended or not addressed in the guidelines, within two (2) business days of receipt of the statement for services, the insurance carrier shall provide notice to the employee and medical provider of the denial and the basis for the denial.]~~

(9) 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. ~~[(4)]~~ The treatment guidelines apply to all treatment administered on and after September[July] 1, 2020.

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.

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
Department of Insurance
(As Amended at ARRS, February 10, 2020)

806 KAR 17:480. Uniform evaluation and reevaluation of providers.

RELATES TO: KRS 205.560(12), 216B.155(2), 304.17A-005, 304.17A-500, 304.17A-545, 304.17A-575, 304.17A-576

STATUTORY AUTHORITY: KRS 304.2-110(1), 304.17A-545(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the commissioner[executive director] to promulgate reasonable 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. EO 2008-507, effective June 16, 2008, established the Department of Insurance and the Commissioner of Insurance as the head of the department].~~ KRS 304.17A-545(5) requires the commissioner[executive director] to promulgate administrative regulations to establish a uniform application form and guidelines for the evaluation and reevaluation of health care providers, including psychologists, who will be on a managed care plan's list of participating providers. This administrative regulation establishes the uniform application form and guidelines for evaluation and reevaluation of a health care provider, including a psychologist.

Section 1. Definitions. (1) "Applicant" is defined by KRS 304.17A-575(1).

(2) ~~["Commissioner" means the Commissioner of Insurance.~~

(3) "Evaluation" or "credentialing" means:

(a) A process for collecting and verifying professional qualifications of a health care provider;

(b) An assessment of a health care provider's professional competence and conduct; and

(c) A process to be completed before a health care provider may participate in a provider network of an insurer on an initial or ongoing basis.

(3) ~~[(4)]~~ "Form KAPER-1" means the uniform application for credentialing or recredentialing of a health care provider pursuant to KRS 304.17A-545(5).

(4) ~~[(5)]~~ "Health care provider" or "provider" means a:

(a) Health care provider pursuant to KRS 304.17A-005(23); or

(b) Psychologist licensed under KRS Chapter 319.

(5) ~~[(6)]~~ "Insurer" is defined by KRS 304.17A-005(27).

(7) "Managed care plan" is defined by KRS 304.17A-500(9).

(8) "Participating health care provider" means a participating health care provider pursuant to KRS 304.17A-500(10), including a psychologist licensed under KRS Chapter 319.

(6) ~~[(9)]~~ "Provider network" is defined by KRS 304.17A-005(35).

(40) "Reevaluation" or "recredentialing" means:

(a) A process for collecting and reverifying professional qualifications of a participating health care provider; and

(b) An assessment of a participating health care provider's professional competence and conduct.

Section 2. Guidelines for an Insurer. (1) Except as established in subsection (3)(b) of this section, an insurer ~~that~~which offers a managed care plan and performs credentialing or recredentialing activities shall use Form KAPER-1, Part A to credential or recredential a health care provider who desires participation in its provider network.

(2) Pursuant to subsection (1) of this section, an insurer shall:

(a) Have a mechanism for making available and accepting from a health care provider a handwritten or electronically

submitted Form KAPER-1, Part A for:

1. Initial credentialing; and
2. Recredentialing;

(b) Within thirty (30) days of receipt of a Form KAPER-1, Part A, electronically or in writing:

1. Notify the health care provider of receipt of the Form KAPER-1 and, if applicable, of any omitted or questionable information included on the form;

2. Offer assistance to the provider, if requested; and

(c) 1. Within sixty (60) days of receipt of a Form KAPER-1, Part A, provide an electronic or written notification regarding the status of credentialing to the health care provider; and

2. Extend the time period identified in section 2(2)(c)1, due to extenuating circumstances if:

a. Additional time is required by the insurer to consider information submitted on the Form KAPER-1, Part A; and

b. The health care provider is informed of the need for more time, including information relating to the extenuating circumstance, which caused the delay;

(d) Provide electronic or written notification as established in paragraph (c) of this subsection every thirty (30) days after the initial notification until a final determination regarding credentialing[credential] has been issued to the health care provider;

(e) Not require:

1. Information on the Form KAPER-1, Part A, which is not relevant to the scope of practice, health care setting, or service of the health care provider; and

2. Routine recredentialing of a health care provider more frequently than three (3) years from the previous credentialing date; and

(f) Upon making a final determination regarding credentialing of an applicant in accordance with KRS 304.17A-576(1), provide notification of the determination to the applicant.

(3) An insurer may use:

(a) Form KAPER-1, Part A to credential or recredential an individual in its provider network other than a health care provider; and

(b) The provider credentialing application form of the Council for Affordable Quality Healthcare as identified in the introduction of the Form KAPER-1, Part A, in lieu of the Form KAPER-1, Part A.

Section 3. Incorporation by Reference. (1) The "Kentucky Application for Provider Evaluation and Reevaluation", Form KAPER-1 (11/2019)(4/2009), is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Insurance, 500 Mero St., 2SE11[245 West Main Street], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the Department of Insurance Web site at: <http://insurance.ky.gov>.

CONTACT PERSON: Max Fuller, Staff Attorney, 500 Mero Street, Frankfort, Kentucky 40602, phone (502) 573-0365, fax (502) 573-1057, email max.fuller@ky.gov.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
(As Amended at ARRS, February 10, 2020)

815 KAR 20:010. Definitions for 815 KAR Chapter 20.

RELATES TO: KRS 132.010[(9), (10)], Chapter 318, 42 U.S.C. 300g-6

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department to promulgate an administrative regulation establishing the Kentucky State Plumbing Code to regulate plumbing. This administrative regulation establishes definitions for terms used in 815 KAR Chapter 20.

Section 1. Definitions. (1) "ABS" means acrylonitrile-butadiene-

styrene.

(2) "Administrative authority" means the Department of Housing, Buildings and Construction or any person or agency authorized by the department to administer and enforce the provisions of the Kentucky State Plumbing Code.

(3) "Air break" means a piping arrangement for a drainage system in which a drain from a fixture, appliance, or device discharges indirectly into another fixture, receptacle, or interceptor at a point below the flood level rim.

(4) "Air gap" means, for a drainage system, the unobstructed vertical distance through the free atmosphere between the outlet of waste pipe and the flood level rim of the receptacle into which it is discharging.

(5) "Air gap" means, for a water distribution system, the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle.

(6) "Anchors" means "supports" as defined by this administrative regulation.

(7) "ANSI" means the American National Standards Institute.

(8) "APML" means the []Approved Parts or Materials List as established in 815 KAR 20:020, Section 4.[]

(9) "Apprentice" is defined by KRS 318.010(7).

(10)[(8)] "Approved" means accepted or acceptable under an applicable specification stated, established, or cited in this code.

(11)[(9)] "Area drain" means a receptacle designed to collect surface or storm water from an open area.

(12)[(10)] "Aspirator" means a fitting or device supplied with water or other fluid under positive pressure, which passes through an integral orifice or "constriction" causing a vacuum. Aspirators are often referred to as "suction" apparatus and are similar in operation to an ejector.

(13) "ASME" means the American Society of Mechanical Engineers.

(13) "Aspirator" means a fitting or device supplied with water or other fluid under positive pressure, which passes through an integral orifice or constriction causing a vacuum. Aspirators are often referred to as suction apparatus and are similar in operation to an ejector.

(14) "ASSE" means the American Society of Sanitary Engineers.

(15)[(44)] "ASTM" means the American Society for Testing and Materials.

(16)[(42)] "Autopsy table" means a fixture or table used for postmortem examination of a body.

(17)[(43)] "Backflow" means the flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any source or sources other than its intended source. Back siphonage is one (1) type of backflow.

(18)[(44)] "Backflow connection" means any arrangement whereby backflow could[may] occur (see "cross connection" as defined by this administrative regulation).

(19)[(45)] "Backflow preventer" means a device or means to prevent backflow.

(20)[(46)] "Backflow preventer, reduced pressure zone type" means an assembly of differential valves and check valves, including an automatically opened spillage port to the atmosphere.

(21)[(47)] "Back siphonage" means the flowing back of used, contaminated, or polluted water from a plumbing fixture or vessel or other sources into a potable water supply pipe due to a negative pressure in a pipe.

(22)[(48)] "Basement" means the lowest level of a dwelling unit, which is wholly or partly below the ground level in which the entrance and exit is made by use of a stairway or other mechanical means and with or without[which may or may not have] an entrance and exit at the basement floor level.

(23)[(49)] "Basement floor drain" means a drain placed in the basement floor of a residence that does or does not receive sanitary waste water.

(24)[(20)] "Battery of fixtures" means any group of two (2) or more similar adjacent fixtures that discharge into a common horizontal waste or soil branch.

(25)[(24)] "Bedpan hopper" means "clinical sink" as defined by this administrative regulation.

(26)[(22)] "Bedpan steamer or boiler" means a fixture used for scalding bedpans or urinals by direct application of steam of boiling water.

(27)[(23)] "Bedpan unit" means a small workroom in the nursing area designed and equipped for emptying, cleaning, and sometimes for steaming bedpans, and for no other purpose.

(28)[(24)] "Bedpan washer and sterilizer" means a fixture designed to wash bedpans and to flush the contents into the sanitary drainage system. It can also provide for disinfecting utensils by scalding with steam or hot water.

(29)[(25)] "Bedpan washer hose" means a device supplied with hot and cold water and located adjacent to a water closet or clinical sink to be used for cleaning bedpans.

(30)[(26)] "Boiler blow-off" means an outlet on a boiler to permit emptying or discharge of sediment.

(31)[(27)] "Boiler blow-off tank" means a vessel designed to receive the discharge from a boiler blow-off outlet and to cool the discharge to a temperature that permits its safe discharge to the drainage system.

(32)[(28)] "Branch" means that part of the piping system that extends horizontally, at a slight grade, with or without lateral or vertical extensions or vertical arms, from the main to receive fixture outlets not directly connected to the main.

(33)[(29)] "Branch, fixture" means "fixture branch" as defined by this administrative regulation.

(34)[(30)] "Branch interval" means a distance along a soil or waste stack corresponding in general to a story height, but in no case less than eight (8) feet, within which the horizontal branches from one (1) floor or story of a building are connected to the stack.

(35)[(31)] "Branch vent" means a vent connecting one (1) or more individual vents with a vent stack or stack vent.

(36)[(32)] "Building" means a structure having walls and a roof designed and used for the housing, shelter, enclosure, or support of persons, animals, or property.

(37)[(33)] "Building classification" means the arrangement of buildings in classes according to occupancy.

(38)[(34)] "Building drain" means that part of the lowest piping of a drainage system that receives the discharge from soil, waste, or other drainage pipes inside the walls of the building and conveys it to the building sewer beginning two (2) feet outside the building wall.

(39)[(35)] "Building drain; combined" means a building drain that conveys both sewage and storm water or other drainage.

(40)[(36)] "Building drain; sanitary" means a building drain that conveys sewage only.

(41)[(37)] "Building drain; storm" means a building drain that conveys storm water or other drainage but not sewage.

(42)[(38)] "Building gravity drainage system" means a drainage system that drains by gravity into the building sewer.

(43)[(39)] "Building sewer" means that part of the drainage system that extends from the end of the building drain and conveys its discharge to a public sewer, private sewer, individual sewage-disposal system, or other point of disposal.

(44)[(40)] "Building sewer; combined" means a building sewer that conveys both sewage and storm water or other drainage.

(45)[(41)] "Building sewer; sanitary" means a building sewer that conveys sewage only.

(46)[(42)] "Building sewer; storm" means a building sewer that conveys storm water or other drainage but no sewage.

(47)[(43)] "Building subdrain" means that portion of a drainage system that does not drain by gravity into the building sewer.

(48)[(44)] "Cesspool" means a lined and covered excavation in the ground that receives a discharge of domestic sewage or other organic wastes from a drainage system, so designed as to retain the organic matter and solids, but permitting the liquids to seep through the bottom and sides.

(49)[(45)] "Circuit vent" means a branch vent that serves two (2) or more traps and extends from the downstream side of the highest fixture connection of a horizontal branch to the vent stack.

(50) "CISPI" means the Cast Iron Soil Pipe Institute.

(51)[(46)] "Clinical sink" or "bedpan hopper" means a fixture for

the rinsing of bedpans and soiled linens.

(52)[(47)] "Code" is defined by KRS 318.010(11).

(53)[(48)] "Combination fixture" means a fixture combining one (1) sink and laundry tray or a two (2) or three (3) compartment sink or laundry tray in one (1) unit.

(54)[(49)] **"Combination waste and vent system" means a specifically designed system of waste piping embodying the horizontal wet venting of one (1) or more sinks or floor drains by means of a common waste and vent pipe adequately sized to provide free movement of air above the free water surface in the drain.**

(55) "Combined building drain" means "building drain; combined" as defined by this administrative regulation.

(56)[(55)] "Combined building sewer" means "building sewer; combined" as defined by this administrative regulation.

~~(56)[(54)] **"Combination waste and vent system" means a specially designed system of waste piping embodying the horizontal wet venting of one (1) or more sinks or floor drains by means of a common waste and vent pipe adequately sized to provide free movement of air above the free water surface in the drain.**~~

(57)[(52)] "Common vent" means a vent connecting at the junction of two (2) fixture drains and serving as a vent for both fixture drains.

(58)[(53)] "Conductor" means a pipe inside the building that conveys storm water from the roof to a storm or combined building drain.

(59)[(54)] "Continuous vent" means a vertical vent that is a continuation of the drain to which it connects.

(60)[(55)] "Continuous waste" means a drain from two (2) or more fixtures connected to a single trap.

(61)[(56)] "Cross connection" means any physical connection or arrangement between two (2) otherwise separate piping systems, one (1) of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical whereby there could be a flow from one (1) system to the other, the direction of flow depending on the pressure differential between the two (2) systems. (See "backflow" and "back siphonage" as defined by this administrative regulation.)

(62) "Critical level" or "CL" means the level to which the vacuum breaker **could(may)** be submerged before backflow will occur, and if the CL marking is not shown on the vacuum breaker, the bottom of the device **is/shall be** taken as the CL.

(63)[(57)] "Dead end" means a branch leading from a soil, waste or vent pipe, building drain, or building sewer, and terminating at a developed length of two (2) feet or more by means of a plug, cap, or other closed fitting.

(64) "Department" means the Department of Housing, Buildings and Construction.

(65)[(58)] "Developed length" means the length of a pipe line measured along the center line of the pipe and fittings.

(66) "Developed travel distance" means the length of a **pathway measured along the center line of the path.**

(67)[(59)] "Diameter" means the nominal diameter as designated commercially.

(68) "Division" means the Division of Plumbing.

(69)[(60)] "Domestic sewage" means the waterborne wastes derived from ordinary living processes.

(70)[(61)] "Double offset" means two (2) changes of direction installed in succession or series in a continuous pipe.

(71)[(62)] "Downspout" means "leader" as defined by this administrative regulation.

(72)[(63)] "Drain" means any pipe that carries waste water or waterborne wastes in a building drainage system.

(73)[(64)] "Drainage pipe" means "drainage system" as defined by this administrative regulation.

(74)[(65)] "Drainage system":

(a) Means all the piping, within public or private premises, which conveys sewage, rain water, or other liquid wastes to a point of disposal; and

(b) Does not mean:

1. The mains of a public sewer system;
2. A private or public sewage-treatment or disposal plant; or

3. Plumbing appliances.

(75)({66}) "Drainage system" means, for building gravity, a drainage system that drains by gravity into the building sewer.

(76)({67}) "Drainage system" means, for a subbuilding, "building subdrain" as defined by this administrative regulation.

(77)({68}) "Dry well" means "leaching well or pit" as defined by this administrative regulation.

(78)({69}) "Dual vent" means "common vent" as defined by this administrative regulation.

(79)({70}) "Durham system" means a soil or waste system in which all piping is of threaded pipe, tube, or other rigid construction, using recessed drainage fittings to correspond to the types of piping.

(80)({71}) "Dwelling unit" means one (1) or more rooms with provision for living, sanitary, and sleeping facilities arranged for the use of one (1) family or individual.

(81)({72}) "DWV" means drain, waste, and vent piping as used in common plumbing practice.

(82)({73}) "Effective opening" means the minimum cross-sectional area at the point of water supply discharge, measured or expressed in terms of diameter of a circle, or if the opening is not circular, the diameter of a circle of equivalent cross-sectional area.

(83)({74}) "Ejector" means "aspirator" as defined by this administrative regulation.

(84)({75}) "Existing work" means a plumbing system or any part thereof installed prior to the effective date of the applicable provision of this code.

(85)({76}) "Farm" as associated with "farmstead", as defined by KRS 318.010(8), means property with a bona fide "agricultural land" or "horticultural land" use as defined by KRS 132.010(9) and (10) and qualified by and registered with the PVA in that county.

(86)({77}) "Fire line" means a system of pipes and equipment used exclusively to supply water for extinguishing fires.

(87)({78}) "Fixture" means "plumbing fixture" as defined by this administrative regulation.

(88)({79}) "Fixture branch" means the piping distance between a soil, waste, and vent stack and the fixture trap.

(89)({80}) "Fixture drain" means the drain from the trap of a fixture to the junction of that drain with any other drain pipe.

(90)({81}) "Fixture supply" means the water supply pipe connecting a fixture to a branch water supply pipe or directly to a main water supply pipe.

(91)({82}) "Fixture unit, drainage[(d.f.u.)] or "d.f.u."" means a measure of the probable discharge into the drainage system by various types of plumbing fixtures. The drainage fixture-unit valve for a particular fixture depends on its volume rate of drainage discharge, on the time duration of a single drainage operation, and on the average time between successive operations. (Note: In general, on small systems, one (1) drainage fixture unit approximates one (1) cubic foot per minute.)

(92)({83}) "Fixture unit, supply[(s.f.u.)] or "s.f.u."" means a measure of the probable hydraulic demand on the water supply by various types of plumbing fixtures. The supply fixture-unit valve for a particular fixture depends on its volume rate of supply, on the time duration of a single supply operation, and on the average time between successive operations.

(93)({84}) "Flood level" means "flood level rim" as defined by this administrative regulation.

(94)({85}) "Flood level rim" means the edge of the receptacle from which water overflows.

(95)({86}) "Flooded" means the condition that results at the point the liquid in a container or receptacle rises to the flood-level rim.

(96)({87}) "Floor drain" means a drain placed in the floor of a building for the purpose of receiving sanitary waste water.

(97)({88}) "Floor pantry" means a workroom in the nursing area designed and equipped to prepare supplemental diets or beverages, and to assemble food trays at meal times if used in conjunction with decentralized food service.

(98)({89}) "Flow pressure" means the pressure in the water supply pipe near the faucet or water outlet while the faucet or water outlet is wide-open and flowing.

(99)({90}) "Flush valve" means a device located at the bottom

of a tank for slushing water closets and similar fixtures.

(100)({91}) "Flushing type floor drain" means a drain that is equipped with an integral water supply enabling flushing of the drain receptor and trap.

(101)({92}) "Flushometer valve" means a device that discharges a predetermined quantity of water to fixtures for flushing purposes and is closed by direct water pressure.

(102)({93}) "Frost-proof closet" means a hopper with no water in the bowl and with the trap and water supply control valve located below frost line.

(103)({94}) "Grade" means the fall (slope) of a line of pipe in reference to a horizontal plane. In drainage it is usually expressed as the fall in a fraction of an inch per foot length of pipe.

(104)({95}) "Grade plane" means a reference plane representing the average of finished ground level adjoining the building at exterior walls. If[Where] the finished ground level slopes away from the exterior walls, the reference plane is established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet (1,829 mm) from the building, between the building and a point six (6) feet (1,829 mm) from the building.

(105)({96}) "Grease interceptor" means "interceptor" as defined by this administrative regulation.

(106)({97}) "Grease trap" means "interceptor" as defined by this administrative regulation.

(107)({98}) "Grillage" means sand, pea gravel, or limestone rock sizes #57 and smaller used for bedding for piping systems.

(108)({99}) "Hangers" means "supports" as defined by this administrative regulation.

(109) "Health care facility" means a hospital, nursing home, limited care facility, clinic, ambulatory care center, or office practice medical or dental office[as defined in NFPA 99].

(110)({400}) "Horizontal branch drain" means a drain branch pipe extending laterally from a soil or waste stack or building drain, with or without vertical sections or branches, which receives the discharge from one (1) or more fixture drains and conducts it to the soil or waste stack or to the building drain.

(111)({401}) "Horizontal pipe" means any pipe or fitting that makes an angle of less than forty-five (45) degrees with the horizontal.

(112)({402}) "Hose bibb" means a sill cock, wall hydrant, or similar faucet with a downward angled threaded nozzle.

(113)({403}) "Hot water" means water at a temperature of not less than 120 degrees Fahrenheit.

(114)({404}) "House drain" means "building drain" as defined by this administrative regulation.

(115)({405}) "House sewer" means "building sewer" as defined by this administrative regulation.

(116)({406}) "Indirect waste pipe" means a waste pipe not directly connected with the drainage system, but that[which] discharges into the drainage system through an air break or air gap into a trap, fixture, receptor, or interceptor.

(117)({407}) "Individual sewage disposal system" means a system for disposal of domestic sewage by means of a septic tank, cesspool, or mechanical treatment, designed for use apart from a public sewer to serve a single establishment or building.

(118)({408}) "Individual vent" means a pipe installed to vent a fixture drain. It connects with the vent system above the fixture served or terminates outside the building into the open air.

(119)({409}) "Individual water supply" means a supply, other than an approved public water supply which serves one (1) or more families.

(120)({410}) "Industrial floor drain" means a drain placed in the floor of a building other than in a toilet room or shower room to receive waste water.

(121)({411}) "Industrial wastes" means liquid wastes resulting from the processes employed in industrial and commercial establishments.

(122)({412}) "Insanitary" means contrary to sanitary principles and potentially[;] injurious to health.

(123)({413}) "Interceptor" means a device designed and installed so as to separate and retain deleterious, hazardous, or undesirable matter from normal wastes while permitting normal

sewage or liquid wastes to discharge into the drainage system by gravity.

(124)[(144)] "Installed" means altered, changed, or a new installation.

(125)[(145)] "Invert" means the lowest portion of the inside of any horizontal pipe.

(126)[(146)] "Kitchen sink unit" means a sink, double or single compartment, food waste disposer, and dishwasher placed in a unit so arranged that the dishwasher abuts the sink.

(127)[(147)] "Lavatory" means a hand basin, such as in a bathroom.

(128)[(148)] "Leaching well or pit" means a pit or receptacle having porous walls that allow the contents to seep into the ground.

(129) "Lead" means solders and flux containing more than two tenths (0.2) percent lead and the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures containing more than a weighted average of one fourth (0.25) percent lead as calculated according to the formula established in 42 U.S.C. 300g-6(d)(2).

(130)[(149)] "Leader" means an exterior drainage pipe for conveying storm water from roof or gutter drains.

(131)[(120)] "Liquid waste" means the discharge from any fixture, appliance, area or appurtenance, which does not contain fecal matter.

(132)[(124)] "Load factor" means the percentage of the total connected fixture unit flow that is likely to occur at any point in the drainage system.

(133)[(122)] "Local vent stack" means a vertical pipe to which connections are made from the fixture side of traps and through which vapor and foul air can be removed from the fixture or device used on bedpan washers.

(134)[(123)] "Local ventilating pipe" means a pipe through which foul air is removed from a room or fixture.

(135)[(124)] "Loop vent" means a circuit vent that loops back to connect with a stack vent instead of a vent stack.

(136)[(125)] "Main" means the horizontal, vertical, and continuous piping that receives the waste, soil, main, or individual vents from fixture outlets, or traps, directly or through branch pipes.

(137)[(126)] "Main sewer" means "public sewer" as defined by this administrative regulation.

(138)[(127)] "Main vent" means the principal artery of the venting system to which vent branches can be connected. (Manufacturer's Floor Drain. See "industrial floor drain" as defined by this administrative regulation.)

(139) "Medical gas system" means an assembly of equipment and piping for the distribution of nonflammable medical gases such as oxygen, nitrous oxide, compressed air, carbon dioxide, and helium as defined in NFPA 99.

(140) "Medical-surgical vacuum system" means an assembly of central vacuum-producing equipment and a network of piping for patient suction in medical, medical-surgical, and waste anesthetic gas disposal applications as defined in NFPA 99.

(141) "Mobile facility" means a vehicle licensed and registered with the Kentucky Department of Transportation that contains plumbing fixtures and is intended for temporary use with regard to the structure it serves.

(142) "Modular" means a structure or component that is wholly or substantially fabricated in an off-site manufacturing facility for installation at the building site.

(143)[(128)] "Multiple dwelling" means a building containing more than two (2) dwelling units.

(144) "NFPA" means the National Fire Protection Association.

(145)[(129)] "Nominal pipe size" means a standard expression in inches and fractions thereof to designate the approximate inside diameter of a pipe, conduit, or tube.

(146)[(130)] "Nonpotable water" means water not safe for drinking, personal, or culinary use.

(147) "NSF" means the National Sanitation Foundation.

(148)[(134)] "Nuisance" means dangerous to human life or detrimental to health, including:

(a) At; whatever building, structure, or premise is not sufficiently ventilated, sewer, drained, cleaned, or lighted, in reference to its intended or actual use; and

(b) An agent that whatever renders the air, or human food or drink, or a water supply unwholesome.

(149)[(132)] "Nurses' station" means an area in the nursing unit separated from the corridor by counter or desk, designed to permit nurses to:

(a) Record and file each patient's history and progress;

(b) Observe, observation, and control a corridor;

(c) Prepare, preparation of medicines and

(d) and Maintain contact with patients, the hospital, and the outside by local and public means of communication.

(150)[(133)] "Offset" means a combination of elbows or bends that bring one (1) section of the pipe out of line but into a line parallel with the other section.

(151)[(134)] "Oil interceptor" means "interceptor" as defined by this administrative regulation.

(152) "Parts or materials" means all types of fittings and piping used in the soil, waste, and vent systems; ; house sewers; ; potable water supply; ; plumbing fixtures; ; appurtenances, and mechanical sewage systems in plumbing systems.

(153) "PE" means polyethylene.

(154)[(135)] "Person" is defined by KRS 318.010(9).

(155) "PEX" means cross-linked polyethylene pipe.

(156) "PEX-AL-PEX" means polyethylene/aluminum/cross-linked polyethylene composite pressure pipe.

(157)[(136)] "Pitch" means "grade" as defined by this administrative regulation.

(158)[(137)] "Plumbing" is defined by KRS 318.010(4).

(159)[(138)] "Plumbing appliance" means any one (1) of a special class of plumbing fixture that is intended to perform a special function. Its operation and control can be dependent upon one (1) or more energized components, such as motors, controls, heating elements, or pressure or temperature-sensing elements. Fixtures can operate automatically through one (1) or more of the following actions:

(a) A time cycle;

(b) A temperature range;

(c) A pressure range;

(d) A measured volume or weight; or

(e) Manual adjustment or control by the user or operator.

(160)[(139)] "Plumbing appurtenance" means a manufactured device, or a prefabricated assembly of component parts, and is an adjunct to the basic piping system and plumbing fixtures. An appurtenance demands no additional water supply, nor does it add any discharge load to a fixture or the drainage system. It is presumed that it performs some useful function in the operation, maintenance, servicing, economy, or safety of the plumbing system.

(161)[(140)] "Plumbing fixture":

(a) Means a receptacle or device that is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water therefrom, or it discharges used water, liquid-borne waste materials, or sewage either directly or indirectly to the drainage system of the premises, or that requires both a water supply connection and a discharge to the drainage system of the premises; and

(b) Does not mean piping that carries water or sewage.

(162)[(141)] "Plumbing inspector" means a duly authorized employee or agent of the Department of Housing, Buildings and Construction who is charged with the responsibility of inspecting plumbing installations and with the enforcement of the Kentucky State Plumbing Code, KRS Chapter 318, and 815 KAR Chapter 20 [state plumbing laws and code].

(163)[(142)] "Plumbing repair" means, as used in the code, to mean replacing a part or putting together a part or parts that which is torn or broken.

(164)[(143)] "Plumbing system" means the following: appliances and water heaters; the water supply distributing pipes; the fixtures and fixture traps; the soil, waste, and vent pipes; the house drain and house sewer; and the storm water drainage within a building with their devices, appurtenances, and connections all within and adjacent to the building.

(165)[(144)] "Pool" means "swimming pool" as defined by this administrative regulation.

(166)[(145)] "Potable water" means water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming in its bacteriological and chemical quality to the requirements of the Division of Water in 401 KAR Chapter 8 and the Kentucky State Plumbing Code established in 815 KAR Chapter 20~~or the administrative regulations of the Department of Housing, Buildings and Construction~~.

(167)[(146)] "Private" or "private use" means, in the classification of plumbing fixtures, ~~[private applies to]~~ fixtures in residences, ~~[and]~~ apartments, and ~~[to fixtures in]~~ private bathrooms of hotels, as well as similar installations in other buildings where the fixtures are intended for the use of a family or an individual.

(168)[(147)] "Private sewer" means a sewer, serving two (2) or more buildings, privately owned, and not directly controlled by public authority.

(169)[(148)] "Public" or "public use" means, in the classification of plumbing fixtures, ~~[public applies to]~~ fixtures in general toilet rooms of schools, gymnasiums, hotels, railroad stations, public buildings, bars, public comfort stations, and other installations (whether pay or free) where a number of fixtures are installed so that the fixtures use is similarly unrestricted.

(170)[(149)] "Public sewer" means a common sewer directly controlled by public authority.

(171)[(150)] "Public water main" means a water supply pipe for public use controlled by public authority.

(172)[(151)] "PVC" means polyvinyl chloride.

(173)[(152)] "Receptor" means a fixture or device that receives the discharge from indirect waste pipes.

(174)[(153)] "Relief vent" means an auxiliary vent that permits additional circulation of air in or between drainage and vent systems.

(175)[(154)] "Replace" means to put something new or rebuilt in the place of that which was existing.

(176)[(155)] "Return offset" means a double offset installed so as to return the pipe to its original alignment.

(177)[(156)] "Revent pipe" means "individual vent" as defined by this administrative regulation.

(178)[(157)] "Rim" means an unobstructed open edge of a fixture.

(179)[(158)] "Riser" means a water supply pipe that extends vertically one (1) full story or more to convey water to branches or to a group of fixtures.

(180)[(159)] "Roof drain" means a drain installed to receive water collecting on the surface of a roof and to discharge it into a leader or a conductor.

(181)[(160)] "Roughing-in" means the installation of all parts of the plumbing system that can be completed prior to the installation of fixtures. This includes drainage, water supply, vent piping, and the necessary fixture supports.

(182)[(161)] "Safe waste" means "indirect waste pipe" as defined by this administrative regulation.

(183)[(162)] "Sand interceptor" means "interceptor" as defined by this administrative regulation.

(184)[(163)] "Sand trap" means "interceptor" as defined by this administrative regulation.

(185)[(164)] "Sanitary sewer" means a sewer that carries sewage and excludes storm, surface, and ground water.

(186)[(165)] "Scrub sink" means a device usually located in the operating suite to enable operating personnel to scrub their hands prior to operating procedures. The hot and cold water supply is activated by a knee-action mixing valve or by wrist or pedal control.

(187) "SDR" means standard dimensional ratio.

(188)[(166)] "Seepage well or pit" means a covered pit with open-jointed lining into which septic tank effluent is received that will seep or leach into the surrounding porous soil.

(189)[(167)] "Separator" means "interceptor" as defined by this administrative regulation.

(190)[(168)] "Septic tank" means a watertight receptacle that receives the discharge of a building sanitary drainage system or part thereof, and is designed and constructed so as to digest organic matter through a period of detention and allow the liquids

to discharge into the soil outside of the tank through a system of open joint or perforated piping, or a seepage pit.

(191)[(169)] "Sewage" means any liquid waste containing animal or vegetable matter in suspension or solution, including liquids containing chemicals in solution.

(192)[(170)] "Sewage ejector" means a device for lifting sewage by entraining it in a high velocity jet of steam air or water.

(193)[(171)] "Side vent" means a vent connecting to the drain pipe through a fitting at an angle not greater than forty-five (45) degrees to the vertical.

(194)[(172)] "Size of pipe and tubing" means "diameter" as defined by this administrative regulation.

(195)[(173)] "Slope" means "grade" as defined by this administrative regulation.

(196)[(174)] "Soil pipe" means any pipe that conveys the discharge of water closets or similar fixtures, with or without the discharges from other fixtures, to the house drain.

(197)[(175)] "Soil vent" means "stack vent" as defined by this administrative regulation.

(198)[(176)] "Special wastes" means wastes that require special treatment before entry into the normal plumbing system.

(199)[(177)] "Special waste pipe" means pipes that convey special wastes.

(200)[(178)] "Stack" means any vertical line of soil, waste, or vent piping.

(201)[(179)] "Stack group" means a group of fixtures located adjacent to the stack so that by means of proper fittings, vents can be reduced to a minimum.

(202)[(180)] "Stack vent" means the extension of a soil or waste stack above the highest horizontal drain connected to the stack.

(203)[(181)] "Stack venting" means a method of venting a fixture or fixtures through the soil or waste stack.

(204)[(182)] "Sterilizer, boiling type" means a fixture (nonpressure type), used for boiling instruments, utensils, and other equipment (used for disinfection). Some devices are portable, ~~while;~~ others are connected to the plumbing system.

(205)[(183)] "Sterilizer, instrument" means a device for the sterilization of various instruments.

(206)[(184)] "Sterilizer pressure (autoclave)" or "autoclave" means a fixture (pressure vessel) designed to use steam under pressure for sterilizing.

(207) "Sterilizer, pressure instrument washer-sterilizer" means a fixture (pressure vessel) designed to both wash and sterilize instruments during the operating cycle of the fixture.

~~[(207)](185)] "Sterilizer, pressure (autoclave)" or "autoclave" means a fixture (pressure vessel) designed to use steam under pressure for sterilizing.]~~

(208)[(186)] "Sterilizer, utensil" means a device for the sterilization of utensils as used in hospital services.

(209)[(187)] "Sterilizer vent" means a separate pipe or stack, indirectly connected to the building drainage system at the lower terminal, which receives the vapors from nonpressure sterilizers, or the exhaust vapors from the pressure sterilizers, and conducts the vapors directly to the outer air. Sometimes a sterilizer vent is referred to as vapor, steam, atmospheric, or exhaust vent.

(210)[(188)] "Sterilizer, water" means a device for sterilizing water and storing sterile water.

(211)[(189)] "Still" means a device used in distilling liquids.

(212)[(190)] "Storm drain" means building storm drain.

(213)[(191)] "Storm sewer" means a sewer used for conveying rain water, surface water, condensate, cooling water, or similar liquid wastes.

(214)[(192)] "Subsoil drain" means a drain that collects subsurface water and conveys it to a place of disposal.

(215)[(193)] "Sump" means a tank or pit, which receives sewage or liquid waste, located below the normal grade of the gravity system and that is emptied by mechanical means.

(216)[(194)] "Sump pump" means a mechanical device, other than an ejector or bucket, for removing sewage or liquid waste from a sump.

(217)[(195)] "Supports" means devices for supporting and securing pipe, fixtures, or~~and~~ equipment.

~~(218)~~~~(196)~~ "Swimming pool" means any structure, basin, chamber, or tank containing any artificial body of water for swimming, diving, wading, or recreational bathing.

~~(219)~~ "Temporary" means a period of time not to exceed thirty ~~(30)~~ days of intermittent or continual use within twelve ~~(12)~~ month period on the same premises.

~~(220)~~~~(197)~~ "Trap" means a fitting or device that provides a liquid seal to prevent the emission of sewer gases without materially affecting the flow of sewage or waste water through it.

~~(221)~~~~(198)~~ "Trap arm" means that portion of a fixture drain between a trap and its vent.

~~(222)~~~~(199)~~ "Trap primer" means a device or system of piping to maintain a water seal in a trap, typically installed where infrequent use of the trap would result in evaporation of the trap seal, such as floor drains.

~~(223)~~~~(200)~~ "Trap seal" means the vertical distance between the crown weir and the top of the dip of the trap.

~~(224)~~~~(201)~~ "Utility room" means a workroom in the patient nursing area, designed and equipped to facilitate preparation, cleaning, and incidental sterilizing of the various supplies, instruments, and utensils involved in nursing treatment and care, exclusive of medications handled in nurses' stations and bedpan cleaning and sterilizing.

~~(225)~~~~(202)~~ "Vacuum" means any pressure less than exerted by the atmosphere.

~~(226)~~~~(203)~~ "Vacuum breaker" means "backflow preventer" as defined by this administrative regulation.

~~(227)~~~~(204)~~ "Vacuum breaker, nonpressure type (atmospheric)" means a vacuum breaker that is not designed to be subjected to static line pressure.

~~(228)~~~~(205)~~ "Vacuum breaker, pressure type" means a vacuum breaker designed to operate under conditions of static line pressure.

~~(229)~~~~(206)~~ "Vent pipe" means any pipe provided to ventilate a house drainage system and to prevent tray siphonage and back pressure.

~~(230)~~~~(207)~~ "Vent system" means a pipe or pipes installed to provide a flow of air to or from a drainage system or to provide a circulation of air within the system to protect trap seals from siphonage and back pressure.

~~(231)~~~~(208)~~ "Vertical pipe" means any pipe or fitting that makes an angle of forty-five (45) degrees or less with the vertical.

~~(232)~~~~(209)~~ "Wall hung water closet" means a wall mounted water closet installed in such a way that no part of the water closet touches the floor.

~~(233)~~~~(210)~~ "Waste pipe and special waste" means any pipe that receives the discharge of any fixture (except water closets or similar fixtures) and discharges to the house drain, soil, or waste stacks. If a pipe does not connect directly with a house drain, waste, or soil stack, the pipe is considered to contain special waste.

~~(234)~~ "Water closet" means a flush toilet.

~~(235)~~~~(211)~~ "Water distributing pipe" means a pipe within the building or on the premises that conveys water from the water-service pipe or meter to the point of usage.

~~(236)~~~~(212)~~ **"Water heater" means "water heating device," as defined by KRS 318.200(1).**

~~(237)~~ "Water lifts" means "sewage ejector" as defined by this administrative regulation.

~~(238)~~~~(237)~~~~(213)~~ "Water outlet" means a discharge opening through which water is supplied to a fixture, into the atmosphere (except into an open tank that is part of the water supply), to a boiler or heating system, or to any devices or equipment requiring water to operate but that are not part of the plumbing system.

~~(239)~~~~(238)~~~~(214)~~ "Water riser pipe" means "riser" as defined by this administrative regulation.

~~(240)~~~~(239)~~~~(215)~~ "Water service pipe" means the pipe from the water main or other source of potable water supply to the water distributing system of the building served.

~~(241)~~~~(240)~~~~(216)~~ "Water supply stub" means a vertical pipe less than one (1) story in height supplying one (1) or more fixtures.

~~(242)~~~~(241)~~~~(217)~~ "Water supply system" means the water service pipe, the water-distributing pipes, and the necessary

connecting pipes, fittings, control valves, and all appurtenances in or adjacent to the building or premises.

~~(243)~~~~(242)~~~~(218)~~ "Well, bored" means a well constructed by boring a hole in the ground with an auger and installing a casing.

~~(244)~~~~(243)~~~~(219)~~ "Well, drilled" means a well constructed by making a hole in the ground with a drilling machine of any type and installing casing and screen.

~~(245)~~~~(244)~~~~(220)~~ "Well, driven" means a well constructed by driving a pipe in the ground. The drive pipe is usually fitted with a well point and screen.

~~(246)~~~~(245)~~~~(221)~~ "Well, dug" means a well constructed by excavating a large diameter shaft and installing a casing.

~~(247)~~~~(246)~~~~(222)~~ "Wet vent" means a vent that receives the discharge of wastes other than from water closets.

~~(248)~~~~(247)~~~~(223)~~ "Yoke vent" means a pipe connecting upward from a soil or waste stack to a vent stack for the purpose of preventing pressure changes in the stack.

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**PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
(As Amended at ARRS, February 10, 2020)**

815 KAR 20:020. Parts or materials list.

RELATES TO: KRS 318.010, 318.015, 318.130, 318.150, 318.200

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department~~[-after review by the State Plumbing Code Committee,]~~ to promulgate an administrative regulation establishing the Kentucky State Plumbing Code regulating plumbing, including the methods and materials that may be used in Kentucky. This administrative regulation establishes an ~~["~~Approved Parts or Materials List~~"]~~ containing the parts and materials that have been approved for use in Kentucky.

Section 1.~~[Definitions. (1) "ABS" means acrylonitrile-butadiene-styrene pipe.~~

~~(2) "APML" means the "Approved Parts or Materials List[".~~

~~(3) "ASTM" means American Society for Testing Materials.~~

~~(4) "Code" is defined by KRS 318.010(11).~~

~~(5) "Committee" means the State Plumbing Code Committee.~~

~~(6) "Department" means Department of Housing, Buildings, and Construction.~~

~~(7) "Parts or materials" means all types of fittings and piping used in the soil, waste and vent systems, house sewers, potable water supply, plumbing fixtures, appurtenances, and mechanical sewage systems in plumbing systems.~~

~~(8) "Person" is defined by KRS 318.010(9).~~

~~(9) "PVC" means polyvinyl chloride pipe.~~

Section 2. ~~Approved Parts or Materials List ([APML]).~~ (1) A part or material manufactured or produced according to a specification listed in the code shall be considered approved if it meets the latest edition of the specification.

(2) ~~Drainage or plumbing systems~~~~[A part or material]~~ shall only use parts and materials that:

~~(a) Are~~~~not be used in a drainage or plumbing system, other than those~~ currently authorized by the code~~;~~~~[i.] or~~

~~(b) Have been considered~~~~[unless the use of the part or material has been considered by the committee]~~ and approved by the department as being equal to or better than other similarly approved items for inclusion in the APML.

(3) The APML may specify methods of installation or restrictions applicable to a particular part or material.

Section 2. Amending the APML. (1) A person may petition the

division[committee], in writing, to amend[no later than fourteen (14) days prior to the committee's next scheduled meeting for the purpose of amending] the APML. The request shall include:

(a) A description of the part or material for which approval is sought;

(b) Available technical data;

(c) A listing of other authorities that[which] have approved the use of the part or material; and

(d) Any other pertinent information requested by the division[committee].

(2)(a) The division[committee] shall consider all parts or materials for which approval is sought and shall forward its recommendations within thirty (30) days to the department.

(b) Upon approval of a recommendation by the department, the APML shall be amended by listing the new part or material in Section 4[5] of this administrative regulation.

(c) Following the determination[A hearing shall be held before the committee if requested by a person having an interest in the subject matter within thirty (30) days following the determination of the committee.

(c) Upon approval of a recommendation] by the department, a person having an interest in the subject matter may request a hearing on the determination within thirty (30) days[the APML shall be amended by listing the new part or material in Section 5 of this administrative regulation].

Section 3. Custody of the APML. The Director, Division of Plumbing, shall maintain an up-to-date APML and make it available for inspection during regular office hours. Copies of the APML may be obtained by mailing a self-addressed stamped envelope to the Division of Plumbing, Department of Housing, Buildings[,] and Construction, 500 Mero Street[101 Sea Hero Road], Frankfort, Kentucky 40601-5412[40604-5405].

Section 4. Content of APML[Approved Parts or Materials List]. The following list of parts or materials have been reviewed [by the Kentucky Plumbing Code Committee] and approved by the department and shall be allowed for installation in Kentucky:

(1) Flexible three-fourths (3/4) inch hot and cold water connectors for hot water heaters, minimum wall thickness, 0.032;

(2)(a) Flushmate water closet tank;

(b) Microphor company. Two (2) quart flush toilets;

(c) Jomar 3 and 4 water conserver water closets to operate efficiently on three and one-half (3 1/2) gallons of water per flush;

(d) Superinse toilet that operates on one (1) gallon of water per flush as manufactured by Universal Rundle for the Thetford Wastewater Treatment Systems;

(e) IFO Sanitar AB Model-3160 and 3180 China Water Closet equipped with a Fluidmaster 4003A-F77 Ballcock;

(f) Cashsaver MX (quantum 150-1) Water Closet Combination and Flushmate II Flushometer/Tank as manufactured by Mansfield Plumbing Products; and

(g) Dual flush water closets by Caroma, USA. The water closets shall use zero and eight-tenths (0.8)[(0.8)] gallons for the short flush cycle and one and six-tenths (1.6) gallons for the full flush cycle;

(3) Tubular traps with gasket in trap seal;

(4)(a) PE[Polyethylene] sump pump basin. PE[Polyethylene] sump pump basin shall be constructed of PE[polyethylene] material and shall be provided with a sump cover;

(b) Liberty Pump Model 402, Laundry Tray Pump for pipe size one and one-half (1 1/2) inch for light commercial and household usage;

(c) Zoeller Drain pump and HiLo Industries Power Drain for pipe sizes one and one-half (1 1/2) inch and two (2) inch for light commercial and household usage;

(d) Little Giant Pump Company, Drainosaur Water Removal System, Model #WRS-6. This approval shall be limited to two (2) drainage fixture units because it has a one and one-half (1 1/2) inch drain;

(e) Add A Drain (Waste Discharge System) as manufactured by Lunsford and Associates;

(f) Sta-Rite Pump Corporation, laundry tray system approved

for residential and light commercial use; and

(g) Electric Drain System as manufactured by Myers for light commercial and household usage;

(5)(a) No-caulk roof flashing. No-caulk roof flashing shall be eighteen (18) inch by eighteen (18) inch galvanized iron base with a neoprene boot forming a water tight seal with the stack that it serves;

(b) PE[Polyethylene] roof flashing. PE[Polyethylene] roof flashing shall have a base that[which] shall extend six (6) inches in all directions from the base of a stack and shall have a boot with a preformed thermoplastic rubber gasket;

(c) Dektite pipe flashing system to be used on metal building decks for plumbing vent stacks as manufactured by Buildex Corporation;

(d) Oatey eighteen (18) inch by eighteen (18) inch no caulk thermoplastic flashing, one (1) piece construction, positive double seal in three (3) inch only;

(e) Carlisle syntec systems. Vent flashings for sureseal and Brite-Ply roofing systems as required by Carlisle Corporation;

(f) Trocal roofing systems. Vent flashings for Trocal roofing systems as required by Dynamit Nobel of American, Inc;

(g) Masterflash Pipe Flashing system for plumbing vent stacks as manufactured by Aztec Washer Company; and

(h) Hi-Tuff Roofing Systems pipe flashing system for plumbing vent stacks as required by J.P. Stevens and Company, Inc;

(6)(a) Kitchen sink faucet. Kitchen sink faucets may have corrugated supply piping if the piping has a wall thickness equal to Type M copper pipe;

(b) Sink and lavatory faucets and pop-up lavatory assembly parts manufactured by CPVC plastic as manufactured by Nibco Co.; and

(c) Series 1000 Automatic Faucets as Manufactured by Hydrotek USA, Inc;

(7) Lab-Line Enfield L-E acid waste systems, one and one-half (1 1/2) through four (4) inch inside measurement for above and below ground installation on acid waste. Underground shall be laid on six (6) inches of sand grillage and shall be:

(a) Backfilled by hand and tamped six (6) inches around piping; and

(b) Surrounded by six (6) inches of sand grillage;

(8) Floor drains, shower drains, urinal drains, and clean-outs manufactured by Plastic Oddities, Inc;

(9) Tubular plastic components conforming to ASTM F409-75, bathtub waste and overflow, traps, continuous sink wastes, and extension tubes as manufactured by J & B Products Corporation;

(10)(a) Water heaters. Heat pump water heaters as manufactured by:

1. Dec International, Inc., Therma-Stor Products Group; or

2. Steibel Eltron Accelera 300. If the water heater is shipped with a 100 PSI Pressure and Temperature Relief Valve, it shall be replaced with a 150 PSI Pressure and Temperature Relief Valve; and

(b) Water heaters, point of use or instantaneous, ;

1. In-Sink-Erator's Ultra System. For instant hot water to serve individual fixtures, Model #777W, W, WH, WA and WHA, W-152 and W-154;

2. Eemax Electric Tankless water heaters.

a. Nonpressure type without the requirement of a temperature and pressure relief valve; or

b. The pressure type with the requirements that the temperature and pressure relief valve be of a one-half (1/2) inch short shank valve and be installed with the product;

3. Vitaclimate Control Systems, Inc. - Heatrae Instantaneous Water Heaters Models 7000 and 9000, pressure type, point of use water heater, which shall be equipped with an approved temperature and pressure relief valve installed so that the thermo couple of the relief valve extends into the heat chamber discharge;

4. Paloma Automatic Instantaneous Gas Water Heaters Numbers PH-6DN, PH-6DP, PH-12A-DN, PH-12A-DP, PH-12M-DN, PH-12M-DP, PH-16A-DN, PH-16A-DP, PH-16M-DN, PH-16M-DP, PH-24A-DN, PH-24A-DP, PH-24M-DN, and PH-24M-DP;

5. Rinnai Gas Fired Instantaneous Water Heaters Model Numbers REU-95GS-2R, REU-95GS-3R, REU-90, REU-130,

REU-V2520 FFU-US, REU-V2520 FFUC-US, REU-V2020W-US, REU-V2020WC-US, and REU-V1616W-US pressure type, which shall be equipped with an approved pressure relief valve;

6. Elkay Aqua-Temp tankless water heaters - nonpressure type without the requirement of a temperature and pressure relief valve;

7. International Technology Sales Corporation AEG Telefunken MDT instantaneous water heater, which shall be equipped with an approved pressure relief valve;

8. International Technology Sales Corporation Zanker Faucet Model W05U without a temperature and pressure relief valve;

9. Amtrol hot water maker model numbers WH7P, WH7 and WH7C with a minimum three-fourths (3/4) inch inlet and outlet;

10. Chronomite Laboratories, Inc. - instantaneous water heater, which shall be equipped with an approved pressure relief valve;

11. Chronomite Instant-Flow Tankless Water Heater without a temperature and pressure relief valve;

12. Nova Hot Water Generator Models: VES5/10, VES6/12, VES7/14, VES8/16, VES9/18, and VES11/22 as manufactured by Hot Water Generators, Inc.;

13. Aqua Star tankless gas water heaters, model numbers 125 VP and 80 VP, which shall be equipped with an approved pressure relief valve;

14. Ariston electric water heaters, model numbers P-15S and P-10S, which shall be equipped with an approved pressure relief valve;

15. Vaillant Corporation gas fired point of use water heater;[f]

16. Trinom Hot Man Tankless Water Heater as manufactured by Siemens;

17. Field Controls Company Power Venter - Models PVAE and SWG for use in conjunction with gas and oil fired water heaters;

18. Acutemp Instantaneous Water Heater as manufactured by Keltech, Inc., Model #100/208,[f] #100/240,[f] #150/208,[f] #150/240,[f] #180/208,[f] #180/240,[f] #153/208,[f] #153/240,[f] #183/208,[f] #183/240,[f] #183/480, and #C183/480;

19. Hot Aqua Instantaneous Tankless Electric Water Heaters, Model Numbers, 18/125PC, 24/125PC, 24/120, 32/120, 24/240, 36/240, 48/240, 59/240, 70/240, 24/208, 35/208, 46/208, 60/208, 28/277, 42/277, 55/277, 69/277, 24/120-P, 59/240-P, 46/208-P, 55/277-P, 18/125PC, and 24/125PC. This product shall not be approved for supplying hot water for showers;[f]

20. Stiebel Eltron Tankless Water Heater.

a. Models DHC 3, DHC 6, and DHC 8 approved for use with lavatories and sinks;

b. Models Temptra/DHC-E 8/10 and DHC-E 12;

c. Models Mini 2, Mini 3, Mini 4, and Mini 6 Point of Use tankless electric water heaters; and

d. Models 12/2 Plus, 15/15 Plus, 20/20 Plus, 24/24 Plus, 29 Plus, and 36 Plus;

21. Bosch Aqua Star tankless water heater. Models 125X, 125B, 125S, 125BS, 125FX, and 38B. All models shall be installed with pressure relief valves;

22. Controlled Energy Corporations "Powerstream" tankless water heater;

23. Ariston mini tank electric water heaters in 2.5, 4, and 6 gallon models;

24. Powerstar PS19T and PS28T Electric Instantaneous Water Heater, as manufactured by Controlled Energy Corporation, to be installed with pressure relief valves;

25. Aquastar AQ240 FX (LP, NG) gas fired instantaneous water heater, as manufactured by Controlled Energy Corporation, to be installed with pressure relief valve;

26. S.E.T.S. Tankless Water Heater Models: #220, #180, #165, and #145 to be installed with temperature and pressure relief valve;[f]

27. Rinnai Continuous Flow Water Heaters: Models 2532FFU(-C), 2532W(-C), 2532FFU, and 2424W(-C) all requiring an approved pressure relief valve;

28. Noritz American Corporation Tankless, Instantaneous Water Heater Models: N-042, N-063 to be installed with pressure relief valve;

29. Takagi Industrial Company USA, Inc., Instantaneous Water Heaters, Models: T-KLS,[f] T-K JR,[f] T-K2, and[f] T-KD20 to be

installed with pressure relief valve;

30. Envirotech Systems ESI 2000 Series Tankless Water Heaters, all requiring an approved pressure relief valve;

31. Quieside Instantaneous Water Heater Models: QVW8 - 100, 120, 175. All models shall be equipped with an approved temperature and pressure relief valve and temperature preset at 120 degrees;

32. Seisco Tankless Water Heaters Model:

a. Point-of-Use Single Chamber Models: POU24, POU30, POU35, POU40, POU45, POU55, POU60, POU70, POU73, POU78, POU80, POU90, POU140, SC90, and SC140. These models shall not require the installation of a temperature and pressure relief valve;

b. Residential Single Phase Models: RA14, RA16, RA18, RA22, RA24, RA28, and RA32. These models shall not require the installation of a temperature and pressure relief valve;

c. Commercial Single Phase Models: CA14, CA16, CA18, CA22, CA24, CA28, and CA32. These models shall not require the installation of a temperature and pressure relief valve;

d. Commercial Three (3) Phase Models: CA9-3, CA10-3, CA12-3, and CA14-3. These models shall not require the installation of a temperature and pressure relief valve; and

e. Electric Mini-Tank Models: SMT2.5, SMT4, and SMT6. These models require the installation of a temperature and pressure relief valve supplied by the manufacturer;

(11) Compression joints. Fail-safe hot and cold water systems;

(12) Orion fittings for acid waste piping systems for above and below ground;

(13) R & G Slone Manufacturing Company. Fuseal mechanical joint for the connection of polypropylene and waste piping;

(14) Johns Manville Flex I drain roof drain system;

(15) Hydrocide liquid membrane (HLM) to be used as a shower pan material conforming to ASTM C836-76. The density of the material shall be at least one-sixteenth (1/16) inch thick;

(16) Scotch-Clad brand waterproofing system as manufactured by the 3M Company for thin-set installation of ceramic and quarry tile in shower stalls, bathrooms, and janitorial closets limited to those applications on concrete floors and using metallic soil and waste piping;

(17) Elkay Aqua-chill water dispensers;

(18) Flexible connectors for hot and cold potable water supply in plumbing fixture connections as manufactured by Aqua-Flo Corporation limited to thirty (30) inch length except dishwashers, which shall be forty-eight (48) inches maximum;

(19)(a) Delta Faucet Company's quick-connect fitting known as "grabber" to be used with hot and cold potable water installations above ground only;

(b) REMCO Angle Stop Quick connect valve for use with hot and cold potable water installations above ground only; and

(c) Red White Valve Corporation. Reduced port polypropylene ball valves designed for installation on fusion welded polypropylene piping systems compliant with NSF standards 61 and 14 and ASTM F2389;

(20) Interceptors:

(a) Town and Country plastic interceptors to be used as a grease trap;

(b) Grease recovery unit (GRU) as manufactured by Lowe Engineering, Lincoln Park, NJ;

(c) Scienco, Inc., models SI-101-20G, SI-104-35G, SI-102-50G, and SI-103-100G with PVC solvent connections;

(d) Rockford separators for grease, oil, hair and solids in various styles and sizes and being more specifically model series G, G LO, G M, G LOM, GF, GFE, GAS, GPS, GSS, OS, RHS, GSC, RMS, RSD, SD, SDE, GTD, and RTD that are used for their intended purpose and installed in accordance to the manufacturer's specification and the plumbing code;

(e) Grease interceptors as manufactured by Enpoco, Inc. of St. Charles, IL;

(f) Grease Traps U.S.A.: Polypropylene grease trap, model number GT-25, as certified by the Plumbing and Drain Institute;

(g) Schier Grease Interceptors Trapper II Series meeting ASME 112.14.3 Model numbers 1820, 2025, 2635, and 3050;

(h) Schier Grease Interceptors Great Basin Series meeting

ASME 112.14.3 Model numbers GB-75 and GB-250 approved only with the installation of two-directional, accessible cleanouts on the inlet and the outlet. The discharge of garbage disposals shall not be permitted; and

(i) Thermaco Inc. models TZ600 (150 GPM), TZ 400 (75 GPM), and the TZ 160 (35 GPM). These interceptors shall be installed with a full size vent (three (3) or four (4) inches as applicable per manufacturer's instructions to the model being installed), located on the outlet side of the interceptor and returned to the vent stack or located so that it terminates a minimum of twelve (12) inches above the ground;

(21) Plastic Oddities Srv (sewer relief vent) clean-out;

(22) Contech A-2000 - a PVC corrugated pipe with smooth interior meeting or exceeding all the material and service test requirements of ASTM D-3034-06 except dimensions at the time of manufacture;

(23) Nonchemical water treatment to control lime scale and corrosion buildup superior water conditioners as manufactured by Kemtune, Inc.;

(24) Eljer plumbing ware - Elgers ultra one/G water closet;

(25)(a) "Power Flush" and "Quik Jon" as manufactured by Zoeller Company, which shall have a three (3) inch vent and alternate additional waste openings shall be located in the pump chamber above the top of the base chamber; and

(b) Hydromatic JB-1 System as manufactured by Hydromatic Pumps, Inc.;

(26) Exemplar Energy garden solar water heater;

(27) ProSet systems for pipe penetrations in fire rated structures. System A for copper and steel pipe. System C using solvent weld joints only. Proset E-Z flex coupling shall be approved for similar or dissimilar materials;

(28)(a) ABS and PVC backwater valves, Models 3281, 3282, 3283, and 3284 for solvent cement joints only as manufactured by Canplas Industries;

(b) Flood-Gate Automatic Backwater Valve as manufactured by Bibby-Ste-Croix; and

(c) Fullport Backwater Valve as manufactured by Mainline Backflow Products, Inc.;

(29) Clamp-All Corporation Pipe Coupling Systems shall be approved size for size on dissimilar materials on new or existing installations. The use of Snap-All Increaser/Reducer transition bushings shall be included in this approval;

(30) Mission Rubber Company "Band-Seal Specialty Coupling" shall be approved as a transition between any combination of the following materials: cast iron, copper, galvanized steel, schedule 40 PVC and ABS, and SDR 35;

(31)(a) Laticrete 9235 Waterproof Membrane to be used as a safing material for floors and walls in showers, bathtubs, and floor drain pans;

(b) Ultra-Set as manufactured by Bostik Construction Products to be used as a water proofing material;

(32) DFW Elastomeric PVC coupling manufactured by DFW Plastics, Inc. for use on building sewers;

(33)(a) Fernco Lowflex Shielded Couplings, approved for connecting extra heavy, no-hub, and service weight cast iron pipe, DWV PVC and ABS pipe, SDR 35 sewer pipe, galvanized steel pipe, and copper pipe or as a transition between any of these materials in soil waste and vent systems above or below grade; and

(b) Fernco Proflex Shielded Couplings: Series 3000 for service weight cast iron to plastic, steel, or extra cast iron in sizes one and one-half (1 1/2) inch to four (4) inch, Series 3001 for cast iron, plastic, or steel to copper in sizes one and one-half (1 1/2) inch to two (2) inch; and, Series 3003 for copper to copper in one and one-half (1 1/2) inch;

(34) TBA drain, waste and vent pipe, schedule 40 PVC piping marked "meets dimensional specifications of ASTM D-2665". This pipe shall have been tested for the tensile strength, durability, of ASTM D-2665 except that it is made from recycled, unused plastics rather than virgin materials;

(35) Blucher-Josam stainless steel pipe, fittings, and drains for disposal of corrosive wastes;

(36) Paul Panella Industries Hostalen GUR UHMW Polymer

Cleanout approved for use on sewers of Schedule 40 PVC, ABS, and SDR in four (4) inch and six (6) inch sizes;

(37) Advanced Drainage Systems, Inc., Series 35 polyethylene corrugated sewer pipe with a smooth interior [in-sizes four (4) inch through ~~twenty-four (24) inches~~] for underground storm water drainage within a building;

(38) "Flowguard Gold" one (1) step CPVC cement for joining copper tube size CPVC piping systems through two (2) inches without the requirement of a cleaner or primer;

(39) E-Z Trap Adapter as manufactured by S & S Enterprises to be used as connection between chrome plated P trap and PVC waste line;

(40)(a) Canplas Industries LTD Specialty DWV Fittings: Part #3628 ABS or PVC forty-five (45) degree Discharge Closet Flange, Part #2321 Appliance (dishwasher) Wye, and Part #3650A Closet Flange Kit for Concrete Installations; and

(b) Flo-Bowl Waxless Leakless Toilet System as manufactured by Flo-Bowl Systems Inc.;

(41)(a) Conbraco 78-RV Series In-Line Water Heater Shut-Off Thermal Expansion Control Valve preset at 125 psi to relieve thermal expansion; and

(b) Watts Regulator BRV Expansion Relief Valve to relieve thermal expansion;

(42) Plastic Productions PVC "Quick Stub" approved as a solvent weld transition between tubular PVC and schedule 40 PVC;

(43) HubSett In Line Test Coupling: PVC and ABS test couplings produced by HubSett Manufacturing Inc. for testing soil waste and vent systems;

(44) Viega/Ridgid ProPress System: Copper press fittings for joining copper water tubing and using an elastomeric o-ring that forms the joint; ;

(a) The fitting shall be made by pressing the socket joint under pressure in accordance with the manufacturer's installation requirements; and

(b) This system shall be approved for pipe sizes one-half (1/2) inch through four (4) inch for above slab installations only;

(45) TRIC Trenchless Systems for replacement sewers in four (4) inch and six (6) inch sizes; ;

(a) A video recording[camera-tape] of the existing sewer shall be made to determine proper alignment and reviewed by the plumbing inspector;

(b) After the installation is complete, another video recording[tape] shall be reviewed by the plumbing inspector to ensure that the installation was successful;

(c) The sewer shall be tested according to 815 KAR 20:150; and

(d) The interior heat fusion bead shall be removed to provide a smooth surface with no obstruction;

(46) Envirovac Inc.: Evac Vacuum Systems Condensate Collection System approved for condensate collection and the discharge from lavatories only;

(47) Macerating Systems from Sanitary-for-All, consisting of a sump with a macerating pump, with or without a macerating toilet. The sump shall be air tight and provided with a minimum one and one-fourth (1 1/4) inch vent. These systems shall be installed in accordance with the manufacturer's recommendations and shall not be used as a primary means of waste disposal;

(48) Rhino Wet Waste Interceptor manufactured by Ecosystems Inc. to be used as a prefiltration of wet wastes before discharging to a grease trap or interceptor;

(49) Quick Snap Multi Level Flange as manufactured by Jett Plumbing Products, Inc.;

(50) Sioux Chief Manufacturers Stainless Steel Swivel Ring Closet Flange;

(51) Service Weight and No-Hub Cast Iron Pipe and Fittings furnished by DWV Casting Company complying with ASTM A74 and; A888 and CIPI 301-00;

(52) American Pipe Lining, Inc. APL 2000, which is an epoxy lining used in restoring water distribution systems. The use of APL 2000 shall comply with/be subject to the conditions established in paragraphs (a) through (d) of this subsection.

(a) A plumbing construction permit shall be required.

(b) Installation shall be by a licensed plumber.
 (c) Water quality shall be tested before and after each project.
 (d) A water distribution system treated with APL 2000 shall be clearly marked on all exposed piping and the water heater with the following notice: "FLAMELESS TECHNIQUES MUST BE USED FOR ALL REPAIRS AND MODIFICATIONS TO THIS PIPING SYSTEM";

(53) Base Products Corporation.~~;~~

(a) Water powered pump: basepump. Each model shall:

1. Be installed with a reduced pressure principle backflow preventer with copper piping only;
2. Be approved for groundwater removal only; and
3. Require incoming water pressure of 50 psi to operate; and

(b) Battery back-up pump: hydropump;

(54) Perma-Liner Industries, Inc, Lateral Lining System.~~;~~

(a) This system shall be approved for pipe sizes three (3) inches through eight (8) inches for interior and exterior installations.~~;~~

(b) Interior applications shall be video recorded~~[videored]~~ before and after installation and shall have a water or air test as required by 815 KAR 20:150, Section 4(2) or (3).~~;~~

(c) Exterior applications shall be video recorded~~[videored]~~ before and after installation and shall have a smoke test to comply with 815 KAR 20:150, Section 4(6).~~;~~ ~~and]~~

(d) A permit shall be obtained prior to an exterior or interior application;

(55) Stainless steel piping system for potable water applications manufactured by Victaulic for above ground applications only;

(56) Wallgate Classic Model CME recessed and molded handwasher/dryer;

(57) MaxLiner.

(a) This system shall be approved for pipe sizes three (3) inch through ten (10) inch for interior and exterior installations.~~;~~

(b) Interior applications shall be video recorded~~[videored]~~ before and after installation and shall have a water or air test as required in 815 KAR 20:150, Section 4(2) or (3).~~;~~

(c) Exterior applications shall be video recorded~~[videored]~~ before and after installation and shall have a smoke test to comply with 815 KAR 20:150, Section 4(6).~~;~~ ~~and]~~

(d) Permits shall be required for both interior and exterior applications;

(58) Nuflow Technologies Inc., Nuflow System.~~;~~

(a) This system shall be approved for pipe sizes one and one-half (1 1/2) inch through twelve (12) inch for interior and exterior installations.~~;~~

(b) Interior applications shall be video recorded~~[videored]~~ before and after installation and shall have a water or air test as required in 815 KAR 20:150, Section 4(2) or (3).~~;~~

(c) Exterior applications shall be video recorded~~[videored]~~ before and after installation and shall have a smoke test to comply with 815 KAR 20:150, Section 4(6).~~;~~ ~~and]~~

(d) Permits shall be required for both interior and exterior applications;

(59) Schluter Shower System for waterproofing tiled shower installations installed per manufacturer recommendations;

(60) WATCO Manufacturing Watco Flex and Watco Flex 900 Innovator tub waste and overflow;

(61) J.R. Smith MFG. CO. THE BOSS TEE Series 4505 cleanout tee;

(62) Pipe Patch NO-Dig Repair System by Source One Environmental.

(a) The repair shall require a plumbing installation permit issued by the department; and

(b) After the repair has been completed, the building sewer shall be inspected, tested with either a water or a smoke test, and approved by the department;

(63) PHIX Cartridge Systems. The PHIX cartridge system shall be approved for use as a point-source or in-line acid neutralization system;

(64) SharkBite Evopex polymer fittings meeting ASSE Standard 1061. The use of SharkBite Evopex polymer fittings shall be approved for underground burial except the fitting shall not be

buried:

(a) Under or encased in concrete, or

(b) Underground beneath a building; and

(65) SharkBite Universal DZR brass fittings or SharkBite EvoPEX DZR brass transition fittings meeting ASSE Standard 1061. The use of these fittings shall be approved for underground burial if the fitting is:

(a) Wrapped with self-fusing, formaldehyde-free~~[formaldehyde]~~ and chloride-free, fully cured silicone tape with a minimum thickness of 0.020 inches;

(b) Not buried under or encased in concrete; and

(c) Not buried underground beneath a building.

CONTACT PERSON: Max Fuller, Staff Attorney, Department of Housing, Buildings and Construction, 500 Mero Street, 1 SW, Frankfort, Kentucky 40601, phone (502) 573-0365, fax (502) 573-1057, email max.fuller@ky.gov.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
(As Amended at ARRS, February 10, 2020)

815 KAR 20:030. Plumbing licenses.

RELATES TO: KRS 318.010, 318.020, 318.030, 318.040, 318.050, 318.054, 318.060, 318.080

STATUTORY AUTHORITY: KRS 198B.040(10), 318.040(1)(d), (2), (3), 318.050, 318.054(3), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the Department of Housing, Buildings and Construction to promulgate and ~~amend~~~~[an administrative regulation establishing]~~ the Kentucky State Plumbing Code to regulate plumbing. KRS 318.040(1)(d) authorizes the commissioner to promulgate administrative regulations establishing qualifications for a master plumber's license and a journeyman plumber's license. KRS 318.040(2) and (3) require the department to ~~establish~~~~[promulgate administrative regulations establishing]~~ examination requirements ~~and procedures~~. KRS 318.050 requires the department to establish reasonable application fees for licensure as a master plumber or journeyman plumber. KRS 318.054(3) requires the department to establish reasonable renewal fees for master plumbers and journeyman plumbers. This administrative regulation establishes the application, examination, and renewal requirements for master plumbers and journeyman plumbers.

Section 1. Examinations~~[License Requirements]~~. (1) Examination applications~~[Master plumber. An applicant seeking a master plumber license shall meet the following requirements:]~~

(a) All examination applicants for any plumber's license~~[The applicant shall have:~~

1. A valid journeyman plumber's license for a minimum of two (2) years within the past five (5) years immediately preceding application, and be actively employed in plumbing under the supervision of a licensed master plumber for a minimum of two (2) years; or

2. An engineer license in Kentucky sufficiently experienced in mechanical engineering. The sufficiency of experience] shall submit to the department:

1. A completed Plumbing Examination Registration Form, Form PLB-3;

2. The appropriate non-refundable examination fee: a~~[be determined based upon the number and complexity of the applicant's past mechanical engineer projects; and~~

~~(b) Apply for and successfully complete the master plumber examination pursuant to Section 2 of this administrative regulation with a passing score of eighty (80) percent, with a minimum of seventy five (75) percent obtained for each portion of the examination.~~

(2) Journeyman plumber. An applicant seeking a journeyman plumber license shall meet the following requirements:

(a) At least two (2) consecutive years of experience as an

apprentice plumber demonstrated by the submission of:

1. A W-2 form;
2. An affidavit from a Kentucky licensed master plumber; or
3. A plumbing license issued by another state; or
- (b) Complete a department approved course and at least one (1) year of experience as an apprentice plumber; and
- (c) Apply for and successfully complete the journeyman plumber examination pursuant to Section 2 of this administrative regulation with a passing score of seventy five (75) percent, with a minimum of seventy (70) percent obtained for each portion of the examination.
- (3) License fees:
 - (a) The master plumber license fee shall be \$250.
 - (b) The journeyman plumber license fee shall be sixty (60) dollars.
 - (c) The initial license fee] For a master plumber, \$150; or
 - b. For a journeyman plumber, fifty (50) dollars[or a journeyman plumber may be prorated for not less than seven (7) months or more than eighteen (18) months and shall expire on the final day of the applicant's birth month.

Section 2. Examinations.

(1) Examination applications.

(a) Master plumber examination application. An applicant for examination for a master plumber's license shall submit to the department:

1. A completed Application for License as a Master Plumber, Form PLB-1;
2. An examination fee of \$150; and
3. A passport-sized color photograph of the applicant taken within the past six (6) months.

(b) If [Journeyman plumber examination application.] an applicant fails to successfully complete the appropriate[for examination for a journeyman plumber license shall submit to the department:

1. A completed Application for License as a Journeyman Plumber, Form PLB-2;
2. An] examination within one (1) year from the date of the first notice of examination, the application shall be void.

(2) Examination design.

- (a) The fee of fifty (50) dollars; and
3. A passport-sized color photograph of the applicant taken within the past six (6) months.

(2) Examination design.

(a) The examination requirements shall be designed by the State Plumbing Examining Committee[.

(b) The examination requirements] shall design the examination requirements.

(b) All examinations[be more complex for the master plumber's license examination than the journeyman plumber's license examination.

(c) The master plumber examination] shall include:

- 1.[Answering] Written questions pertaining to basic principles of plumbing,[and] KRS Chapter 318, 815 KAR Chapter 2, and 815 KAR Chapter 20; and

2. Inserting the proper pipe size on a prepared drawing that indicates all stacks, wastes, and vents and the connected plumbing fixtures[connected thereto].

a. The proper sizing of main stacks shall be given more importance than other piping.

b. Deductions shall be required for oversized piping and for undersized piping.

3.[(d)] The journeyman plumber's license[plumber] examination shall include[.

1. Answering written questions pertaining to basic principles of plumbing and KRS Chapter 318 and 815 KAR Chapter 20;

2. Inserting the proper pipe size on a prepared drawing that indicates all stacks, wastes, and vents and the plumbing fixtures connected thereto.

a. The proper sizing of main stacks shall be given more importance than other piping.

b. Deductions shall be required for oversized piping and for undersized piping; and

3. Completing] a practical section in which the applicant shall demonstrate the ability to properly install plumbing by engaging in certain activities, such as making proper connections of various plumbing materials.

a. [(3) Examination materials.

(a) An applicant for a journeyman plumber's license examination shall furnish the plumbing materials required for the practical examination.

b. [(b)] The department shall notify the applicant at least one (1) week prior to the date of examination as to what plumbing materials are needed.

4. The[(4)] examination requirements shall be more complex for the master plumber's license examination than the journeyman plumber's license examination.

(3) Examination schedule.

(a) Regular examination of applicants for a master plumber's license or a journeyman plumber's license shall be conducted yearly during the months of February, May, August, and November.

(b) A special examination may be conducted during other times of a year as the department directs.

(c) Notice of the time and place of examination shall be given by the department at least one (1) week prior to the date of examination to each person who has a[an approved] registration form[application] on file, approved in accordance with subsection (1) of this section.

(4)[(5)] Examination retakes. Within one (1) year from the date of the applicant's first notice of examination:

(a) An applicant who fails to attend or successfully complete an examination for which he has been scheduled may request to reschedule or retake the examination. Except for the[within one (1) year from the date of the applicant's first notice of] examination fee,[as established in subsection (2) paragraph (c) of this section.] an applicant shall not resubmit the requirements in subsection 1 of this section.

(b) An applicant for a journeyman plumber's license who passes the written portion, the drawing portion, or the practical portion of the examination, but not all portions, may apply to retake only the portion failed[that he failed within one (1) year from the date of the applicant's first notice of examination].

(c) An applicant for a journeyman plumber's license who failed to achieve a passing score on the retaken portion of the examination may apply to retake the failed portion of the examination.

(d) An applicant shall[must] pay the full examination fee for a retake of any portion of the examination.

(5) A passing score on an examination shall be valid for three (3) years.

Section 2. Master Plumber License [if the reexamination is completed within one (1) year from the date of the applicant's first notice of examination:

(d)1. An] Application. To qualify for licensure as[for] a master plumber, an applicant shall:

(1)(a) Have held a valid[plumber's or] journeyman plumber's license for a minimum of two (2) years within the past five (5) years immediately preceding application and be actively employed in plumbing under the supervision of a licensed master plumber for a minimum of two (2) years;

(b) Hold an engineer license in Kentucky and be sufficiently experienced in mechanical engineering, as determined by the department based upon the number and complexity[shall be void if the applicant fails to successfully complete his examination within one (1) year from the date] of the applicant's past mechanical engineer projects;

(c) Hold a valid plumbing license issued by another state for a minimum of two (2) years within the past five (5) years immediately preceding application; or

(d) Have been engaged in the practice of plumbing in another state that does not issue a plumbing license, in a capacity equivalent to a master plumber, for a minimum of four (4) consecutive years immediately preceding application.

(2) Master plumber license application.[first notice of

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examination.

2.] (a) An applicant for a master plumber license shall submit to the department:

1.[(a)] A completed[whose] Application for License as a Master Plumber, Form PLB-1;

2.[(b)] Proof of successfully completing the Kentucky master plumber examination with a passing score of a minimum of eighty (80) percent obtained for each portion of the examination; and

3.[(c)] A license fee of \$250.

(b) [(d)] A master plumbing license applicant applying with experience under subsection (1) [paragraphs] (c) or (d) [in subsection (1)] of this section shall submit proof of successfully completing the journeyman plumber examination[has become void] pursuant to Section 3(2)(b) of this administrative regulation.

(3) The initial license fee for a master plumber may be prorated for not less than seven (7) months or more than eighteen (18) months and shall expire on the final day of [this subsection may reapply as if] the applicant's birth month.

Section 3. Journeyman Plumber License Application. To qualify for licensure as a journeyman plumber, an applicant shall:

(1)(a) Have At least two (2) consecutive years of experience as an apprentice plumber; or

(b) Complete a department approved course *that includes content on the practice of plumbing or the Kentucky State Plumbing Code* and at least one (1) year of experience as an apprentice plumber.

(2) Journeyman plumber license application. [applicant was a first-time applicant.

(e)] An applicant for a journeyman plumber license shall submit to the department:

(a) A completed Application for License as a Journeyman Plumber, Form PLB-2;

(b) Proof of successfully completing the Kentucky journeyman plumber examination with a passing score of a minimum of seventy five (75) percent obtained for each [must pay the full examination fee for a retake of any] portion of the examination; [;] and

(c) A license fee of sixty (60) dollars.

(3) The initial license fee for a journeyman plumber may be prorated for not less than seven (7) months or more than eighteen (18) months and shall expire on the final day of the applicant's birth month [regardless of whether the applicant is taking less than the whole examination].

Section 4[3]. License Renewals. (1) Filing for renewal. A master plumber and a journeyman plumber shall submit to the department:

(a) The applicable renewal fee made payable to the Kentucky State Treasurer of:

1. \$250 for a master plumber; or

2. Sixty (60) dollars for a journeyman plumber;

(b) Proof of completing the continuing education requirements established in 815 KAR 2:010; and

(c) Proof of insurance as required by KRS 318.030 for a master plumber.

(2) Inactive status [license renewals].

(a) To place a plumbing license in inactive status:

1. A master plumber shall pay an initial inactive fee of \$125. [;]

2. A journeyman plumber shall pay an initial inactive fee of thirty (30) dollars.

(b) 1. An inactive master plumber shall not secure a plumbing permit, advertise, represent himself as a qualified master plumber, or otherwise engage in the work of a master plumber.

2. An inactive journeyman plumber shall not represent himself as a qualified journeyman plumber or otherwise engage in the work of a journeyman plumber.

(c) To reactivate a plumbing license, the inactive licensed plumber shall complete all renewal requirements of subsection (1) of this section and;

1-] pay the appropriate [an additional] reactivation fee [;]

1. [a.] \$125 for a master plumber; or

2. [b.] Thirty (30) dollars for a journeyman plumber. [;] 2-

Provide proof of insurance as required by KRS 318.030 for a

master plumber; and

3-] Comply with the continuing education requirements established in 815 KAR 2:010.]

Section 5[4]. Change of information. (1) A licensee [master plumber or journeyman plumber] shall notify the department of any change to the name or [of the plumber's business and its] address [;] of the business or employer [employer, and the employer's address each time a change of employment is made].

(2) Death of a master plumber.

(a) If the master plumber representing a company dies, the company shall notify the department within ten (10) days of the master plumber's death.

(b) The 180 day interim period established in KRS 318.054 shall begin on the date the master plumber dies.

(c) The company shall not be required to renew the deceased's master plumber license, if the license renewal date falls within the 180 day interim period.

(d) The company shall not use the deceased master plumber's license after the expiration date of the interim period.

(e) The company shall notify the department when the company has a replacement master plumber to represent the company [on or before the expiration date of the interim period].

Section 6[5]. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for License as a Master Plumber", Form PLB-1, October 2019; [November 2018; and]

(b) "Application for License as a Journeyman Plumber", Form PLB-2, October 2019; and

(c) "Plumbing Examination Registration Form, Form PLB-3, October 2019 [November 2018].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Plumbing, 500 Mero Street [401 Sea Hero Road, Suite 100], Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at <http://dhbc.ky.gov>.

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PUBLIC PROTECTION CABINET

**Department of Housing, Buildings and Construction
(As Amended at ARRS, February 10, 2020)**

815 KAR 20:050. Installation permits.

RELATES TO: KRS 318.030, 318.134, 318.160

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130, 318.134(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130[318.134(3)] requires the department to promulgate administrative regulations establishing the Kentucky State Plumbing Code to regulate plumbing. KRS 318.134(1) requires all persons, firms, or corporations to procure a [establish a reasonable schedule of fees and charges to be paid for] plumbing installation permit from the department to construct, install, or alter, or cause to be constructed, installed, or altered any plumbing. KRS 318.134(3) requires [permits and the necessary inspections incident thereto. KRS 318.130 authorizes] the department to establish [promulgate] a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto [rule or administrative regulation to administer the provisions of KRS Chapter 318]. This administrative regulation establishes the requirements, fees, and charges for plumbing installation permits and inspections in Kentucky.

Section 1. Permit Required [Issuance of Permits]. (1) A plumbing permit shall be required for:

- (a) A new plumbing installation;
- (b) An existing plumbing installation if a fixture, soil, or waste opening or conductor is to be moved or relocated;
- (c) A new house sewer or a house sewer that is to be replaced;
- (d) A new water service or a water service that is to be replaced;
- (e) The addition[to construct, install, or alter plumbing, sewerage, or drainage shall be issued only to a licensed master plumber except as established in subsection (3)] of a backflow prevention device to an existing water service; or
- (f) A new water heater installation or a water heater that is to be replaced.
- (2) A new plumbing permit[this section.
- (2) A journeyman plumber] shall be required when a master plumber:
 - (a) Takes over a[not construct, install, or alter] plumbing[.] installation originally permitted to another master plumber or homeowner; or
 - (b) Assumes responsibility to correct and test an installation made by someone else.
- (3) A permit shall not be required for:
 - (a) The repair of:
 - 1. Leaks;
 - 2. Cocks; or
 - 3. Valves; or
 - (b) Cleaning out waste or sewer pipes.

Section 2. Issuance of Plumbing Permits. (1)[sewerage, or drainage unless the work is performed under the supervision of a licensed master plumber.

(3) A permit to construct, install, or alter plumbing, sewerage, or drainage shall be issued only to:

- (a) A licensed master plumber; or
- (b)[to] A homeowner who wishes to construct,[desiring to] install, or alter plumbing, sewerage, or drainage in a home occupied by the homeowner or constructed by the homeowner for the homeowner's own personal residential use, if:
 - 1.[(a)] Application is made for the permit prior to the beginning of the work;
 - 2.[(b)] The homeowner files with the application an affidavit stating that the homeowner shall abide by the terms of this section;
 - 3.[(c)] All work shall be performed in compliance with **815 KAR Chapter 20[the code];**
 - 4.[state plumbing code, 815 KAR Chapter 20;
 - (d) All the work shall be personally performed by the homeowner; and
 - 5.[(e)] The homeowner shall not have obtained another homeowner permit for construction of a new home issued within the last five (5) years.

- (2)[(4)] A journeyman plumber[permit] shall not construct, install, or alter plumbing, sewerage, or drainage unless the work is performed under the supervision of a licensed master plumber with a valid permit.

Section 3. Plumbing Plan Submission. (1) Procedure. Except as provided in subsection (2) of this section, plumbing plans shall be submitted to the department for review and approval prior to the issuance of a plumbing permit[be required for:

- (a) The repairing of:
 - 1. Leaks;
 - 2. Cocks; or
 - 3. Valves; or
- (b) Cleaning out waste or sewer pipes.

Section 2. Conditions Under which a Permit Shall be Required]. A plumbing plan submission[installation permit] shall consist of:

- (a) A complete Plan Application form; and
- (b) Three (3) sets of identical plans that include:[:]
 - 1. A complete floor plan;
 - 2. An isometric plumbing diagram of the drain, waste, and vent system; and
 - 3. A site utility plan.

(2) Field inspections. A plumbing inspector may inspect the plumbing in the following without an initial submission of plumbing plans:

- (a) An existing[be required for:
 - (1) A new plumbing installation;
 - (2) An existing plumbing installation if a fixture, soil, or waste opening or conductor is to be moved or relocated;
 - (3) Each individual unit of a multistory[.] building if [:]
 - 1. There are no[is] more than ten (10) openings **for plumbing fixtures or appliances, present and future;**
 - 2. There is no change of use in the occupancy;
 - 3. There is no increase in the occupant load;
 - 4. Approval by the Department of Health is not required; and
 - 5. Plans or documents of the installation are submitted to the department after installation[one (1) unit];
 - (4) A building that is considered separate if:
 - (a) The connection between the building and another building is not a necessary part of the structure of either building; or
 - (b) A multi-family dwelling if [:]
 - 1. The building consists of twelve (12) units or less;
 - 2. The water and sewer connections have been approved by the Division of Water **in accordance with 401 KAR Chapter 5;**
 - 3. Proof of a building permit from the authority having jurisdiction has been submitted[The building's roof is not part of the roof of another building;
 - (5) A new house sewer or a house sewer that is to be replaced;
 - (6) A new water service or a water service that is] to the department; and
 - 4. Plumbing plans are made available to the plumbing inspector for review and approval prior to construction.
 - (c) A plumbing inspector shall not review and approve plans for the following:
 - 1. A tenant space that has not been occupied;
 - 2. A day care facility[be replaced];
 - (7) The addition of a backflow prevention device to an existing water service;
 - (8) A new water heater installation or a water heater installation] that is not currently licensed;
 - 3. A project on a private water system without approval from the Division of Water **in accordance with 401 KAR Chapter 5;** or
 - 4. A project with a sewer main extension or a sewage treatment plant without approval from the Division of Water **in accordance with 401 KAR Chapter 5** [to be replaced; or
 - (9) Taking over a plumbing installation originally permitted to another master plumber or assuming responsibility to correct and test an installation made by someone else].

Section 4[3]. Plumbing[Installation] Permit Fees. (1) The base fee for each plumbing[installation] permit for residential[.] one (1) and two (2) family units[.] shall be forty-five (45) dollars plus seven (7) dollars for each:

- (a) Plumbing fixture[er] appliance, or opening left for a plumbing fixture[opening] or appliance[opening left] in the soil or waste pipe system[including openings left for future fixtures or appliances];
- (b) Domestic water heater; and
- (c) Separately metered water and sewer service if more than one (1) water or sewer service is to be installed.
- (2) The base fee for each plumbing[installation] permit for buildings other than residential[.] one (1) and two (2) family units[.] shall be forty-five (45) dollars plus fifteen (15) dollars for each:
 - (a) Plumbing fixture[er] appliance, or opening left for a plumbing fixture[opening] or appliance[opening left] in the soil or waste pipe system[including openings left for future fixtures or appliances];
 - (b) Domestic water heater;
 - (c) Conductor opening; and
 - (d) Separately metered water and sewer service if more than one (1) water or sewer service is to be installed.
- (3)(a) If only one (1) new domestic water heater is installed or replaced within a single building, the only fee for the plumbing [installation] permit shall be forty-five (45) dollars.

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(b) If more than one (1) water heater is replaced within a building, a permit fee shall be calculated[required] pursuant to subsections (1) or (2)[Sections] [1-or-2] of this section.

(4) The plumbing permit fee shall be limited to the base fee if:

(a) The work to be performed[administrative regulation.

(4) If the application for permit] does not include [any] new installation;

(b) The work to be performed[but] is to make corrections to or[te] provide testing for an installation made by someone else;[.] or

(c) A master plumber takes over a plumbing permit pursuant to Section 1(2)[the permit fee shall be limited to the base fee of forty-five (45)-dollars only].

Section 5[4]. Inspection Fees. (1) A person with a plumbing permit shall be entitled to five (5) plumbing inspections at no additional cost.

(2)(a) The fee for an additional inspection shall be[Each plumbing inspection in excess of five (5) shall be charged at the rate of] fifty (50) dollars.

(b) All additional[per] inspection fees[and] shall be paid prior to the final inspection.

(3) Additional inspection fees shall not apply if the cost of the plumbing permit exceeds \$200.

Section 6[5]. Expiration of Permits. (1) Plumbing[Except as established in subsection (2) of this section, all plumbing installations] permits issued pursuant to this administrative regulation shall expire one (1) year after the date of issuance unless[.

(2)(a) Except as established in paragraph (b) of this subsection, if construction is ongoing, in which case[begin within one (1) year after the date the permit is issued,] the permit shall remain effective until completion of the planned plumbing inspection.

(2)[(b)] The permit shall expire and become void if the plumbing work ceases on the project for a period exceeding twelve (12) months.

Section 7. Incorporation by Reference. (1) "Plan Application Form", 2/2020, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Plumbing, 500 Mero Street, Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m. and is available online at <http://dhbc.ky.gov>.]

Section 6. Plumbing Inspection Fees for Public Buildings. The schedule of fees for inspection of the construction, installation, or alteration of plumbing in public buildings shall be the same as established in Section 4 of this administrative regulation.]

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**PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
(As Amended at ARRS, February 10, 2020)**

815 KAR 20:055. Water heating[heater] devices.

RELATES TO: KRS Chapter 236, 318.200[, EO-2009-535]
STATUTORY AUTHORITY: KRS 198B.040(10), 318.130, 318.200

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department to promulgate administrative regulations establishing the Kentucky State Plumbing Code to regulate plumbing. KRS 318.200 requires that all retailers, wholesalers, and installers selling or offering for sale[ef] water heating devices, within thirty (30) days of[forward] the date of sale, forward a list of

names and addresses of purchasers[name and address of each purchaser] along with the serial number of the device purchased to the department[office] or to the appropriate agency of county or city government having jurisdiction. This administrative regulation establishes the requirements for water heating devices.

Section 1. Installation requirements.

(1) General requirements.

(a) A water heater shall be:

1.[(ii)] Properly connected to the hot and cold water supply; and 2.[(iii)] Accessible for inspection, repair, and replacement.

(b) Temperature and pressure relief valves shall be installed in accordance with manufacturer's requirements.

(2) A water heater designed for use as an appliance for supplying potable hot water for domestic or commercial purposes may be used for space heating if the water temperature does not exceed 140 degrees Fahrenheit.

(3) Crawl Space.

(a) A water heater installed in a crawl space shall:

1. Have adequate access with a travel path no less than five (5) feet of vertical distance; and

2. Be installed on at least a two (2) inch thick corrosion resistant material adequate to support the water heater.

(b) The replacement of a water heater that was originally installed in a crawl space prior to September 1, 2006 shall be exempt from vertical distance requirement in paragraph (a)1. of this subsection.

(4) Attic, Drop Ceiling, or Wood Flooring.

(a) After April 1, 2021, a[A] water heater installed in an attic, above a drop ceiling, or on wood flooring in the occupied space of a building [constructed after April 1, 2020] shall be:

1. Installed with a corrosion resistant water tight pan below the water heater;[within thirty (30) days of the purchase. EO-2009-535, effective June 12, 2009, reorganized the Office of Housing, Buildings and Construction as the Department of Housing, Buildings] and

2. Equipped with at least a three-fourths (3/4) inch drain to be piped similarly to a temperature and pressure relief valve discharge line.

(b) A temperature and pressure relief valve may discharge into the drain pan if the drain pan pipe:

1. Is equipped with a one (1) inch drain;

2. Is of a material suitable for hot water; and

3. Discharges through an air gap to a sump basin, service sink, open receptacle [Construction, and established the commissioner, rather than executive director], or other point of discharge approved by the division, in accordance with 815 KAR 20:130.

(5) Fuel-fired water heaters.

(a) A fuel-fired water heater shall be connected to a flue or a chimney. The flue or chimney shall:

1. Be of a size at least as large as required by the water heater manufacturer's instructions;

2. Extend two (2) feet above the roof of the building;

3. Be properly flashed; and

4. Not terminate within six (6) feet of a door or window.

(b) A fuel-fired water heater vent shall not be connected to a flue serving a coal-burning apparatus.

(c) A fuel-fired water heater shall not be placed in any bathroom, toilet room, or a room used for sleeping unless it has a direct-vent or through the wall vent system.

(d) A fuel-fired water heater shall not be placed in a closed room or closet unless the space:

1. Has a louver door; or

2. Is ventilated to provide combustion air and circulation that satisfies the requirements of the National Fuel Gas Code in Chapter 35 of the Kentucky Building Code incorporated by reference in 815 KAR 7:120.

(6) Gas-fired direct vent water heaters.

(a) A residential gas-fired direct vent and through the wall type water heater shall be:

1. Vented in accordance with the manufacturer's instructions; and

2. Installed to satisfy the requirements of the National Fuel Gas

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Code in Chapter 35 of the Kentucky Building Code incorporated by reference in 815 KAR 7:120.

(b)1. The vent terminal of a direct vent water heater with an input of 50,000 BTUs per hour or less shall be located at least nine (9) inches from any opening through which flue gases may enter the building.

2. The vent terminal of a direct vent water heater with an input over 50,000 BTUs per hour shall be located at least twelve (12) inches from any opening through which flue gases may enter the building.

(c) The bottom of the vent terminal and the air intake of a direct vent water heater shall be located at least twelve (12) inches above grade.

(7) Instantaneous water heaters. An instantaneous water heater not listed in 815 KAR 20:020 shall:

(a)1. Be certified to ANSI Z21.10.1 for units including but not exceeding 75,000 BTUs; or

2. Be certified to ANSI Z21.10.3 for units exceeding 75,000 BTUs;

(b) Have a minimum of three-fourths (3/4) inch inlet and outlet;

(c) Be installed with a properly sized pressure relief valve not exceeding 150 pounds per square inch; and

(d) Be installed to enable flushing without altering the installation, as the head of the department. This administrative regulation establishes the requirements for submitting the information to the department.

Section 1. Reporting Requirements. (4)] if required by the manufacturer to be periodically flushed.

Section 2. Water heaters subject to additional requirements. Water heaters shall be considered pressure vessels and shall comply with KRS Chapter 236 and 815 KAR Chapter 15 if the water heater exceeds:

(1) Heat input of two hundred thousand (200,000) BTU/Hr.;

(2) Water temperature of two hundred ten (210) degrees Fahrenheit; or

(3) Water storage capacity of one hundred twenty (120) gallons.

Section 3. Domestic Solar Water Heaters.

A domestic solar water heater may have a "single wall heat exchanger" if:

(1) The solar panel and the water heater exchanger use a nontoxic liquid such as propylene glycol or an equivalent;

(2) The heat exchanger is pretested by the manufacturer to 450 pounds per square inch;

(3) The water heater has a warning label advising that a nontoxic heat exchanger fluid shall be used at all times; and

(4) A pressure relief valve is installed at the highest point in the solar panel.

Section 4. Domestic [KRS 318.200 to submit information to the department, rather than to a local jurisdiction, a wholesaler, retailer, or installing contractor selling a] Water Heater Preheating [heating] Device.

(1) A domestic water heater preheating device may be used and connected with the high pressure line from the compressor of a domestic home air conditioner or heat pump heater.

(2) Double wall heat-exchangers with two (2) separate thicknesses separating the heat exchange fluid (other than potable water) from the potable water supply shall be provided.

(3) (a) The water inlet to the heat exchange vessel shall be provided with a check valve. ~~A[An approved]~~ pressure relief valve, approved in accordance with this administrative regulation, set to relieve at five (5) pounds per square inch above the maximum water pressure at the point of installation shall be provided adjacent to and at the outlet side of the check valve, if the heat exchange units contain more than twenty (20) pounds of refrigerants.

(b) This device shall be equipped with a temperature limit control that would actuate a pump that would circulate hot water from the water heater through the pre-heater device.

(4) (a) Condensate drain water shall be piped in accordance to the Kentucky Plumbing Code and shall not:

1. Drain into a crawl space, sewer, or vent stack; or

2. Be installed in an area subject to freezing.

(b) A condensate pump shall be used if a drain is:

1. Not available; or

2. Located above the vent.

Section 5. Temperature and Pressure Relief Devices.

(1) Only temperature and pressure relief devices approved by the department as established in 815 KAR 20:020 and 815 KAR 20:120 shall be installed.

(2) A temperature and pressure relief device shall be installed:

(a) On each water heater on the hot water side not more than three (3) inches from the top [submit to the Department of Housing, Buildings and Construction, Division of Plumbing, the name and address of each purchaser, including the serial number] of the water heater; and

(b) According to the manufacturer's recommendation, if a marked opening is provided on the [on Form PLB-94,] water heater by the manufacturer for a temperature and pressure relief device.

(3)(a) In a location with a floor drain, the discharge from the relief device shall be piped to within two (2) inches of the floor.

(b) In a location without a floor drain, the discharge from the relief device shall be piped to the outside of the building with an ell ~~[(Is this a word?)]~~ turned down and piped to within four (4) inches of the surface of the ground.

(4) The relief device may discharge through an air gap to a sump basin, service sink, open receptacle, or other point of discharge in which equivalent safety [Report Form].

(2) An installing contractor shall be provided as approved by the department.

Section 6. Water Distribution for Fan Coil Units.

(1) If a domestic water heater is used for heating purposes through a fan coil medium, the water temperature shall not exceed 140 degrees Fahrenheit.

(2) The fan coil unit shall use not less than three-fourths (3/4) inch piping and its run shall not exceed 140 feet between the water heater and the heating unit.

(3) The applicable requirements established in 815 KAR 20:070 shall be met.

Section 7. [exempt from the] Reporting Requirements.

(1) Except as established in [of] subsection (2)[(4)] of this section, a wholesaler, retailer, or installer who sells a water heating device shall submit to the division Form PLB-94, Water Heater Report Form, within thirty (30) days of the date of sale.

(2) An installing contractor who obtains [the contractor has if purchased] an installation permit for the installation of a water heating device shall be exempt from the reporting requirements of subsection (1) of this section. The installation [water heater. The] permit shall serve as the reporting requirement for the installer [Division of Plumbing] as required by KRS 318.200.

Section 8[2]. Incorporation by Reference.

(1) Form PLB-94, "Water Heater Report Form", October 2019 [December 2009], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, Division of Plumbing, 500 Mero St. [404 Sea Hero Road, Suite 100], Frankfort, Kentucky 40601-5412 [40601-5405], Monday through Friday, 8 a.m. to 4:30 [430] p.m. and is available online at <http://dhbc.ky.gov/Pages/default.aspx>.

CONTACT PERSON: Max Fuller, Staff Attorney, Department of Housing, Buildings and Construction, 500 Mero Street, 1 SW, Frankfort, Kentucky 40601, phone (502) 573-0365, fax (502) 573-1057, email max.fuller@ky.gov.

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PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
(As Amended at ARRS, February 10, 2020)

815 KAR 20:060. Quality, and weight, installation, and storage of materials.

RELATES TO: KRS 318.130, 318.150, 42 U.S.C. 300g-6[(4)(2)]

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130
NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department to promulgate[an] administrative regulations[regulation] establishing the Kentucky State Plumbing Code to regulate plumbing, including the quality,and weight, installation, and storage of material. This administrative regulation establishes the manufacturer's specification number for the quality and weight of material that shall be used in the installation of plumbing systems and establishes minimum specifications for the intended use. This administrative regulation also establishes the minimum requirements for the storage and installation material used in the installation of plumbing systems.

Section 1.~~[Definitions. (1) "ASME" means the American Society of Mechanical Engineers.~~

~~(2) "CISPI" means the Cast Iron Soil Pipe Institute.~~

~~(3) "Lead" means solders and flux containing more than two-tenths (0.2) percent lead and the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures containing more than a weighted average of 0.25 percent lead as calculated according to the formula established in 42 U.S.C. 300g-6(d)(2).~~

Section 2-] Quality and Handling of Materials. (1) The material used in a drainage or plumbing system or part of a system shall be free of defects~~[-]~~ and shall be handled as to not cause damage to the material.

(2) All pipes and fittings shall be:

(a) Inspected for cracks or other damage prior to installation; and

(b) Installed in compliance with the manufacturer's recommendations unless otherwise stated in **815 KAR Chapter 20**[this code].

Section 2. Storage. (1) Schedule 40 or 80 PVC and ABS.

(a) Pipe shall remain in lifts until ready for use. Lifts shall not be stacked more than three (3) high and shall always be stacked wood-on-wood. Loose pipe shall be stored in racks with a minimum support space of three (3) feet. Pipe shall be shaded but not directly covered if/when stored outside in high ambient temperatures to provide for free circulation of air and reduce the heat buildup due to direct sunlight exposure.

(b) Fittings shall be stored in their original cartons to remain free of dirt and to reduce the possibility of damage. As a best practice, fittings shall be stored indoors.

(2) CPVC, SDR 11.

(a) CPVC pipe, tubing, and fittings shall be stored under cover to avoid unnecessary dirt accumulation and long-term exposure to sunlight. Pipe and tubing shall be stored with continuous support in straight, uncrossed bundles.

(3) PEX. PEX shall not be stored where it will be:

(a) Exposed to direct or indirect ultraviolet light (sunlight);

(b) Exposed to materials that affect the basic properties of PEX, brass, or copper; or

(c) Come into contact with chemicals, pipe thread compounds, putty, and mineral or linseed oil compounds.

(4) Solvent cement and primers. Solvent cement and primers shall not be exposed to ignition, sparks, open flames, or heat during storage and shall not be used beyond their marked shelf life.

Section 3. Marking[Label, Cast, or Stamped]. Each length of pipe, fitting, trap, fixture, or device used in a plumbing or drainage system shall be [stamped-or] indelibly marked with the:

(1) Weight or quality; and

(2) Maker's mark or name (manufacturer's specification number).

Section 4. Vitrified clay pipe, concrete pipe, truss pipe, and[extra-heavy] SDR 35 pipe[sewer-piping] shall be produced, labeled, and used only as established in subsections (1) through (4) of this section[subsection].

(1) Vitrified clay pipe shall be as established in ASTM C[-]700, and fittings ASTM C425.

(2) Concrete pipe shall be as established in ASTM C[-]14, and fittings ASTM C443.

(3) ~~Truss~~[(a) Except as established in paragraph (b) of this subsection, truss] pipe shall be as established in ASTM D[-]2680, unless it is solid[-].

(b) Solid wall truss pipe, which shall be as established in ASTM D2751.

(4) Extra heavy SDR 35 sewer piping shall be as established in ASTM[D-3033-74 and] D[-]3034[-74].

(5) Joints. Joints in pipe and fittings with no more than two (2) pipe sizes between vitrified clay, ABS, or PVC to cast iron pipe and fittings or the joining of either material may be made with the proper fittings by using a dispersion grade PVC ring produced and labeled as ASTM C443, C425, or C564, or an elastomeric PVC coupling.

Section 5. Cast[-] iron Pipe. (Hub and Spigot and No-hub). (1) Extra heavy. Extra heavy cast- iron pipe and fittings shall be produced and labeled as ASTM A74.

(2) Service-weight. Service-weight cast[-] iron pipe and fittings shall be produced and labeled as ASTM A74 and C1540[1563].

(3) No-hub cast[-]iron and fittings shall be produced and labeled ASTM 888 or CISPI 301.

(4) No-hub couplings shall be produced and labeled as ASTM C1277, C564, C1563, or CISPI 310.

(5) Coating. Cast[-]iron pipe and fittings for underground use shall be coated with:

(a) Asphaltum;

(b) Coal tar pitch; or

(c) A coating produced and labeled as ASTM A743.

(6) Instructions for Cutting Cast Iron Soil Pipe. During installation assembly, pipe and fittings shall be inserted into the hub or into the gasket firmly and seated against the bottom of the hub or against the center rib or shoulder of the gasket. To provide a sound joint with field cut lengths of pipe, ends shall be cut square and as smooth as possible with a metal cutting saw or snap type cutters.

(7) General Installation Instructions for Cast Iron Pipe.

(a) Vertical piping.

1. Vertical piping shall be secured at sufficiently close intervals to maintain alignment and to support the weight of the pipe and its contents. Approved metal clamps or hangers shall be used to support stacks at their bases and at sufficient floor intervals to meet the requirements of local codes.

2. If vertical piping is to stand free of any support or if no structural element is available for support and stability during construction, the piping shall be secured in its proper position by means of adequate stakes or braces fastened to the pipe.

(b) Horizontal piping, suspended.

1. Ordinary horizontal piping and fittings shall be secured at sufficiently close intervals to maintain alignment and prevent sagging or grade reversal. Each length of pipe shall be supported by a[an approved] hanger located not more than eighteen (18) inches from the joint.

2. Terminal ends of all horizontal runs or branches and each change of direction or alignment shall be supported by a[an approved] hanger.

3. Closet bends installed above ground shall be firmly secured.

(c) Horizontal piping, underground.

1. If/When trenches are dug too deep, the piping shall be supported with approved grillage laid on firm ground as established in 815 KAR 20:130. To maintain proper alignment during backfilling, the pipe shall be stabilized in proper position by partial backfilling and cradling.

2. Piping laid on grade shall be adequately secured to prevent misalignment when the slab is poured.

3. Closet bends installed under slabs shall be adequately secured.

(d) Joints.

1. Joints in cast iron shall either be caulked, screwed, or made with the use of neoprene gaskets. Neoprene gaskets shall be produced and labeled as ASTM C564.

2. Steel, brass, and copper joints connected to cast iron pipe shall be either screwed or caulked joints. Caulked joints shall be made by the use of a caulking spigot.

3. Cast iron coupling for joining hubless cast iron pipe shall consist of a neoprene gasket, cast iron clamps produced and labeled as ASTM A48, and stainless steel bolts and nuts produced and labeled as ANSI B 18.2.1 and ANSI B 18.2.2.

4. Lead and Oakum Joint Installation.

a. Insert the spigot into the properly cleaned hub.

b. An oakum strand shall be inserted into the joint which is of a diameter that can be pressed into the joint by hand and sufficiently long to make three (3) turns around the pipe. Drive the strand of oakum to the bottom of the joint using a yarning iron. Pack the oakum solidly and evenly using a packing iron and hammer.

c. Place additional strands of oakum into the joint until it fills the hub to within one-half (1/2) inch of the top, and using a packing iron and hammer, pack this oakum until it forms a uniform surface one (1) inch from the top of the hub.

d. Pour molten lead into the joint at one (1) spot between the hub and spigot until it arches up slightly above the top of the hub.

e. When the lead has cooled, drive it down at four (4) points around the hub using a caulking iron to insure uniform caulking.

f. Caulk the joint on the inside and outside edges using a sixteen (16) ounce ball peen hammer and appropriate caulking irons.

5. Compression Joint Installation. a. Fold and insert the one (1) piece rubber gasket into the hub which has been properly cleaned.

b. Apply special gasket lubricant to the spigot and inside of the neoprene gasket.

c. Push, draw or drive the spigot into the gasketed hub with a pulling tool or suitable device.

6. No-hub Joint Installation.

a. Clamp and gasket installation. The following procedures shall be taken to insure a proper joint:

(i) Place the gasket on the end of one (1) pipe and the stainless steel or cast iron clamp assembly on the end of the other pipe.

(ii) Firmly seat the pipe ends against the integrally molded shoulder inside the neoprene gasket.

(iii) Slide the clamp assembly into position over the gasket and tighten the bands or clamps as described below.

b. Torqueing bands. A properly calibrated torque wrench, set at sixty (60) inch pounds shall be used. The following procedure for applying torque to the band assembly shall be used: The stainless steel bands shall be tightened alternately and firmly to sixty (60) inch pounds of torque.

(i) Step 1. The inner bands shall be tightened alternately and firmly to sixty (60) inch pounds of torque.

(ii) Step 2. The outer bands shall be tightened alternately and firmly to sixty (60) inch pounds of torque.

(iii) Torqueing clamps. A properly calibrated torque wrench, set at 175 inch pounds, shall be used. The following procedure for applying torque to the clamp assembly shall be used: The stainless steel bolts shall be tightened alternately, gradually, and firmly to 175 inch pounds torque.

Section 6. Steel and Wrought[-] iron Pipe. (1) All wrought[-]iron pipe shall be produced and labeled with the latest ASTM "specifications for welded wrought iron pipe".

(2) Steel pipe shall be produced and labeled with the current ASTM specification number for welded wrought iron pipe or welded and seamless pipe.

(3) Schedule 40 shall be the minimum weight.

(4) For water distribution or soil, waste and vent, galvanized pipe shall be used.

(5) Cutting and Reaming.

(a) Pipe shall be cut to length with a square cut using the appropriate tool.

(b) If the cut-to-length pipe is to be threaded or prepared for a mechanical connection, it shall be reamed to the full inner diameter of the pipe.

(6) Hangers and Supports.

(a) Hangers, anchors and supports shall be:

1. Of sufficient strength to support the piping and its contents; and

2. Securely attached to the building construction at intervals to support the piping and its contents ~~and/~~ **Provisions shall be** made to allow for expansion, contraction, structural settlement and vibration.

(b) Vertical piping.

1. Screwed piping shall be supported at every other story height and supports shall be of ferrous metal.

2. Mechanical joint piping shall be supported at every story height and supports shall be of ferrous metal.

(c) Horizontal piping.

1. Horizontal piping shall be supported at intervals which keep the piping in alignment and prevent sagging.

2. Screwed and mechanical joint pipe one and one-half (1 1/2) inches and over shall be supported at twelve (12) foot intervals. ~~1/2~~ One and one-quarter (1 1/4) inch and smaller shall be supported at eight (8) foot intervals.

3. Supports shall be of ferrous metal.

(7) Joints.

(a) Screw Joints.

1. Screw joints shall be made by the use of a properly cut thread inserted into the female part of the fitting after applying the recommended pipe joint compound sparingly to the male threads.

2. The screw joints shall be tightened hand-tight to check for alignment and then tightened enough to insure a tight leak-proof joint but shall not be over-tightened.

(b) Mechanical joints.

1. Mechanical joints for hot and cold water shall not be used above ground unless the couplings are galvanized and the gaskets are ASTM D2000, Grade N-R-615 BZ.

2. The pipe ends shall be lubricated with a lubricant in compliance with the manufacturer's instructions and the gasket shall be slipped over one (1) pipe end.

3. The pipe ends shall be connected and the gasket shall be inserted into central spanning position.

4. The housing clamps shall be placed over the gasket and the bolts and nuts tightened with a socket wrench.

(c) Steel connections to cast iron pipe. Steel joints connected to cast iron pipe shall be either screwed or caulked joints.

(d) PVC and ABS pipe and fitting connections to steel. 1. PVC and ABS pipe and fitting connections to steel shall be either a screwed or caulked joint.

(e) Stainless steel tubing to cast iron pipe shall be made by caulking spigot.

(f) Stainless steel tubing to galvanized steel pipe or copper pipe shall be made by the use of an adaptor.

(g) The joints between lead pipe and steel or wrought iron shall be made by means of a caulking ferrule or a soldering nipple[Section 7. Mild-steel Pipe. Steel pipe shall be produced and labeled with the latest ASTM "specifications for welded and seamless steel pipe"].

Section 7[8]. Brass Pipe,[-] Copper Pipe,[-] Seamless Stainless Steel Tubing, and Brass Pipe. (1) Brass pipe, copper pipe, and brass tubing shall be produced and labeled with the latest specifications of ASTM for "brass pipe, copper pipe, and brass tubing, standard sizes".

(2) Cutting, reaming, and sizing. The tube shall be cut to exact length with a square cut using the appropriate tool.

~~(a)[1.]~~ The tube shall have burrs and slivers removed by using a reamer or other appropriate tool.

~~(b)[2.]~~ The tube shall be brought to true dimensions and roundness by using a sizing tool consisting of a plug and ring.

(3) Cleaning. The surface to be joined shall be clean and free

from oil, grease and heavy oxides. The end of the tube shall be cleaned with a fine sand cloth or a special wire brush a distance slightly more than is required to enter the socket of the fitting.

(4) Hangers and Supports. Hangers, anchors and supports shall be:

(a) Of material of sufficient strength to support the piping and its contents; and

(b) Securely attached to the building construction at sufficiently close intervals to support the piping and its contents **and**, **Provisions shall be** made to allow for expansion, contraction, structural settlement, and vibrations.

(c) Vertical piping.

1. Copper tubing shall be supported:

a. At each story for piping one and one-half (1 1/2) inches and larger in diameter; and

b. At each story and not more than ten (10) foot intervals for piping one and one-quarter (1 1/4) inches and smaller in diameter.

2. Supports shall be of copper material of sufficient strength which will not adversely react with the piping material.

(d) Horizontal piping.

1. Copper tubing shall be supported at:

a. Six (6) foot intervals for one (1) inch and smaller in diameter; and

b. Ten (10) foot intervals for one and one-quarter (1 1/4) inch and larger.

2. Supports shall be of copper material of sufficient strength which will not adversely react with the piping material.

(5) Joints.

(a) Soldered joints. Joints of copper pipe, brass, and seamless stainless steel

tubing shall be soldered. The following procedures shall be used to solder a joint:

1. After cleaning, the surfaces shall be covered with a thin film of mildly corrosive liquid

or petroleum based pastes that contain chlorides of zinc and ammonium. Self-cleaning flux shall not be used in place of the cleaning pipe.

2. Excess flux shall be wiped off within the fitting socket.

3. The tube end shall be inserted into the socket, with the tube firmly seated against the end of the socket.

4. Excess flux shall be removed with a rag.

5. Heat shall be applied to the fitting and then moved in order to heat as large an area as possible. The fitting and joint shall:

a. Not be overheated; and

b. Be heated until the solder melts on contact with the pipe and flows by capillary attraction into the joint.

6. The heat shall be removed.

7. The fitting and joint shall be cooled before moving.

(b) Brazed joints. The following procedures shall be used for a brazed joint:

1. Except as provided in subparagraph 2 of this paragraph, after cleaning, the surface of the tube end and the fitting socket shall be covered with a thin film of flux in accordance with the recommendations of the manufacturer of the brazing filler metal being used. Effort shall be made to avoid getting flux inside the tube.

2. Flux may be omitted if joining copper tube to wrought copper fittings with copper-phosphorus alloys (B-cup Series) which are self-fluxing on copper.

3. The tube end shall be inserted into the socket hard against the stop and turn if possible.

4. Heat shall be applied to the parts to be joined, with:

a. The tube heated first; and

b. The fitting at the base of the cup heated next.

5. Brazing wire, rod or strip shall be applied at the point where the tube enters the socket of the fitting.

6. The heat shall be removed.

7. The fitting and joint shall be cooled.

(c) Flared joints; impact tools. The following procedures shall be used for a flared joint.

1. The joints shall be cut, reamed, sized, and cleaned.

2. The coupling nut shall be slipped over the end of the tube.

3. The flaring tool shall:

a. Be inserted into the tube end; and

b. Be driven by hammer strokes to expand the end of the tube to the desired flare.

4. The fitting shall be placed squarely against the flare.

5. The coupling nut shall be engaged with the fitting threads.

6. The joint shall be tightened with two (2) wrenches, one (1) on the nut and one (1) on the fitting.

(d) Screw type flaring block.

1. The procedures established in subparagraphs 1. and 2. of paragraph (c), subsection (6) of this section shall be followed for impact flaring.

2. The tube shall be clamped in the flaring block so that the tube is slightly above the block.

3. The yoke of the flaring tool shall be placed on the block so that the beveled end of the compression cone is over the tube end.

4. The compressor screw shall be turned down firmly, forming the flare between the chamber in the flaring block and the beveled compressor cone.

5. The flaring tool shall be removed and assembled pursuant to subparagraphs 4., 5., and 6. of paragraph (c) of this section.

(e) Mechanically formed tee connection.

1. A mechanically formed tee connection shall be approved for use in a domestic hot and cold water distribution system above ground only.

2. A mechanically extracted collar shall be formed in a continuous operation consisting of drilling a pilot hole and drawing out the tube surface to form a collar having a height of not less than three (3) times the thickness of the tube wall. The collaring device shall be fully adjustable so to insure proper tolerance and complete uniformity of the joint.

3. All joints shall be brazed in accordance with subsection (2) of this section and the manufacturer's instructions. A soldered joint shall not be permitted.

(f) Mechanical couplings. Types K and L copper tubing systems from two (2) inch through six (6) inch and used for water distribution may be installed using mechanical pipe couplings of a bolted type with a flush seal gasket along with grooved end copper fittings. Couplings shall be of the angle pad design to obtain rigidity.

Section 8[9]. Borosilicate Pipe,[Plastic Pipe,] Stainless Steel Tubing, Silicon Iron Pipe, Polyethylene Pipe, and Polypropylene Pipe. (1) Borosilicate pipe. Borosilicate pipe shall be produced and labeled ASTM C1053 for drain, waste, and vent applications[with the latest ASTM specifications].[(2) Plastic pipe. All plastic piping used in a drainage, waste, and vent system shall be:

(a) Schedule 40 or 80, Type 1, Grade 1, polyvinyl chloride produced and labeled as ASTM-D1784;

(b) Cellular core PVC produced and labeled ASTM F-891;

(c) Schedule 40 or 80 acrylonitrile-butadiene-styrene produced and labeled as ASTM-D2661; or

(d) Cellular core ABS produced and labeled as ASTM F-628.

(3) Pipe and fittings shall be produced and labeled in accordance with the provisions of ASTM-D-2665, as amended, for PVC and ASTM-D-2661 for ABS, and both shall bear the National Sanitation Foundation seal of approval.

(4) Copies of National Sanitation Foundation specifications for the manufacture of products

identified in this administrative regulation may be obtained by writing the National Sanitation Foundation (NSF), 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, MI 48106.

(5) All pipe and fittings shall bear the ASTM designation together with the NSF seal, the manufacturer's identification, and the size.

(6)(a) Except as established in paragraph (b) of this subsection, the use of plastic pipe and fittings (PVC or ABS) shall be limited to buildings in which the plumbing system does not exceed forty-five (45) feet in height, measured from the grade plane, and continuing through the vertical distance of the building to a maximum height of forty-five (45) feet.

(b) Plastic pipe and fittings may be installed in a building in

which the plumbing system exceeds forty-five (45) feet in height if the installation complies with all of the requirements established in subparagraphs 1. through 3. of this paragraph.

1. The use of PVC and ABS piping shall be limited to schedule 40 or 80 produced and labeled as ASTM D2665 and D1784 for PVC piping and ASTM D2661 for ABS piping.

2. The installation of the plastic pipe and fittings (PVC or ABS) shall be made in compliance with the manufacturer's recommendations, which shall be made available to the inspector.

3. Firestop systems shall be inspected in accordance with ASTM E2174 by an approved inspection agency.]

(2) [(7)] Stainless steel tubing.

(a) Stainless steel tubing for hot and cold water piping shall be produced and labeled either as ASTM A269 or ASTM A312.

(b) Stainless steel tubing for the soil, waste, and vent system shall be 304 or 316L produced and labeled as ASME A112.3.1.

(3) [(8)] PE [Polyethylene] pipe used in acid waste systems shall be produced and labeled as ASTM 1204 [D-1204].

(4) [(9)] PP [Polypropylene] pipe used in acid waste systems shall be produced and labeled as ASTM D-14101 or ASTM F-1412.

(5) Joints.

(a) Stainless steel tubing to cast iron pipe shall be made by caulking spigot.

(b) Stainless steel tubing to galvanized steel pipe or copper pipe shall be made by the use of an adaptor.

(c) Joints in PE and PP piping shall be made by the heat fusion process.

(d) Joints in PP shall be made with a union joint.

(e) Joints in borosilicate pipe shall be a stainless steel mechanical joint.

(f) Joints between silicon iron pipe shall be either caulk joint or stainless steel mechanical joint.

Section 9. Schedule 40, ABS and PVC plastic pipe and fittings.

(1) All plastic piping used in a drainage, waste, and vent system shall be:

(a) Schedule 40 or 80, Type 1, Grade 1, PVC produced and labeled as ASTM D1785;

(b) Cellular core PVC produced and labeled ASTM F891;

(c) Schedule 40 or 80 ABS produced and labeled as ASTM D2661; or

(d) Cellular core ABS produced and labeled as ASTM F628.

(2) Pipe and fittings shall be produced and labeled in accordance with the provisions of ASTM D2665, as amended, for PVC and ASTM D2661 for ABS, and both shall bear the National Sanitation Foundation seal of approval.

(3) All pipe and fittings shall bear the ASTM designation together with the NSF seal, the manufacturer's identification, and the size.

(4)(a) The use of plastic pipe and fittings (PVC or ABS) shall be limited to buildings in which the plumbing system does not exceed forty-five (45) feet in height, measured from the grade plane, and continuing through the vertical distance of the building to a maximum height of forty-five (45) feet, unless:

(b) The use of PVC and ABS piping is limited to schedule 40 or 80 produced and labeled as ASTM D2665 and ASTM D1785 for PVC piping and ASTM D2661 for ABS piping;

(c) The installation of the plastic pipe and fittings (PVC or ABS) is made in compliance with the manufacturer's recommendations, which shall be made available to the inspector; and

(d) Firestop systems are inspected in accordance with ASTM E2174 by an approved inspection agency.

(5) Installation.

(a) Underneath concrete floors. Pipe and fittings shall be laid on stable earth conditions and have four (4) inches of grillage on its bottom, top and sides. If ground is unstable, it shall be removed and the excavation filled with grillage to the underneath side of the piping. Soil or waste pipe shall not be placed in a concrete slab except those pipes that pass vertically through it.

(b) Above concrete floors. Horizontal piping shall be properly aligned and installed without strain. Piping shall not be bent or pulled in position either before or after solvent welds have been

made. It shall be supported at intervals not to exceed four (4) feet and at the end of the branches and at the change of direction and shall be so installed as to permit freedom of movement. Vertical piping shall be supported at their bases and all upward movement shall not be restricted. Closet flanges shall be securely fastened to the floor through which it passes.

(6) Hangers. Hangers and straps shall be at least one (1) inch wide and shall not compress, distort, cut, or abrade the piping to allow free movement at all times.

(7) Joints.

(a) Joints in PVC Schedule 40 or 80 pipe and fittings shall be solvent welded joints and shall be in compliance with ASTM D2665.

(b) Joints in ABS pipe and fittings shall be solvent welded joints and shall be in compliance with ASTM D2661.

(c) ABS and PVC sewer piping produced and labeled as ASTM 3034 shall be joined by solvent cement in compliance with the applicable standard or with an elastomeric joint in compliance with ASTM D3212.

(d) Piping shall be cut square with a saw or pipe cutter designed especially for plastic pipe. Pipe and fittings shall be protected from serrated holding devices or abrasions.

(e) Burrs shall be removed from both inside and outside of the pipe. Dust, dirt and moisture shall be removed from the surfaces that shall be cemented.

(f) Solvent chemical cleaner recommended by the company whose product is being installed shall be applied inside the fitting and on the outside of the piping shall be joined.

(g) A paint brush shall be used to apply the solvent cement in a moderate, even coating in the fitting socket as well as covering the pipe on the joining surfaces.

(h) Joints shall be assembled as quickly as possible before the cement dries. Insert the piping into the fitting socket turning the pipe slightly to ensure even distribution to the cement. Hold the piping in a firm position so it does not "back out" of the joint.

(i) Remove excess solvent cement from the exterior of the joint with a clean dry cloth. The joint shall not be handled for a two (2) minute period. A fifteen (15) minute period shall be allowed for the joint to develop hanging strength.

(j) A Cemented pipe joint shall not be made in conditions of excessive moisture (ninety (90) percent humidity level) or *if/when* the temperature is below forty (40) degrees or above ninety (90) degrees Fahrenheit.

(k) ABS and PVC pipe and fitting connections to steel, brass, copper, or cast iron pipe shall be either a screwed or caulked joint.

(l) Joints between Schedule 40 PVC or ABS pipe and cast iron pipe may be made by the use of a neoprene gasket produced and labeled as ASTM C564.

(m) Caulk joints shall be made with the use of either a PVC or ABS or cast iron caulking spigot.

(8) Commingling of Plastic Pipe. Plastic pipe shall not be commingled except through the use of male and female adapters or other transition fittings approved ***in accordance with 815 KAR 20:020, Section 4 [by administrative regulation of the department].***

(9) Mixing of plastic and Metal Piping. Plastic and metal piping shall discharge into one another by the use of proper fittings and adapters.

(10) Thermal Expansion. Each plumbing installation shall be engineered and designed giving due consideration to the expansion characteristics of the material. Expansion tables for both PVC and ABS schedule 40 plastic piping are as follows:

PVC-DWV TYPE 1 THERMAL EXPANSION TABLE							
Chart shows length change in inches vs. degrees temperature change							
Lg. Ft	40° F	50° F	60° F	70° F	80° F	90° F	100° F
20	.278	.348	.418	.487	.557	.626	.696
40	.557	.699	.835	.974	1.114	1.235	1.395
60	.835	1.044	1.253	1.462	1.670	1.879	2.088
80	1.134	1.392	1.672	1.949	2.227	2.506	2.784

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100	1.392	1.740	2.088	2.436	2.784	3.132	3.480
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ABS-DWV TYPE 1 THERMAL EXPANSION TABLE							
Chart shows length change in inches vs. degrees temperature change							
Lg. Ft.	40° F	50° F	60° F	70° F	80° F	90° F	100° F
20	.536	.670	.80	.938	1.072	1.206	1.340
40	1.070	1.340	1.610	1.880	2.050	2.420	2.690
60	1.609	2.010	2.410	2.820	3.220	3.620	4.020
80	2.143	2.680	3.220	3.760	4.290	4.830	5.360
100	2.680	3.350	4.020	4.700	5.360	6.030	6.700

Section 10. SDR 11, CPVC plastic pipe and fittings. (1) Installation. Correct assembly shall consist of the following steps:

- (a) Cutting the pipe square;
- (b) Removing burrs;
- (c) Cleaning both pipe end and fitting socket with a CPVC cleaner in compliance with manufacturer's recommendations, unless using an approved one (1) step cement.
- (d) Applying a liberal coat of CPVC solvent cement to the pipe and applying a light coat of cement to the fitting socket, removing all excess cement from the interior which may clog the waterway;
- (e) Assembling immediately by bottoming the pipe in the socket and rotating one-quarter (1/4) turn as the joint is assembled.
- (f) Removing excess cement from the joint; and
- (g) Determining if the joint has been properly assembled by looking for a small bead of cement to appear at the junction between the pipe or tubing and the fitting.

(2) Installation Temperature. Extra care shall be taken if installing in temperatures below forty (40) degrees Fahrenheit or above 110 degrees Fahrenheit. The manufacturer's installation instructions shall be followed carefully.

(3) Hangers and Supports. Support shall be provided at each floor level for piping installed in vertical runs. For horizontal runs, support shall be provided at three (3) foot intervals for pipe one (1) inch or less in diameter and at four (4) foot intervals for larger pipe sizes. Piping shall not be anchored tightly to a support but secured with smooth straps or hangers allowing for movement caused by expansion and contraction. Hangers shall not have rough or sharp edges that come in contact with the piping.

(4) CPVC-to-metal Transitions. CPVC threaded adapters shall not be used to transition from CPVC to metal. Union type fittings that use gaskets or o-rings to seal dissimilar connections shall not be used. Compression type transition fittings, over-molded transition fittings and push-type fittings that meet the ASSE 1061 standard may be used.

(5) Thermal Expansion. The linear thermal expansion rate for CPVC is approximately one-half (1/2) inch for each ten (10) degrees Fahrenheit temperature change for each 100 feet of pipe or tubing. If installing long runs of pipe, one-sixteenth (1/16) to three thirty-seconds (3/32) inch longitudinal clearance shall be allowed per foot of run to accommodate thermal expansion. Offsets of twelve (12) inches or more every ten (10) feet shall be included on vertical risers if they are restrained by horizontal branches at each floor.

Section 11. PEX. (1) PEX that is to be used for cold water only shall be produced and labeled as established by ASTM F876.

(2) PEX that is to be used for either cold water or hot water shall be produced and labeled as established by ASTM F877.

(3) PEX-Al-PEX shall be produced and labeled as established by ASTM F1281.

(4) Cold expansion fittings with PEX reinforcing rings for use with PEX tubing shall be produced and labeled as established by ASTM F1960.

(5) Metal insert fittings utilizing a copper crimp ring shall be produced and labeled as established by ASTM F1807.

(6) Stainless steel clamps substituted for the copper crimp ring shall be produced as established by ASTM F2098.

(7) Plastic insert fittings for PEX shall be produced as established by ASTM F2159.

(8) Push fit fittings for PEX shall be produced as established by ASSE 1061.

(9) Metal insert fittings for PEX/aluminum/PEX composite pressure pipe shall be produced as established by ASTM F1974.

(10) Metal insert fittings utilizing a copper crimp ring for PEX-Al-PEX shall be produced as established by ASTM F2434.

(11) Installation.

(a) Water service installation.

1. Tubing shall be snaked in the ditch to allow for linear expansion and contraction.

2. Tubing shall not be installed in contaminated soils.

3. PEX shall not be installed in areas of known soil contamination or where there is a high risk of chemical spills such as organic solvents or petroleum distillates.

4. Metallic fittings other than those consisting of red brass shall be protected from the soil to prevent corrosion.

5. The number of fittings shall be kept to a minimum.

6. The bottom of the trench shall be flat and free of rocks, hollows, or other sharp objects.

7. If placed in soil consisting of rock, piping shall be covered with six (6) inches of coarse sand or pea gravel.

8. If passing through a foundation wall, a rigid sleeve that spans the distance from within the wall out to the undisturbed soil shall be used to prevent shearing of the tubing.

(b) Distribution system.

1. If PEX is to be buried under a building, fittings shall not be used.

2. PEX passing through a concrete slab or wall shall be protected by use of sleeves.

3. PEX passing through metal studs or plates shall be protected by plastic grommets de-signed for this purpose.

4. PEX shall not be used in operating conditions inconsistent with pressure ratings that appear on the tubing and the applicable ASTM standard.

5. PEX shall not be installed:

a. Where it may be exposed to direct or indirect ultraviolet light (sunlight);

b. Where it may be exposed to open flame;

c. With or exposed to petroleum based caulking or sealants;

d. Where it may be subjected to prolonged exposure to free chlorine concentrations greater than four (4) ppm;

e. Within twelve (12) inches of any recessed light fixture; or

f. Within six (6) inches of any gas appliance metallic vent.

6. PEX shall be tested under a pressure not to exceed 100 pounds per square inch nor less than forty (40) pounds per square inch.

(12) Hangers and supports.

(a) PEX sizes one (1) inch and smaller installed horizontally shall be supported at intervals not to exceed thirty-two (32) inches.

(b) PEX sizes 1-1/4" and larger installed horizontally shall be supported at intervals not to exceed forty-eight (48) inches.

(c) PEX installed vertically shall be supported at the base of each story with a mid-story guide.

(d) PEX shall not be rigidly anchored but shall be installed to allow room for proper expansion and contraction of the tubing.

(e) Hangers or strapping shall be constructed of plastic material or be coated to prevent damage to the tubing.

(f) PEX-Al-PEX installed horizontally shall be supported at intervals not to exceed ninety-eight (98) inches.

(g) PEX-Al-PEX installed vertically shall be supported at the base of each story with a mid-story guide.

Section 11[40]. Lead Pipe[–Diameter,–Weights]. (1) Lead soil, waste, and vent pipe shall be produced and labeled as Federal Specifications WW-P-325 and shall not be lighter than the weights established in the following table:

Size Inside Diameter Inches	Commercial Designation "D" or "XL"		Wall Thickness Inches	Weight Pounds	Per Foot Ounces
1 1/2	D	XL	0.138	3	8
2	D	XL	0.142	4	12

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3	D	XL	0.125	6	0
4	D	XL	0.125	8	0

(2) Lead bends and lead traps. All lead bends and lead traps shall be of the weight known as extra heavy (XH) and shall have at least one-eighth (1/8) inch wall thickness.

(3) Joints.

(a) Joints in lead pipe or between lead pipe and brass or copper pipes, ferrules, soldering nipples, or trap, shall be full-wiped joints with an exposed surface of the solder at each side of the joint of not less than three-quarters (3/4) of an inch.

(b) The minimum thickness of the thickest part of the joint shall be at least as thick as the material being used.

(c) If lead pipe is used for acid waste lines, the pipe may be joined by burning.

(d) The joints between lead to cast iron, steel, or wrought iron shall be made by means of a caulking ferrule or a soldering nipple.

Section 12. Unions. Unions shall be ground faced and shall not be concealed or enclosed.

Section 13[44]. Integral Flashing and Roof Joints. (1) If a roofing system requires integral flashing, a flashing material, which is part of the manufactured roofing system and required by the roofing manufacturer to guarantee or warranty the roofing system, shall be used.

(2) The joint at the roof shall be made watertight by the use of copper, lead, or other approved flashing or flashing material.

(3)(a) Except as established in paragraph (b) of this subsection, the approved flashing shall:

1. Not extend less than six (6) inches from the pipe in all directions; and

2. Extend upward twelve (12) or more inches and turn down into the pipe.

(b) Lead flashings for three (3) inch and four (4) inch vent stacks shall have a minimum twelve (12) inch base.

(4) A hub flashing may be used if it is constructed in a manner allowing the flashing to be caulked into a hub above the roof.

Section 14. Wall or Floor Flange Joints. Wall or floor flange joints shall be made by using a lead ring or brass flange and shall be properly soldered.

Section 15[42]. Sheet Lead. Sheet lead for a shower pan shall not weigh less than four (4) pounds per square foot and shall not weigh less than two and one-half (2 1/2) pounds per square foot for vent pipe flashings.

Section 16[43]. Sheet Copper or Brass. Sheet copper or brass shall not be lighter than No.

18 B. & S. gauge, except local and interior ventilating pipe shall not be lighter than No. 26 B. & S. gauge.

Section 17[44]. Threaded Fittings. (1) A plain screw fitting shall be either cast[-]iron, malleable iron, or brass of standard weight and dimension.

(2) A drainage fitting shall be either cast[-]iron, malleable iron, or brass, with smooth interior waterway, with threads tapped out of solid metal.

(3) A cast[-]iron fitting used in a water supply distribution shall be galvanized.

(4) A malleable iron fitting shall be galvanized.

Section 18[45]. Caulking Ferrules. A caulking ferrule shall be of red brass and shall be in accordance with the following table:

Pipe Sizes Inches	Inside Diameter Inches	Length Inches	Minimum Weight Each
2	2 1/4	2 1/2	1 lb. 0 oz.
3	3 1/4	4 1/2	1 lb. 12 oz.
4	4 1/4	4 1/2	2 lb. 8 oz.

Section 19[46]. Soldering Nipples. A soldering nipple shall be recessed red cast brass, iron pipe size. If cast, they shall be full bore and of minimum weight.

Section 20. Increaseers and reducers. If different size pipes or fittings are to be concealed, the proper size increaser or reducer pitched at an angle of forty-five (45) degrees between the two (2) sizes shall be used. This section shall not apply to nonmetallic installations.

Section 21[47]. Floor Flanges for Water Closets and Service Sinks or Similar Fixtures. (1) A floor flange shall either be:

(a) Hard lead;

(b) Brass;

(c) Cast iron;

(d) Galvanized malleable iron;

(e) ABS; or

(f) PVC.

(2) A hard lead or brass flange shall not be less than one-eighth (1/8) inch thick.

(3) Cast iron or galvanized malleable iron shall:

(a) Not be less than one-fourth (1/4) inch thick; and

(b) Have a two (2) inch caulking depth.

Section 22[48]. Use of Lead. (1) Lead shall not be used in the installation or repair of a public or private water system providing potable water for human consumption.

(2) This section shall not apply to:

(a) Pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses in which the water is not anticipated to be used for human consumption; or

(b) Toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are two (2) inches in diameter or larger.

Section 23[49]. Prohibited Joints and Connections. A fitting or connection that has an enlargement chamber, or recess with a ledge shoulder, or reduction of the pipe area in the direction of the flow shall be prohibited.

Section 24. New Materials. (1) Materials other than those established in this administrative regulation shall be prohibited unless the material is specifically approved by the division[State Plumbing Code Committee] and the department as being equal to or better than the material specified in this[the State Plumbing] code.

(2) It shall be the responsibility of any person or company seeking the approval of a material not included in this code to prove that the material is equal to or better than the material that it is intended to replace.

(3) Procedural requirements for approval of new parts and materials are established in 815 KAR 20:020.

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PUBLIC PROTECTION CABINET Department of Housing, Buildings and Construction (As Amended at ARRS, February 10, 2020)

815 KAR 20:070. Plumbing fixtures.

RELATES TO: KRS 318.010, 318.015, 318.150, 318.200

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department[, after review by the State Plumbing Code Committee,] to promulgate an administrative regulation establishing the Kentucky State Plumbing Code regulating

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plumbing, including the kind, type, and quality of plumbing fixtures to be used in the construction of plumbing systems. This administrative regulation establishes the requirements for plumbing fixtures to be used~~[allowed]~~ in Kentucky.

Section 1. Materials. Receptacles used as water closets, urinals, or for the disposal of human excreta, shall be of vitrified earthenware, hard natural stone, or cast-iron with a light color porcelain enameled on the inside, except as established in Section 4 of this administrative regulation.

Section 2. Installation. (1) Plumbing fixtures shall be installed to allow access for cleaning.

~~(2)[(4)]~~ All pipes from fixtures shall be run to the wall.

~~(3)[(2)]~~ A trap or pipe shall not extend nearer to the floor than twelve (12) inches except laundry trays or similar fixtures.

Section 3. Water Closet Bowls. (1) A water closet bowl shall be of one (1) piece construction and hold a sufficient quantity of water when filled to the trap overflow to prevent fouling of its interior surfaces.

(2) A water closet bowl shall be provided with an integral flushing rim to flush the entire interior of the bowl.

Section 4. Plastic Water Closet Bowl and Tank. (1) A plastic water closet bowl and tank shall be constructed with a PP~~[polypropylene]~~ lining inside the one (1) piece bowl and tank.

(2) The outer surface of the bowl shall be constructed of PVC material.

(3) The filler material between the lining and outer surface shall be made of polyurethane foam.

(4) The bowl shall have:

(a) A three (3) inch water seal; and

(b) A two and one eighth~~[one-eighth]~~ (2 1/8) inch waste opening passage.

Section 5. Frost-proof Closet. (1) A frost-proof water closet may be installed only in a building that has at least a twelve (12) inch air break between it and any building used for habitation or occupancy.

(2) The frost-proof water closet room~~[room]~~ shall:

~~(a)~~ Be tightly enclosed and accessible from the outside only~~[-].~~

~~(b)~~ Have a nonabsorbent floor;

~~(c)~~ Have a~~[(3) The]~~ soil pipe between the trap and hopper ~~off~~~~[shall be of extra heavy cast-iron,] four (4) inches in diameter; and~~~~[shall be light colored porcelain enamel on the inside.~~

~~(4)~~ The building shall have a nonabsorbent floor.

~~(5)~~ A frost-proof water closet shall

~~(d)~~ Have a four (4) inch vent.

Section 6. Floor and Shower Drains. (1) A floor drain or a shower drain shall be considered a plumbing fixture and shall be provided with a strainer.

(2) Shower drain pan construction.

(a) A shower drain pan shall be constructed~~[without a seam and shall extend]~~ to a minimum height of six (6) inches on all vertical walls.

(b) A shower drain pan shall not be required on a concrete floor below~~[before]~~ the outside grade level.

(c) A shower drain pan shall be constructed of:

1. Sheet lead weighing not less than four (4) pounds per square foot;

2. Nonplasticized chlorinated polyethylene produced and labeled as ASTM D412~~[D-412]~~ and D1204~~[D-1204]~~, which shall be not less than four hundredths (0.040) inches thick;

3. Nonplasticized~~[polyvinyl chloride (PVC)]~~ sheet material produced and labeled as ASTM D1004, D412, D412 ~~[-]~~D-1004, D-412, 06A, and D1790~~[D-1790]~~, which shall be not less than four hundredths (0.040) inches thick; or

4. Other approved material as established in 815 KAR 20:020, Section 4.5~~].~~~~Copies of ASTM specifications identified in this administrative regulation may be obtained by writing the American Society for Testing Materials, 1916 Race Street, Philadelphia,~~

~~Pennsylvania 19103.]~~

(3) Fiberglass bathtubs, showers, tub enclosures, and shower stalls.

(a) Fiberglass bathtubs and tub enclosures shall be produced and labeled as ANSI Z124.1~~[Z-124.1]~~.

(b) Acrylic-faced bathtubs shall be produced and labeled as ASTM E84 - 08A or E162~~[E8408A or E-162]~~.

(c) Fiberglass shower stalls and shower receptors shall be produced and labeled as ANSI Z124.2~~[Z-124.2]~~.

(4) Metamorphosed carbonate aggregate polyester resinous matrix-marbleoid bathtubs, lavatories, and shower stalls.

(a)~~[4-]~~ Metamorphosed carbonate aggregate polyester resinous matrix-marbleoid bathtubs shall be produced and labeled as ANSI Z124.1.

~~(b)~~~~[Z-124-1.2.]~~ Lavatories shall be produced and labeled as ANSI Z124.3.

~~(c)~~~~[Z-124-3.3.]~~ Shower stalls shall be produced and labeled as ANSI Z124.2~~[Z-124-2]~~.

~~(b) Copies of ANSI specifications identified in this administrative regulation may be obtained by writing the American National Standards Institute, 1430 Broadway, New York, New York 10018].~~

Section 7. Fixture Strainers. (1) A fixture, other than a water closet or a pedestal urinal, shall be provided with a strainer.

(2) The outlet area of the strainer shall not be less than the interior area of the trap.

Section 8. Fixture Overflow. The overflow from a fixture shall be optional, but if used, the overflow shall be connected to the inlet side of a trap and accessible for cleaning.

Section 9. Fixture Additions. A fixture added to a plumbing system shall be installed to comply with all applicable sections of the~~[State Plumbing]~~ code.

Section 10. Defective Fixtures. If a newly installed fixture is found to be defective by the department or if an old fixture is found to be in an unusable condition, it shall be repaired, replaced, or removed within thirty (30) days upon written notice from the department~~[office]~~.

Section 11. ~~[Water Heaters.]~~ (1) A water heater shall be properly connected to the hot and cold water supply.

~~(2) A water heater designed for use as an appliance for supplying potable hot water for domestic or commercial purposes may be used for space heating if the water temperature does not exceed 140 degrees Fahrenheit.~~

~~(3) Every water heater shall be accessible for inspection, repair, and replacement.~~

~~(4)(a) If a water heater is installed in a crawl space after September 1, 2006, it shall have adequate access with a travel path no less than five (5) feet of vertical distance and be installed on at least a two (2) inch thick noncorrosive material adequate to support the heater.~~

~~(b) The replacement of a water heater that was originally installed in a crawl space prior to September 1, 2006 shall not require compliance with the vertical distance requirement of this subsection.~~

~~(5) If a water heater is located in an attic of a residence, a water-tight pan of corrosion resistant material shall be installed beneath the water heater and shall be equipped with at least a three-quarter (3/4) inch drain to be piped similarly to a pressure and temperature relief valve discharge line.~~

~~(6) A fuel-fired water heater shall be connected to a flue or chimney of a size that shall be at least as large as the size required by the water heater manufacturer's instructions.~~

~~(7) A fuel-fired water heater vent shall not be connected to a flue serving a coal-burning apparatus.~~

~~(8) The flue or chimney shall extend two (2) feet above the roof and shall be properly flashed and shall not terminate within six (6) feet of a door or window.~~

~~(9) A fuel-fired water heater, with the exception of those having~~

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direct-vent or through the wall vent systems, shall not be placed in any bathroom, toilet room, or a room used for sleeping.

(10) If a fuel-fired water heater is placed in a closed room or closet, the door shall be a louver door or shall be properly ventilated to provide combustion air and circulation in accordance with the Fuel Gas Code incorporated by reference in Chapter 35 of the Kentucky Building Code filed in 815 KAR 7:120.

(11) Direct venting system location.

(a) A residential gas-fired direct vent and through the wall type water heater shall be vented in accordance with the manufacturer's recommendations and shall be installed in accordance with the Fuel Gas Code incorporated by reference in the Kentucky Building Code filed in 815 KAR 7:120.

(b) 1. The vent terminal of a direct vent appliance with an input of 50,000 BTU per hour or less shall be located at least nine (9) inches from any opening through which flue gases could enter a building.

2. An appliance with an input over 50,000 BTU per hour shall require a twelve (12) inch vent termination clearance.

(c) The bottom of the vent terminal and the air intake shall be located at least twelve (12) inches above grade.

(12) An instantaneous water heater not listed in 815 KAR 20:020 shall:

(a) 1. Be certified to ANSI Z21.10.1 for units including but not exceeding 75,000 BTUs; or

2. Be certified to ANSI Z21.10.3 for units exceeding 75,000 BTUs;

(b) Have a minimum of 3/4 inch inlet and outlet;

(c) Be installed with a properly sized pressure relief valve not exceeding 150 pounds per square inch; and

(d) If required by the manufacturer to be periodically flushed, be installed to flush without altering the installation.

(13) Temperature and pressure relief valves shall be installed in accordance to manufacturer's requirements.

Section 12. Conservation of Water. (1) Conservation of hot water.

(a) Showers. A shower used for other than safety reasons shall be equipped with an approved flow control device, which shall limit the total flow to a maximum of two and one-half (2.5) gallons per minute per shower head.

(2) (b) Lavatories.

(a) (1.) Public facilities (domestic hot water only). Lavatories [Lavatories in restrooms of public facilities shall be equipped with an outlet device, which shall limit the flow of domestic hot water to a maximum of 0.75 gallons per minute. 2. Lavatory faucets (other than those] in restrooms of public facilities)] shall be equipped with an outlet [a flow control] device, which shall limit the flow of domestic hot water to a maximum of seventy five hundredths (0.75 [two (2.0)] gallons per minute.

(b) (2.) Non-public facilities (domestic hot and cold water). Sink faucets shall be equipped with a flow control device, which shall limit the flow of domestic hot water to a maximum of two and one-half (2.5) gallons per minute.

(2) Conservation of cold water. Lavatory faucets. (a) Showers. A shower used for other than those in restrooms of public facilities] safety reasons shall be equipped with an approved control device to limit the total flow to a maximum of two and one-half (2.5) gallons per minute per shower head.

(b) Lavatory and sink faucets.

1. Lavatory faucets. Lavatory faucets] shall be equipped with a flow control device, which shall limit the flow of [the] domestic [cold] water to a maximum of two (2.0) gallons per minute.

(c) (3.) Sink faucets (domestic hot and cold water). Sink faucets shall be equipped with a flow control device, which shall limit the flow of domestic [cold] water to a maximum of two and one-half (2.5) gallons per minute.

(3) (c) Water closets. [A water closet shall not be installed in a facility or building unless it is of a type designed and manufactured to limit the gallons per flush as required by this subsection.]

(a) (1.) Residential (private use) installations. A water closet for private use in a single family dwelling, duplex, or townhouse, condominium or apartment unit shall not exceed one and six-tenths

(1.6) gallons per flush.

(b) (2.) Commercial (public use) installations. A water closet for public use, including a commercial building, shall not exceed three and one-half (3.5) gallons per flush.

(4) (d) Urinals. A urinal shall not exceed one (1.0) gallon per flush.

(5) (3) (a) The provisions of this section shall apply to new construction, renovation, or replacement in an existing structure.

(b) Upon compliance with the requirements of this section, the department [Division of Plumbing] shall permit the installation of a tank type water closet equipped with devices found by the inspector to meet applicable specifications in water closets having a tank capacity in excess of three and one-half (3 1/2) gallons (thirteen and three-tenths (13.3) liters).

(c) The department [Division of Plumbing] shall allow the use of a standard flush water closet and a urinal that does not meet the specific specifications if the configuration of the building drainage system requires a greater quantity of water to adequately flush the system, or if the owner requests the use of antique fixtures that would not be equipped for reduced flow.

Section 12. Specifications. (1) Copies of ANSI specifications identified in this administrative regulation may be obtained, subject to applicable copyright law, by writing the American National Standards Institute, 1430 Broadway, New York, New York 10018.

(2) Copies of ASTM specifications identified in this administrative regulation may be obtained, subject to applicable copyright law, by writing the American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

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PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
(As Amended at ARRS, February 10, 2020)

815 KAR 20:090. Soil, waste, [and] vent systems, traps, and clean-outs.

RELATES TO: [KRS 318.010,] 318.015, 318.130, 318.150, [318.200]

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department [after review by the State Plumbing Code Committee,] to promulgate [an] administrative regulations [regulation] establishing the Kentucky State Plumbing Code regulating plumbing, including the methods and materials that may be used in Kentucky for soil, waste, and vent systems. This administrative regulation establishes the minimum requirements for and manufacturer's specification number of the material accepted in the installation and design of soil, waste, [and] vent systems, traps, and clean-outs in each type of plumbing system.

Section 1. Materials. (1) Main or branch soil, waste, and vent pipes and fittings within or underneath a building shall be:

(a) Hub and spigot extra heavy or service weight cast iron;

(b) No-hub service weight cast iron;

(c) Galvanized steel;

(d) Galvanized wrought iron;

(e) Lead;

(f) Brass;

(g) Types K, L, M, and DWV copper;

(h) Standard high-frequency welded tubing produced and labeled with the latest ASTM specifications;

(i) Types R-K, R-L, R-DWV brass tubing;

(j) DWV brass tubing produced and labeled as ASTM B587;

(k) Seamless stainless steel tubing;

(l) Grade G or H produced and labeled as ASTM A312;

(m) PVC schedule 40 or 80 produced and labeled as ASTM D2665, D1784, and F891;

(n) Coextruded composite PVC pipe produced and labeled ASTM F1488;

(o) ABS schedule 40 or 80 produced and labeled as ASTM D2661, F1488, or F628;

(p) CPVC schedule 40 or 80; or

(q) Silicon iron or borosilicate.

(2) A main or branch soil waste and vent pipe and fittings underground shall either be:

(a) Hub and spigot extra heavy or service weight cast iron;

(b) No-hub service weight cast iron;

(c) Type K or L copper pipe;

(d) Type R-K, R-L brass tubing;

(e) Lead; or

(f) Silicon iron or borosilicate pipe and fittings or plastics DWV established in this section.

(3) Underground waste pipe installed beneath a concrete slab shall:

(a) Not be less than two (2) inches in diameter; and

(b) Extend no less than twelve (12) inches above the concrete slab.

(4) A trap for a bathtub, lavatory, sink, or other similar fixture shall be made of:

(a) Tubular brass;

(b) Tubular ABS or PVC produced and labeled as ASTM F409;

(c) Cast brass;

(d) Cast iron;

(e) Lead;

(f) Schedule 40 PVC;

(g) Schedule 40 ABS;

(h) Grade G or H produced and labeled as ASTM A312; or

(i) CPVC schedule 40 or 80.

(5) A tubular or schedule 40 PVC, or a tubular or schedule 40 ABS p-trap shall be either the union-joint or solvent welded type.

(6) A tubular brass trap shall be seventeen (17) gauge.

(7) A tubular brass trap, tubular PVC trap, or tubular ABS trap shall not be installed below the finished floor serving a fixture.

(8) The threads in a cast brass or cast iron trap shall be tapped out of solid metal.

(9) A lead trap shall be extra heavy.

Section 2. Trap Requirements. (1) Trap placement. A fixture shall be separately trapped by a water-seal trap placed as near as possible to the fixture, but not to exceed ten (10) inches from the bottom of the fixture to the dip of the seal.

(2) Water seal. A fixture trap shall have a water seal not less than two (2) inches nor more than four (4) inches.

(3) Waste discharge. Waste from a bathtub or other fixture shall not discharge into a water closet bend.

(4) Double trap prohibition. A fixture shall not be double trapped.

(5) A trap shall have a full-bore, smooth interior waterway.

(6) Self-cleaning. A trap shall be self-cleaning.

(7) Trap clean-outs. A trap clean-out shall be optional.

(8) Trap levels and protection. A trap shall be:

(a) Set true with respect to its water seal; and

(b) Protected from frost and evaporation

(9) Trap primers. Trap primers shall be required on:

(a) Floor drains only in mechanical rooms or boiler rooms; and

(b) All open receptacles that receive the discharge from a temperature and pressure relief device discharge only.

(10) Protected Traps and Vents.

(a) A fixture trap shall be protected against siphonage and backpressure.

(b) Air circulation shall be assured by means of an individual vent.

(c) A crown vent shall not be permitted.

(d) An open drain, such as a hub drain or open receptacle, shall not be installed within a plenum space.

(11) Distance of Trap from Vent.

(a)1. The distance between the vent and the fixture trap shall be measured along the center line of the waste or soil pipe from

the vertical inlet of the trap to the vent opening.

2. The fixture trap vent, except for a water closet or a similar fixture, shall not be below the dip of the trap, and each ninety (90) degree turn in the waste line of the main waste, soil, or vent pipe shall be washed.

3. A fixture trap shall have a vent located with a developed length not greater than that in the following table:

Size of Fixture Drain (In Inches)	Distance Trap to Vent
1 1/4	2 ft. 6 in.
1 1/2	3 ft. 6 in.
2	5 ft.
3	6 ft.
4	10 ft.

(b) A fixture branch on a water closet shall not be more than four (4) feet six (6) inches.

(12) Grease traps.

(a) If a grease trap is installed, it shall be:

1. Placed as near to the fixture it serves as practical; and

2. Approved by the department.

(b) A grease trap used inside a building shall:

1. Have a sealed cover; and

2. Be properly vented.

(c) A grease trap for a restaurant, food service establishment, or other business establishment shall be installed:

1. As required by municipal ordinance; or

2. As required by 902 KAR 10:085, if a food establishment uses a private sewage system.

(13) Sand Traps. A sand trap shall be:

(a) Readily accessible; and

(b) Serve the purpose intended.

(14) Slip joints.

(a) Slip joints shall be permitted on the inlet side of the trap.

(b) A single one and one-half (1 1/2) inch slip joint connection with an elastomeric gasket shall be permitted on the outlet side of a one and one-half (1 1/2) inch trap.

Section 3. Pipe Clean-out Requirements. (1) The bodies of clean-out ferrules shall be made in a standard pipe size, conforming in thickness to that of the pipe and fittings and shall not extend less than one-quarter (1/4) inch above the hubs in which they are placed.

(2) The clean-out cap or plug shall be yellow-brass, PVC, or ABS no less than one-eighth (1/8) inch thick and shall have a raised nut or recessed pocket for removal.

(3) In a building served by a stack over forty-five (45) feet in height, a clean-out shall be provided at the base of each vertical waste or soil stack.

(4) There shall be at least one (1) clean-out in the building drain with a full-size branch inside the wall or outside the building at a point not to exceed two (2) feet from the foundation wall. This clean-out shall be a two (2) directional fitting or a combination of sanitary tees or tee wyes to allow cleaning in both directions.

(5) If located outside the building, the clean-out shall be extended to the finished grade for accessibility.

(6) A clean-out shall be of the same nominal size as the pipe it serves up to four (4) inches and shall not be less than four (4) inches for larger pipe.

(7) A clean-out installed on a four (4) inch sewer shall be a two (2) directional fitting or a combination of sanitary tees or tee wyes to allow cleaning in both directions.

(8) The distance between clean-outs in all sewers shall not exceed 150 feet.

(9) An underground clean-out in a building shall be:

(a) Flush with the floor or wall; or

(b) Accessible by a manhole.

(10) A floor or wall connection of a fixture shall be regarded as a clean-out, except where the house drain enters a building.

Section 4. Grades and Supports of Horizontal Piping. (1)(a) Horizontal piping shall run in practical alignment and at a uniform grade of not less than one-eighth (1/8) inch per foot and shall be supported or anchored in accordance with the manufacturer's recommendations.

(b) The supports or anchors shall not be placed at intervals that exceed ten (10) feet in length.

(2) A stack shall be supported at its base, and each pipe shall be rigidly secured.

(3) No-hub pipe and fittings shall be supported at each joint of pipe and fittings.

(4) ~~PVC~~[Polyvinyl chloride] and ~~ABS~~[acrylonitrilebutadiene-styrene] schedule forty (40) horizontal piping shall be supported at:

(a) Intervals not to exceed four (4) feet;

(b) The base of each vertical stack; and

(c) Each trap branch as close to the trap as possible.

(5) ~~PE~~[Polyethylene] pipe and fittings shall be continuously supported with a V channel.

(6) A stack shall be rigidly supported at its base and at the floor level.

Section 5.[2.] Change in Direction. (1) Except as provided in subsections (2), (3), or (4) of this section, a change in direction shall be made by the appropriate use of a forty-five (45) degree wye, half-wye[(1/2)], quarter (1/4), sixth (1/6), eighth (1/8) or sixteenth (1/16) bend.

(2) A single sanitary tee may be used in a vertical stack.

(3) A sanitary tee may be turned on its back or side. If turned on its back or side, a sanitary tee shall not be placed at an angle of more than forty-five (45) degrees.

(4) A double sanitary tee may be used on a vertical soil, waste, and vent line.

Section 6. Direct Flow Fittings and Continuous-waste. A kitchen sink unit or a fixture with more than one (1) unit may be connected with a continuous-waste, if a directional flow fitting is used. Continuous-waste shall be either seventeen (17) gauge tubular brass, ~~for~~ schedule 40 ABS, ~~for~~ schedule 40 PVC, ~~for~~ tubular ABS, or tubular PVC.

Section 7.[3.] Prohibited Fittings. (1) The following shall be prohibited:

(a)[(1)] A double hub bend and double hub tee or inverted hub on a sewer, soil, or waste line;

(b)[(2)] The drilling and tapping of a house sewer or house drain, soil, waste, or vent pipe;

(c)[(3)] The use of a saddle hub; and

(d)[(4)] Pipe installed with a hub or restriction that reduces the area or capacity of the pipe.

(2) Prohibited traps. A trap shall not be used if the trap depends upon:

(a) The action of a movable part; or

(b) Concealed interior partition for its seal.

Section 8.[4.] Dead Ends. A dead end shall not be used in the installation of a drainage system[, a dead end shall not be used].

Section 9.[5.] Protection of Material. (1) A pipe passing under or through a wall shall be protected from breakage.

(2) A pipe passing through or under cinder, concrete, or other corrosive material shall be protected against external corrosion.

(3)(a)[1.] Soil, waste, or vent pipe shall not be installed or permitted outside a building unless adequate provision shall be made to protect it from frost.

(b)[2.] The vent shall be increased to full size, the size of the increaser required as if it were passing through the roof.

Section 10.[6.] Materials. ~~(1) Main or branch soil, waste, and vent pipes and fittings within or underneath a building shall be:~~

~~(a) Hub and spigot extra heavy or service weight cast iron;~~

~~(b) No-hub service weight cast iron;~~

~~(c) Galvanized steel;~~

~~(d) Galvanized wrought iron;~~

~~(e) Lead;~~

~~(f) Brass;~~

~~(g) Types K, L, M, and DWV copper;~~

~~(h) Standard high-frequency welded tubing produced and labeled with the latest ASTM specifications;~~

~~(i) Types R-K, R-L, R-DWV brass tubing;~~

~~(j) DWV brass tubing produced and labeled as ASTM B587;~~

~~(k) Seamless stainless steel tubing;~~

~~(l) Grade G or H produced and labeled as ASTM A-312;~~

~~(m) Polyvinyl chloride schedule 40 or 80 produced and labeled as ASTM D2665, D1784, and F-891;~~

~~(n) Coextruded composite PVC pipe produced and labeled ASTM F-1488;~~

~~(o) Acrylonitrile-butadiene-styrene schedule 40 or 80 produced and labeled as ASTM D2661, F-1488, or F-628; or~~

~~(p) Silicon iron or borosilicate.~~

~~(2) A main or branch soil waste and vent pipe and fittings underground shall either be:~~

~~(a) Hub and spigot extra heavy or service weight cast iron;~~

~~(b) No-hub service weight cast iron;~~

~~(c) Type K or L copper pipe;~~

~~(d) Type R-K, R-L brass tubing;~~

~~(e) Lead; or~~

~~(f) Silicon iron or borosilicate pipe and fittings or plastics DWV established in this section.~~

~~(3) Underground waste pipe installed beneath a concrete slab shall not be less than two (2) inches in diameter and shall extend no less than twelve (12) inches above the concrete slab.~~

Section 7.[] Size of Soil and Waste Pipe per Fixture Unit on One (1) Stack. (1) The following table, based on the rate of discharge from a lavatory as a unit, shall be employed to determine fixture equivalents:

Pipe Size (In Inches)	Maximum Developed Length	Fixture Units
1 1/4	25 ft.	1
1 1/2	60 ft.	2
2	80 ft.	6
2 1/2	100 ft.	12
3	225 ft.	36
4	unlimited	172
5	unlimited	342
6	unlimited	576
8	unlimited	1600
10	unlimited	2900
12	unlimited	4600

(2) A water closet shall be on a minimum of a three (3) inch soil and waste pipe with a maximum of three (3) water closets or soil discharging fixtures per three (3) inch soil and waste pipe. Four (4) water closets with a maximum flushing rate of one and six-tenths (1.6) gallons per flush per water closet shall be allowed to discharge into a three (3) inch soil and waste pipe.

Section 11.[8.] Soil and Vent Stacks. (1) A building in which a plumbing fixture is installed shall have a soil or waste and vent stack, or stacks, extending full size through the roof.

(2) A soil or waste and vent stack shall be as direct as possible and free from sharp bends or turns.

(3) The required size of the soil or waste and vent stack shall be determined from the total fixture units connected to the stack in accordance with Section 10[9][7] of this administrative regulation except that more than:

(a) Three (3) water closets with a flush rate of three and five-tenths (3.5) gallons per flush shall not discharge into a three (3) inch stack; and

(b) Four (4) water closets with a flush rate of one and six-tenths (1.6) gallons per flush or less shall not discharge into a three (3) inch stack.

Section 12.[9.] Future Openings. An existing opening or an opening installed in a plumbing system for future use shall be complete with its soil, waste, and vent piping and shall comply with this administrative regulation.

Section 13.[10.] House Drain. (1) The size of the house drain shall be determined by the total number of fixture units connecting to the house drain. The total area of vents through the roof shall be

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equal to that of the house drain with a minimum of one (1) three (3) inch stack.

(2) If a three (3) inch house drain enters a building, it shall be attached to a three (3) inch stack. One (1) floor drain may be added to the house drain[with a three (3) inch trap] if it conforms with the requirements of Section 23[24] of this administrative regulation, without counting toward the fixture units of the system.

Section 14.[44:] Soil and Waste Stacks, Fixture Connections.

(1) A soil and waste stack or branch shall have correctly faced inlets for fixture connections.

(2) Each fixture shall be independently connected to the soil or waste system.

(3) A fixture connection to a water closet, floor-outlet pedestal sink, pedestal urinal, or other similar plumbing fixture shall be:

- (a) Cast iron;
- (b) Lead;
- (c) Brass;
- (d) Copper; or
- (e) Plastic closet bend.

(4) A three (3) inch closet bend shall have a four (4) inch by three (3) inch flange.

Section 15.[42:] Changing Soil and Vent Pipes in an Existing Building. ~~[(1)]~~ Soil, waste, and vent piping shall be replaced with appropriate size and materials for new work as prescribed by this administrative regulation, if:

~~[(1)(a)]~~ The fixtures are to be changed or replaced; and

~~[(2)(a)(b)1.]~~ The soil, waste, and vent piping in an existing building is not extended undiminished through the roof[;] or

~~[(b)(c)]~~ If there is sheet metal soil or waste piping [and the fixtures are to be changed or replaced, the piping shall be replaced with appropriate sizes and materials as prescribed for new work].

Section 16.[43:] Prohibited Connections. (1) A fixture

connection shall not be made to a lead bend or a branch of a water closet or a similar fixture.

(2) A vent pipe above the highest installed fixture on a branch or main shall not be used as a soil or waste pipe.

Section 17.[14:] Soil, Waste, and Vent Pipe Protected. (1) Soil,

waste, or vent pipe shall not be installed or permitted outside a building unless adequate provision shall be made to protect it from frost.

(2) The piping shall be wrapped with one (1) layer of heavy hair felt and at least two (2) layers of two (2) ply tar paper, properly bound with copper wire, or the vent shall be increased to full size, the size of the increaser required as if it were passing through the roof.

Section 15.[45:] Roof Extensions. (1) A roof extension of soil and

waste stacks shall run full size at least one (1) foot above the roof.

(2) If the roof is used for purposes other than weather protection, the extension shall not be less than five (5) feet above the roof.

(3)(a) A stack of less than three (3) inches in diameter shall be increased to a minimum of three (3) inches in diameter before passing through a roof.

(b)(4) If a change in diameter is made, the fitting shall be placed at least one (1) foot below the roof.

Section 18.[46:] Terminals. (1) Terminals on buildings. The

terminus of a stack or vent shall extend at least two (2) feet above the ~~top/top~~ edge of a door, window, scuttle, or air shaft, if the[a] roof terminus is:

(a)[of a stack or vent is] Within ten (10) feet of the top, bottom, face, or side edge of a door, window, scuttle, or air shaft[;] and

(b) Not screened from the opening by a projecting roof or building wall[; it shall extend at least two (2) feet above the top edge of the window or opening].

(2)[Section 17:] Terminals Adjoining High Buildings.

(a) Except when soil, waste, or vent piping is protected from freezing, a(1) Soil, waste, or vent pipe extension of a new or

existing building shall be installed inside the building and shall not run or [shall not] be placed on an outside wall[, but shall be installed inside the building unless the piping is protected from freezing].

(b)(2) If the new building is built higher than the existing building, the owner of the new building shall not locate a window within ten (10) feet of an existing vent stack on the lower building.

Section 19.[18:] Protected Traps and Vents. (1) A fixture trap shall be protected against siphonage and backpressure.

(2) Air circulation shall be assured by means of an individual vent.

(3) A crown vent shall not be permitted.

Section 19. Distance of Trap from Vent. (1)(a) The distance between the vent and the fixture trap shall be measured along the center line of the waste or soil pipe from the vertical inlet of the trap to the vent opening.

(b) The fixture trap vent, except for a water closet or a similar fixture, shall not be below the dip of the trap, and each ninety (90) degree turn in the waste line of the main waste, soil, or vent pipe shall be washed.

(c) A fixture trap shall have a vent located with a developed length not greater than that in the following table:

Size of Fixture Drain (In Inches)	Distance Trap to Vent
1 1/4	2 ft. 6 in.
1 1/2	3 ft. 6 in.
2	5 ft.
3	6 ft.
4	10 ft.

(2) A fixture branch on a water closet shall not be more than four (4) feet six (6) inches.

Section 20.[24:] Main Vents to Connect at Base. (1) All main vents or vent stacks shall:

(a) Connect full size at the base of the main soil or waste pipe at or below the lowest fixture branch; and

(b) Extend undiminished in size through the roof or be reconnected with the main soil or vent stack at least six (6) inches above the rim of the highest fixture.

(2)(a) Except as established in paragraph (b) of this subsection, if it becomes necessary to increase the size of a vertical vent stack, the entire stack shall be increased from its base.

(b) If the height of a stack which does not serve as the main vent is less than forty-five (45) feet, it shall not be required to be increased from its base.

Section 20.[24:] Vents; Required Sizes. (1) The required size of a vent or vent stack shall be determined by the total number of fixture units it serves and the developed length of the vent, interpolating, if necessary, between permissible length of vent given in the following table:

MAXIMUM PERMISSIBLE LENGTHS OF VENTS		
Pipe Size (In Inches)	Maximum Length (In Feet)	Fixture Units
1 1/4	30	2
1 1/2	150	10
2	200	24
2 1/2	250	36
3	300	72
4	400	240
5	600[800]	420[720]
6	800	720

(2) Except for a residential installation, if a fixture opening is installed more than twenty-five (25) feet of developed length from the point where it is connected to the main soil or waste system, or, if more than ten (10) feet of vertical piping is used, the vent shall be continued full size through the roof or returned full size to the main vent.

Section 21.[22:] Branch and Individual Vents. A branch or

individual vent shall not be less than one and one-fourth (1 1/4) inches in diameter and shall not exceed the maximum length permitted for a main vent.

Section 22.[23-] Vent Pipes Grades and Connections. (1) A vent or branch vent pipe shall be free from drops or sags and be so graded and connected as to drip back to the soil or waste pipe by gravity.

(2) If a vent pipe connects to a horizontal soil or waste pipe, the vent branch shall be taken off above the center line of the pipe, and the vent pipe shall rise vertically at an angle of forty-five (45) degrees to the vertical, to a point six (6) inches above the fixture it is venting before offsetting horizontally or connecting to the branch, main, waste, soil or vent.

Section 23.[24-] Vents Not Required; Backwater Traps, Subsoil Catch Basin, and Basement Floor Drains. (1) A vent shall not be required on a backwater trap, subsoil catch basin trap, or a basement floor drain if the basement floor drain branches into the house drain so that measuring along the flow line from the center of the stack, the floor drain shall not be closer than five (5) feet of the stack, nor farther than twenty (20) feet.

(2) A basement floor drain shall not require an individual vent if it branches into the house drain so that measuring along the flow line from the center of the house drain the basement floor drain shall not be farther than ten (10) feet from the house drain.

Section 24.[25-] Permissible Common Vent Conditions [Under Which Common Vent Permissible]. (1) A common vent or a common soil and waste pipe may be used if:

(a) Two (2) water closets, two (2) lavatories, or two (2) fixtures of identical purpose are located on opposite sides of a wall or partition; or

(b) Directly adjacent to each other within the distance established in Section 2(11) [subsection (9) of Section 2] of this administrative regulation measured along the center line of the flow of water; ~~the fixtures may have a common soil or waste pipe and a common vent.~~

(2)(c) Double sanitary tee or sanitary cross shall not be used if a common vent or a common soil and waste pipe are connected through a double fixture fitting for a water closet of less than 1.6 gallons per flush.

(3)(2) A common vent or common soil and waste pipe shall be vented in accordance with this administrative regulation.

Section 25.[26-] Floor Drain Individual Vent Not Required. (1) A manufacturer's floor drain shall not require an individual vent if placed on a waste line for a floor drain within the distance of ten (10) feet from the main waste line, or stack, if the base of the stack is washed and the stack or stacks are undiminished through the roof, or connected to a main vent stack.

(2) An open receptacle may be connected to a floor drain line without being vented if the waste line discharges into a four (4) inch master trap before entering the sanitary sewer system.

Section 26.[27-] Floor Drain at a sewage and water treatment plant. A floor drain or service sink installed on the operational floor level of a sewage and water treatment plant facility that discharges into an open sump and is not connected directly to the sanitary sewage system shall not be required to be trapped or vented.

Section 27.[28-] House Drain Material. A house drain shall be:

- (1) Extra heavy cast iron;
- (2) Service weight cast iron;
- (3) Brass;
- (4) Type (K) or (L) copper;
- (5) Lead;
- (6) ABS or PVC plastic; or
- (7) Duriron.

Section 28.[29-] Indirect Waste Connections. (1) Waste pipe from a refrigerator drain or other receptacle where food is stored or waste water from a water cooled compressor shall connect

indirectly with the house drain, soil, or waste pipe.

(2) The drain shall be vented to the outside air.

(3) The waste pipe shall discharge into an open sink or another approved open receptacle that is properly supplied with water in accordance with this administrative regulation.

(4) The connection shall not be located in an inaccessible or unventilated area.

Section 29.[30-] Bar and Soda Fountain Wastes. (1)(a) A bar and soda fountain waste, sink, or receptacle shall have a one and one-half (1 1/2) inch P trap and branches.

(b) The main shall not be less than two (2) inches.

(c) The fresh air pipe shall not be less than one and one-half (1 1/2) inches.

(d) The main waste line shall discharge into a properly vented and trapped open receptacle inside or outside a building.

(2) A floor receptor or floor sink may be installed flush with the finished floor if it has a full grate with an attached funnel to receive indirect waste.

(3) A floor receptor or floor sink installed specifically for the indirect wastes from a tilting braising pan, tilting kettle, or other similar equipment may be installed level with or slightly recessed in the floor if the receptor is equipped with a proper strainer and receives no other indirect waste.

Section 30.[31-] Open Receptacles. Soil or waste piping receiving the discharge from an open receptacle shall be at least six (6) inches above the surface of the ground if it discharges into a septic system.

Section 31.[32-] Refrigerator and Condensate Wastes. (1) A refrigerator or condensate discharge waste pipe shall not be less than:

(a) One and one-half (1 1/2) inches for one (1) to three (3) openings; and

(b) Two (2) inches for four (4) to eight (8) openings.

(2) Each opening shall be trapped.

(3) The waste piping shall be equipped with sufficient cleanouts to allow for thorough cleaning.

Section 32.[33-] Overflow Pipes. (1) Waste from a water supply tank or exhaust from a water lift shall not be directly connected to a house drain, soil, or waste pipe.

(2) The waste pipe shall discharge upon a roof or into a trapped open receptacle.

Section 33.[34-] Acid and Chemical Wastes. (1) A corrosive liquid shall not be permitted to discharge into the soil, waste, or sewer system unless otherwise permitted by this administrative regulation.

(2) The waste shall be thoroughly diluted or neutralized by passing through a properly constructed and acceptable dilution or neutralizing pit before entering the house sewer.

Section 34.[35-] Laboratory Waste Piping. (1) Laboratory waste piping shall be sized in accordance with this administrative regulation and each fixture shall be individually trapped.

(2) A continuous waste and vent pipe system may be used if the waste discharges into a vented dilution pit outside the building with a vent equal to the size of the drain. The vent may be eliminated if the pit has a ventilated cover.

(3) If a dilution pit is not required and is not used, the fixtures shall be individually vented.

(4) If construction conditions permit, the base of the stack of the continuous waste and vent system shall be washed by the last fixture opening, and continue full size independently through the roof.

(5) A fixture branch exceeding more than the distance established in the table in Section 2(11)[49] of this administrative regulation from the main shall be revented, and the distance shall be measured from the center of the main to the center of the vertical riser.

(6)(a) A fixture connection shall rise vertically to a height so

that the trap shall not be lower than twelve (12) inches from the bottom of the sink.

(b) Two (2) or more sinks may be connected into a common waste before entering the riser of the continuous waste and vent system, if the fixtures are not more than five (5) feet from the center of one (1) fixture to the center of the other.

Section 35.[36-] Acid Waste Piping. (1) Underground piping for acid wastes shall be:

- (a) Extra heavy salt glazed vitrified pipe;
 - (b) Silicon iron;
 - (c) Lead;
 - (d) PE[Polyethylene] pipe and fittings produced and labeled as ASTM D204;
 - (e) PP[Polypropylene] pipe produced and labeled as ASTM D4101;
 - (f) PP[Polypropylene] pipe and fittings produced and labeled as ASTM F[-]1412; ~~for~~
 - (g) [Chlorinated Poly-Vinyl-Chloride -(CPVC)] Chemical Waste Drainage Systems meeting ASTM F[-]2618; or
 - (h) Other materials approved in 815 KAR 20:020, Section 4[5].
- (2) Piping for acid wastes and vents above ground shall be:
- (a) Silicon iron;
 - (b) Lead;
 - (c) Borosilicate;
 - (d) PE[Polyethylene] pipe produced and labeled as ASTM D[-]1204[-]62T;
 - (e) PP[Polypropylene] pipe produced and labeled as ASTM D[-]4101[-]85; ~~for~~
 - (f) Filament-wound reinforced thermosetting resin pipe produced and labeled as ASTM D[-]2996 (green or poly thread); or
 - (g) [Chlorinated Poly-Vinyl-Chloride -(CPVC)] Chemical Waste Drainage Systems meeting ASTM F[-]2618.

Section 36.[37-] Special Vents. A flat vent may be allowed if the design of the building prohibits the type of venting required by this administrative regulation.

Section 37.[38-] Basement Floor Drains[and Sanitary Sewage Systems]. (1)[Except for a basement floor drain exempted pursuant to subsection (2) of this section,] A basement floor drain shall be:

- (a) Connected to the house sewer; [and]
 - (b) Properly trapped and vented;
 - (c)[as established in this administrative regulation.
- (2) Readily accessible for cleaning; and
- (d) Of sufficient size to serve the purpose intended.
- (2) If a drain is subject to back flow or back pressure, the drain shall be equipped with a back water valve that complies with Section 38 of this administrative regulation.
- (3)(a) A basement floor drain[in a single family dwelling] shall not be connected to the house sewer and shall be exempt from this section if, prior to the installation, the local health department or sanitary sewage system board, plant, district, or treatment plant owner notifies the division[of Plumbing], in writing, that connection is detrimental to the functioning of the sanitary sewer system or subsurface system.
- (b) If the drain is not to be connected to the house sewer, the installation shall also be exempt from the waste, trap, and venting provisions of this[the State Plumbing] code.

Section 38. Back Water Valves. A back water valve shall be:

- (1) Made of noncorrosive material; and
- (2) Constructed to ~~ensure~~[insure] a positive mechanical seal, except if discharging waste.

Section 39. Residential Laundry Room Floor Drains. A two (2) inch floor drain with an individual waste and vent may be installed in a residential laundry room.

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PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
(As Amended at ARRS, February 10, 2020)

815 KAR 20:120. Water supply and distribution.

RELATES TO: KRS[348.040-] 318.130, 318.150, 318.165,[348.200]

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department[, after review by the State Plumbing Code Committee,] to promulgate [an] administrative regulations[regulation] establishing the Kentucky State Plumbing Code regulating plumbing, including the methods and materials that may be used in Kentucky. This administrative regulation establishes the types of piping and pipe sizes required for a potable water supply system and the methods to be used to protect and control the water supply system and requires the manufacturer's specification number of the material accepted in those installations to be identified and published.

Section 1.[Definitions.-(1) "ASSE" means the American Society of Sanitary Engineers.

(2) "ASTM" means the American Society for Testing Materials.

(3) "Critical level" or "CL" means the level to which the vacuum breaker may be submerged before backflow will occur, and if the CL marking is not shown on the vacuum breaker, the bottom of the device shall be taken as the CL.

(4) "DWV" means drain, waste and vent piping.

(5) "NSF" means the National Sanitation Foundation.

(6) "SDR" means standard dimensional ratio.

Section 2-] Quality. (1) The bacteriological and chemical quality of the water supply shall comply with the administrative regulations of the department[office] and the Energy and Environment Cabinet, Department for Environmental Protection, Division of Water KAR Title 401[of the Kentucky Administrative Regulations]. Toxic material shall be kept out of a potable water system.

(a) The pipe conveying, and each surface in contact with, potable water shall be constructed of nontoxic material.

(b) A chemical or other substance that may[could] produce either a toxic condition, taste, odor, or discoloration in a potable water system shall not be introduced into, or used in, the system.

(c) The interior surface of a potable water tank shall not be lined, painted, or repaired with a material that will affect the taste, odor, color, or potability of the water supply if the tank is placed in, or returned to, service.

(2) Potable water shall be accessible to a plumbing fixture that supplies water for drinking, bathing, culinary use or the processing of a medicinal, pharmaceutical, or food product.

(3) The potable water supply system shall be designed, installed, and maintained to prevent contamination from a nonpotable liquid, solid, or gas being introduced into the potable water supply through a cross connection or other piping connection to the system.

(4) A cross connection shall meet the requirements of this administrative regulation.

(5) A cross connection between a private water supply and a public water supply shall not be made.

(6) Closed water systems, protection from excess pressure.

(a) If a single check valve is installed in a water system, a thermal expansion tank sized in accordance with manufacturer's instructions or other pressure relief device listed in 815 KAR 20:020 shall be installed in the cold water supply located near the water heater.

(b) If a backflow preventer is installed in a water system, a properly sized thermal expansion tank or other pressure relief device listed in 815 KAR 20:020 shall be installed in the water distribution system.

(c) If a pressure reducing valve not equipped with a bypass is installed in the cold water supply line to a water heater, a thermal expansion tank or other pressure relief device listed in 815 KAR 20:020 shall be installed in the cold water line near the water

heater.

(7) Backflow and back siphonage protection. Protection against backflow shall be provided as required in paragraphs (a) through (l) of this subsection in order of degree of protection provided. Backflow shall include both back pressure and back siphonage.

(a) An air gap shall provide the best level of protection in all backflow situations. The minimum required air gap shall be determined as follows:

1. ~~Measurement~~~~[How measured]~~. The minimum required air gap shall be measured vertically from the lowest end of a potable water outlet to the flood rim or line of the fixture or receptacle into which it discharges.

2. Size. The minimum required air gap shall be:

a. Twice the effective opening of a potable water outlet; or
b. If the outlet is a distance less than three (3) times the effective opening away from a wall or similar vertical surface, three (3) times the effective opening of the outlet.

3. The minimum required air gap shall not be less than shown in the following table - Minimum Air Gaps for Plumbing Fixtures.

MINIMUM AIR GAPS FOR PLUMBING FIXTURES		
Fixture	Minimum Air Gap	
	When not affected by near wall (inches)	When affected by near wall (inches)
Lavatories and other fixtures with effective opening not greater than 1/2 inch diameter	1	1 1/2
Sink, laundry trays, gooseneck bath faucets and other fixtures with effective openings not greater than 3/4 inch diameter	1 1/2	2 1/4
Over rim bath fillers and other fixtures with effective openings not greater than 1 inch diameter	2	3
Drinking water fountains – single office not greater than 7/16 (0.437) inch diameter or multiple orifices having total area of 0.150 square inches (area of circle 7/16 inch diameter)	1	1 1/2
Effective openings greater than 1 inch	2 x diameter of effective opening	3 x diameter of effective opening

NOTE 1. Side walls, ribs, or similar obstructions do not affect air gaps if spaced from the inside edge of the spout opening a distance greater than three (3) times the diameter of the effective opening for a single wall, or a distance greater than four (4) times the diameter of the effective opening for two (2) intersecting walls.

NOTE 2. Vertical walls, ribs, or similar obstructions extending from the water surface to or above the horizontal plane of the spout opening require a greater air gap if spaced closer to the nearest inside edge of spout opening than specified in NOTE 1 above. The effect of three (3) or more vertical walls or ribs has not been determined. In this case, the air gap shall be measured from the top of the wall.

(b)[A] Reduced pressure principle back pressure backflow preventer. A reduced pressure principle back pressure backflow preventer shall provide the best mechanical protection against backflow available and shall be considered equivalent to an air gap.

(c) Double check valve assembly~~[- applicable to low level of hazard back pressure backflow conditions]~~. This device shall be a manufactured assembly consisting of two (2) independently acting check valves and including a shutoff valve at each end, and petcock and test gauge for testing the watertightness of each check valve.

(d) Pressure type vacuum breaker~~[- applicable to back siphonage conditions]~~.

(e) Atmospheric type vacuum breaker~~[- applicable to back siphonage conditions]~~. If applicable, an atmospheric type vacuum breaker shall be installed after the last cutoff valve on the water line. This device may operate under normal atmospheric pressure if the critical level (CL) is installed at the required height in accordance with the table in this paragraph:

CRITICAL LEVEL (CL) SETTINGS FOR ATMOSPHERIC TYPE VACUUM BREAKERS	
Fixture or Equipment	Method of Installation
Aspirators, ejectors, and showers	CL at least 6 in. above flood level of receptacle
Bidets	CL at least 6 in. above flood level of receptacle
Cup beverage vending machines	CL at least 12 in. above flood level of machine
On models without built-in vacuum breakers:	
Dental units	CL at least 6 in. above flood level rim of bowl[-]
Dishwashing machines	CL at least 6 in. above flood level of machine
Flushometers (closet & urinal)	CL at least 6 in. above top of fixture supplied
Garbage can cleaning machines	CL at least 6 in. above flood level of machine
Hose bibs (sinks or receptacles)	CL at least 6 in. above flood level of receptacle served
Hose outlets	CL at least 6 in. above highest point on hose line
Laundry machines	CL at least 6 in. above flood level of machine
Lawn Sprinklers	CL at least 12 in. above highest sprinkler or discharge outlet
Steam tables	CL at least 12 in. above flood level
Tanks & vats	CL at least 6 in. above flood level rim or line

(f) Barometric loop~~[- applicable to back siphonage conditions]~~. The use of a barometric loop shall not be acceptable as the primary back siphonage preventer.

(g) Location of backflow and back siphonage preventers.

1. A backflow and back siphonage preventer shall be in an accessible location, and accessible from within the same room as the fixture or connection it protects.

2. A backflow device may be installed in a utility or service space.

3. A device or air gap shall not be installed in a location subject to flooding or freezing.

(h) Inspection of devices.

1. A periodic inspection shall be made of each backflow and back siphonage preventer to determine if it is in proper working condition.

2. A reduced pressure principle back pressure backflow preventer shall be tested on at least an annual basis.

3. Records shall be kept on each inspection.

(i) Approval of devices.

1. Before a device for the prevention of backflow or back siphonage is installed, it shall be identified as meeting the applicable specifications as listed in the application chart included in paragraph (k) of this subsection.

2. A device installed in a building potable water supply distribution system for protection against backflow shall be maintained in good working condition by the person responsible for the maintenance of the system.

(j) Degree of hazard. The protection required at an outlet or connection shall be determined based on the degree of hazard posed by that outlet or connection as follows:

1. Severe hazard, if there is potential for contamination by a toxic substance or disease-causing organism;

2. Moderate hazard, if there is potential for contamination by a nontoxic but objectionable substance; or

3. Minor hazard, if there is potential for contamination by a

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generally nontoxic, nonobjectionable substance, but which may cause the consumer to question the quality of water.

(k) Minimum acceptable protection. An opening or outlet shall

be protected by an air gap between the opening and flood level rim if possible. The acceptable protection for various types of outlets or connections shall be as shown in the tables in this paragraph:

APPLICATION TABLE					
TYPE AND PRESSURE	DESCRIPTION	INSTALLED AT	EXAMPLES OF INSTALLATIONS	APPLICABLE SPECIFICATIONS	
Reduced pressure principle backflow preventer for high hazard cross connections	Two independent check valves with intermediate relief valve. Supplied with shutoff valves and ball-type test cocks.	All cross connections subject to backpressure or back siphonage if there is a high potential health hazard from contamination. Continuous pressure.	Main supply lines, commercial boilers, cooling towers, hospital equipment, processing tanks, laboratory equipment, waste digesters, car wash, sewage treatment, lawn sprinklers	ASSE No. 1013 AWWA C506 FCCCHR of U.S.C. CSA B.64.4 Sizes 3/4" - 10"	
(A) Double check valve assembly for low hazard cross connections	Two independent check valves. Supplied with shutoff valves and ball type test cocks.	All cross connections subject to back pressure if there is a low potential health hazard or nuisance. Continuous pressure.	Main supply lines, food cookers, tanks and vats, commercial pools	NONTOXIC	ASSE No. 1015 AWWA C506 FCCCHR of U.S.C. CSA B.64.5 Sizes 3/4" - 10"
(B) Dual check valve backflow preventer for low hazard applications	Two independent check valves. Checks are re-movable for testing	Cross connections if there is a low potential health hazard and moderate flow requirements.	Post ground hydrants		ASSE No. 1024 Sizes 3/4" & 1"
(A) Backflow preventer with intermediate atmospheric vent for moderate hazard cross connections in small pipe sizes	Two independent check valves with intermediate vacuum breaker and relief valve.	Cross connections subject to back pressure or back siphonage if there is a moderate health hazard. Continuous pressure.	Boilers (small), cooling towers (small), dairy equipment residential	ASSE No. 1012 CSA B.64.3 Sizes 1/2" & 3/4"	
(B) Backflow preventer for carbonated beverage machine	Two independent check valves with a vent to atmosphere	On potable water distribution lines serving beverage dispensing equipment to prevent backflow of carbon dioxide gas and carbonated water into the water supply system.	Postmix carbonated beverage machine	ASSE 1022	
(C) Laboratory faucet and double check valve with intermediate vacuum breaker in small pipe sizes for moderate to low hazard	Two independent check valves with intermediate vacuum breaker and relief vent.	Cross connection subject to back pressure or back siphonage if there is a moderate to low health hazard.	Laboratory faucets and pipe lines, barber shop and beauty parlor sinks	ASSE No. 1035 (N-LF9)	
(A) Atmospheric vacuum breakers for moderate to high hazard cross connections	Single float and disc with large atmospheric port.	Cross connections not subject to backpressure or continuous pressure. Install at least 6" above fixture rim. Protection against back siphonage only.	Process tanks, dishwashers, soap dispensers, washing machines	ASSE No. 1001 ANSI A112.1.1 CSA B.64.1.1 FCCCHR of U.S.C. Sizes 1/4" - 3"	
(B) Antisiphon pressure breakers for moderate to high hazard cross connections	Spring loaded single float and disc with independent 1st check. Supplied with shutoff valves and ball type test cocks.	This valve is designed for installation in a continuous pressure potable water supply system 12" above the overflow level of the system being supplied. Protection against back siphonage only.	Laboratory equipment, cooling towers, commercial laundry machines, swimming pools, commercial plating tanks, large toilet total & urinal facilities, degreasers, photo tanks, livestock water systems, lawn sprinklers	ASSE No. 1020 CSA B.64.1.2 FCCCHR of U.S.C. Sizes 1/2" - 2"	
(C) Hose connection vacuum breakers for residential and	Single check with atmospheric vacuum breaker vent.	Install directly on hose bibs, service sinks and wall hydrants. Not for	Hose bibs, service sinks, hydrants	ASSE No. 1011 CSA B.64.2 Size 3/4" Hose	

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industrial hose supply outlets		continuous pressure.		
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CROSS CONNECTIONS, DEGREE OF HAZARD AND ACCEPTABLE PROTECTION FOR VARIOUS PLUMBING OUTLETS AND CONNECTIONS								
Type of Connection	Degree of Hazard			Acceptable Protection				
	Severe	Moderate	Minor	Backflow		Backsiphonage		
				Air Gap	Reduced Pressure Device	Double Check Valve Assembly	Pressure Type Vacuum Breaker	Atmospheric Type Vacuum Breaker
I. Connections subject to back pressure from:								
A. Pumps, tanks, and lines handling:								
1. Toxic substance	X			X	X			
2. Nontoxic substance		X		X	X	X		
B. Boilers								
1. With chemical additives	X			X	X			
2. Without chemical additives		X		X	X	X		
C. Gravity due to obvious site conditions subject to:								
1. Contamination by toxic substances	X			X	X			
2. Contamination by nontoxic substances		X		X	X	X		
II. Water outlets and connections not subject to back pressure:								
A. Connection to sewer or sewage pump	X			X				
B. Outlet to receptacles containing toxic substances	X			X	X		X	X
C. Outlet to receptacles containing nontoxic substances		X		X	X	X	X	X
D. Outlet into domestic water tanks			X	EACH CASE TREATED SEPARATELY				
E. Flush valve toilets	X			X	X		X	X
F. Flush valve urinals		X		X	X		X	X
G. Outlets with hose attachments subject to contamination from:								
1. Toxic substance	X			X	X		X	X
2. Nontoxic substance		X		X	X	X	X	
H. Outlets to recirculating cooling tower:								
1. With chemical additives	X			X	X			
2. Without chemical additives		X		X	X	X		

(l) Protection of potable water system. A potable water opening, outlet, or connection, except one (1) that serves a residential unit, shall be protected against backflow in accordance with paragraphs (a) through (k) of this subsection.

Section 2.[3.] Water Required. (1) A building equipped with a plumbing fixture and used for habitation or occupancy shall be equipped with a supply of potable water.

(2) In a building used as a residence or a building in which people assemble or are employed, both hot and cold water shall be supplied.

Section 3.[4.] Water Service. (1) The water service piping to a building shall:

(a) Not be less than three-fourths (3/4) inch nominal pipe size; and

(b) Be of sufficient size to permit a continuous and ample flow of water to each fixture in the building.

(2) If the water service piping is made of plastic or other nonconductive piping, the water service piping shall be installed with an insulated copper tracer wire adjacent to the piping.

(a) Access shall be provided to the tracer wire within the building at the main supply control valve.

(b) The tracer wire shall:

1. Not be less than eighteen (18) AWG; and

2. Be suitable for direct burial.

(3) Except as provided in this subsection, the underground water service pipe from the main or water supply system to the water distribution system shall not be less than five (5) feet apart horizontally from the house sewer and shall be separated by undisturbed or compacted earth. The pipe may be placed in the same trench if:

(a) The bottom of the water service pipe at all points is at least eighteen (18) inches above the top of the sewer at its highest point;

(b) The water service pipe is placed on a solid shelf excavated at one (1) side of the common trench; and

(c) The number of joints in the water service pipe is kept to a minimum.

(d)1. If the water service pipe and sewer intersect, then a sleeve shall be used on the water service pipe extending five (5) feet on either side of the intersection.

2. The sleeve shall be of material approved for water service

pipe as established in 815 KAR 20:020.

3. The sleeve shall be sealed on each end to prevent debris from entering the sleeve.

Section 4.[5-] Distribution. (1) The water supply shall be distributed through a piping system entirely independent of another piping system.

(2) Piping which has been used for a purpose other than conveying potable water shall not be used for conveying potable water.

(3) Nonpotable water may be used for flushing a water closet or urinal, if the water is piped in an independent system.

(a) If a dual water distribution system is used, the nonpotable water supply shall be durably and adequately identified.

(b)1. An outlet on the nonpotable water distribution system used for a drinking or domestic purpose shall be permanently posted: DANGER - UNSAFE WATER.

2. Each branch, fitting, or valve shall be identified by the phrase - "NONPOTABLE WATER" either by a sign or brass tag that shall be permanently affixed to the pipe, fitting, or valve.

3. The identification marking shall not be concealed and shall be maintained by the owner.

(4) A backflow device or cross-connection control device shall be approved by the department.

(5) A combination stop and waste valve, cock, or hydrant shall not be installed in the underground water distribution system without the installation of an approved backflow preventer.

(6) A private water supply shall not be interconnected with a public water supply.

(7) Water used for cooling of equipment or in another process shall not be returned to the potable water system. The water shall be discharged into a drainage system through an air gap, or used for a nonpotable purpose as referenced in this section.

(8) Hose connections other than those intended for clothes washing machines, frost proof burial hydrants, and water heater drain valves shall be equipped with a vacuum breaker ASSE 1011 for areas not subject to freezing and a vacuum breaker ASSE 1019 for areas subject to freezing.

Section 5.[6-] Water Supply to Fixtures. (1) A plumbing fixture shall be provided with a sufficient supply of water for flushing to keep them in a sanitary condition.

(2) A water closet or pedestal urinal shall be flushed by means of an approved tank or flush valve.

(3) The tank or valves shall furnish at least a sufficient amount of water to thoroughly cleanse the surface area of a water closet, urinal, or similar fixture.

(4) If a water closet, urinal, or similar fixture is supplied directly from the water supply system through a flushometer or other valve, the valve shall be set above the fixture to prevent the possibility of polluting the potable water supply by back siphonage.

(5) The fixture shall have a vacuum breaker.

(6) A plumbing fixture, device or appurtenance shall be installed in a manner that shall prevent a possibility of a cross connection between the potable water supply system, drainage system, or other water system.

Section 6.[7-] Connections to Boilers. (1) A potable water connection to a boiler feed water system in which a boiler water conditioning chemical is introduced shall be made through an air gap, or provided with a reduced pressure principle backflow preventer located in the potable water line before the point where a chemical is introduced.

(2) A boiler shall be equipped with a check valve in the cold water supply to the boiler.

Section 7.[8-] Water Supply to Drinking Fountains. The orifice of a drinking fountain shall be provided with a protective cowl to prevent contamination of the potable water supply system.

Section 8.[9-] Sizing of Water Supply Piping. (1)(a) The minimum size water service from the property line to the water heater shall be three-fourths (3/4) inch.

(b)The hot and cold water piping shall extend three-fourths (3/4) inch in size to the first fixture branch.

(c) More than three (3), one-half (1/2) inch fixture branches shall not be supplied from a one-half (1/2) inch pipe.

(2)(a) The schedule in this subsection shall be used for sizing the water supply piping to a fixture.

(b) The branch pipe to a fixture shall terminate not more than thirty (30) inches from the point of connection to the fixture and shall be brought to the floor or wall adjacent to the fixture.

(c) A concealed water branch pipe shall not be less than one-half (1/2) inch nominal pipe size.

Fixture Branches	Nominal Pipe Size (Inches)
Bath tubs	1/1/2
Combination sink and tray	1/2
Cupsidor	1/2
Drinking fountain	1/2
Dishwasher (domestic)	1/2
Kitchen sink (res.)	1/2
Kitchen sink (com.)	1/2 or 3/4 as required
Lavatory	1/2
Laundry tray	1/2
Sinks (service, slop)	1/2
Sinks flushing rim	3/4
Urinal (flush tank)	1/2
Urinal (direct flush type)	1/2 or 3/4 as required
Water closet (tank type)	1/2
Water closet (flush valve type)	1
Hot water boilers	3/4
Hose bibs	1/2
Wall hydrant	1/2
Domestic clothes washer	1/2
Shower (single head)	3/4

(3) Water hammer. In a building supply system in which a device or appurtenance is installed utilizing a quick acting valve that causes noise due to water hammer, a protective device, including an air chamber or approved mechanical shock absorber, shall be installed as close as possible to the quick acting valve causing the water hammer.

(a) If a mechanical shock absorber is installed, the absorber shall be in an accessible place.

(b) If a mechanical device is used, the manufacturer's specifications shall be followed as to location and method of installation.

Section 9.[10-] Water Supply Pipes and Fittings, Materials. (1) Water supply piping for a potable water system shall be as follows:

(a) Galvanized wrought iron;

(b) Galvanized steel;

(c) Brass;

(d)Types K, L, and M copper;

(e) Cast iron;

(f) Types R-K, R-L, and R-M brass tubing;

(g) Fusion welded copper tubing produced and labeled as ASTM B[-]447[-]2002 and ASTM B[-]251;

(h) [DWV-welded-brass tubing produced and labeled as ASTM B587;

(i) Seamless stainless steel tubing produced and labeled as ASTM A269 or ASTM A312[-] Grade H, produced and labeled as ASTM A268/268M];

(j) Filament-wound reinforced thermosetting resin pipe produced and labeled as ASTM D[-]2996 (red thread for cold water use and silver and green thread for hot and cold);

(k) Polyethylene (PE) plastic pipe produced and labeled as ASTM D2239 or ASTM F[-]714;

(l) Cross-linked polyethylene (PEX) pipe produced and labeled as ASTM F[-]876 for cold water and ASTM F[-]877 for hot or cold water applications;

(m) Cross-linked Polyethylene/Aluminum/Cross-linked Polyethylene (PEX-Al-Pex) pipe produced and labeled as ASTM F[-]1281;

(n) Polyethylene/Aluminum/Polyethylene (PE-Al-Pe) pipe produced and labeled as ASTM F[-]1282;

~~(n)(e)~~ Copper tubing size PE produced and labeled as ASTM D12737 for water service, if installed with compression couplings;

~~(o)(p)~~ Polyvinyl chloride (PVC) plastic pipe produced and labeled as ASTM D1785;

~~(p)(q)~~ Chlorinated Polyvinyl chloride (CPVC) plastic pipe produced and labeled as ASTM D2846;

~~(q)(r)~~ Schedule 80 chlorinated polyvinyl chloride (CPVC) plastic pipe shall meet ASTM F441;

~~(r)(s)~~ Schedule 80 chlorinated polyvinyl chloride (CPVC) plastic solvent fittings shall meet ASTM F439;

~~(s)(t)~~ Schedule 80 chlorinated polyvinyl chloride (CPVC) plastic threaded fittings shall meet ASTM F437;

~~(t)(u)~~ Schedule 80 chlorinated polyvinyl chloride (CPVC) plastic pipe and fittings shall be installed using primer meeting ASTM F656 and solvent cement meeting ASTM F493;

~~(u)(v)~~ Polyvinyl chloride (PVC) standard dimensional ratio (SDR) 21 and (SDR) 26 pipe produced and labeled as ASTM D12241-05;

~~(v)(w)~~ Fusion welded PP[polypropylene pipe] products measuring one-half (1/2) inch to eighteen (18) inches in diameter which meet NSF Standards 61 and 14, and ASTM F2389, shall be approved. These pipe products shall be tested for compliance with the manufacturer's installation instructions;

~~(w)(x)~~ Fusion welded high density PE[polyethylene] pipe products which meet NSF Standards 61 and 14, and ASTM F3035 and F714, shall be approved for underground use. These pipe products shall be tested for compliance with the manufacturer's installation instructions;

~~(x)(y)~~ Push-fit fitting systems which meet the ASSE Standard 1061. Except as established in 815 KAR 20:020, these systems are approved for above-ground use only using pipe sizes up to two (2) inches; or

~~(y)(z)~~ PE-RT Piping [(Polyethylene of Raised Temperature)] meeting ASTM F2769.

(2) A plastic pipe or fitting shall bear the NSF seal of approval.

(3) PB[Polybutylene] pipe utilizing an insert fitting of brass or copper shall use a copper clamping ring.

(4) A PB[Polybutylene] hot and cold water connector to a lavatory, sink, or water closet shall be produced and labeled as ASTM D3309, and PB[Polybutylene] plastic pipe shall be produced and labeled as ASTM 2662 for a cold water application.

(5) A fitting shall be brass, copper, approved plastic, galvanized cast iron, or galvanized malleable iron. Piping or a fitting that has been used for another purpose shall not be used for the water distribution system.

(6) Each joint in the water supply system shall be made of a screw, solder, or plastic joint. A cast iron water pipe joint may be caulked, screwed, or machine drawn.

(7) If Type M copper pipe, Type R-M brass tubing, standard high frequency welded tubing or stainless steel tubing is placed within a concrete floor or passes through a concrete floor, it shall be wrapped with an approved material to permit expansion or contraction.

(8) ~~(Polyethylene or)~~ PVC shall not be used below ground under a house or building. If a ~~(chlorinated polyvinyl chloride (CPVC))~~ joint or connection is installed below ground under a house or building, the water distribution system shall be tested to at least 100 pounds per square inch before backfilling. The applicable requirements of 815 KAR 20:060 ~~[and 815 KAR 20:073]~~ shall be met.

~~(9)[Joints between copper tubing and galvanized steel pipe.]~~ The joint between ferrous piping and copper or copper-alloy piping shall be made with a dielectric fitting or other insulating fitting to prevent electrolysis.

Section 10.[14.] Temperature and Pressure Control Devices for Shower Installations. A temperature or pressure balance device to prevent a sudden unanticipated change in water temperature shall be installed to serve each shower compartment and shower-bath combination.

Section 11.[42.] Water Supply Control. (1) A main shutoff valve shall be provided near the curb, in or near the meter box or

property line on the water service pipe.~~[In addition, a main supply control valve shall be placed inside a foundation wall.]~~ The main supply control valve shall be a full port valve and be accessible from within the occupied space and provided with a drip or drain valve. A pit or similar type installation shall not be used for a potable water supply shutoff valve.

(2) A pressure or gravity tank shall have its supply line valved at or near its source.

(3) A family unit in a two (2) family or multifamily dwelling shall have the unit controlled by an arrangement of shutoff valves which will permit the unit to be shutoff without interfering with the cold water supply to another family unit or portion of the building.

(4) In a building other than a dwelling, a shutoff valve shall be installed to permit the water supply to the equipment to be isolated without interference with the supply to other equipment.

(5) A fixture or group of bath fixtures shall be valved and a lawn sprinkler opening shall be valved. In residential construction, each fixture, except a bathtub or shower, shall be valved individually or as a group of fixtures.

(6) A group of fixtures or a fixture group shall include two (2) or more fixtures adjacent to or near each other in the same room or back-to-back on a common wall.

(7) The cold water branch to a hot water storage tank or water heater shall be provided with a shutoff valve located near the equipment and serving this equipment. In residential dwellings, the shutoff valve shall be placed within three (3) feet of the water heater and be accessible from the accessible side of the water heater.

Section 12.[43.] Water Supply Protection. (1) A concealed water pipe, storage tank, cistern, or other exposed pipe or tank subject to freezing temperatures shall be protected against freezing. A water service shall be installed at least thirty (30) inches in depth.

(2) A relief device shall be installed on a pneumatic water system.

Section 13.[44.] Temperature and Pressure Relief Devices for Water Heaters. (1) A temperature and pressure relief device shall:

(a) Be installed on each water heater on the hot water side not more than three (3) inches from the top of the heater;

(b) If a marked opening is provided on the water heater by the manufacturer for the temperature and pressure relief device, be installed according to the manufacturer's recommendation; and

(c) Be of a type approved by the office in accordance with this administrative regulation and 815 KAR 20:020.

(2)(a) If a water heater is installed in a location that has a floor drain, the discharge from the relief device shall be piped to within two (2) inches of the floor.

(b) If a water heater is installed in a location that does not have a floor drain, the discharge from the relief device shall be piped to the outside of the building with an ell turned down and piped to within four (4) inches of the surface of the ground.

(c) The relief device may discharge through an air gap to a sump basin, service sink, open receptacle or other point of discharge in which equivalent safety shall be provided as approved by the Division of Plumbing.

~~(3) A relief device shall be installed on a pneumatic water system.~~

Section 14.[45.] Protection of a Private Water Supply or Source. A private water supply or source shall be protected from pollution. Approval shall be obtained from the division ~~[of Plumbing]~~ prior to using the private water supply or source.

Section 14.[46.] Domestic Solar Water Heaters. A domestic solar water heater may have a "single wall heat exchanger" if the following conditions are met:

(1) The solar panel and the water heater exchanger use a nontoxic liquid such as propylene glycol or an equivalent;

(2) The heat exchanger is pretested by the manufacturer to 450 pounds per square inch;

~~(3) The water heater has a warning label advising that a~~

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nontoxic heat-exchanger fluid shall be used at all times; and

(4) A pressure relief valve is installed at the highest point in the solar panel.

~~Section 17. Domestic Water Heater Preheating Device. (1) A domestic water heater preheating device may be used and connected with the high pressure line from the compressor of a domestic home air conditioner or heat pump water heater.~~

~~(2) Double wall heat-exchangers with two (2) separate thicknesses separating the heat-exchange fluid (other than potable water) from the potable water supply shall be provided.~~

~~(3) The water inlet to the heat-exchange vessel shall be provided with a check valve. There shall be provided adjacent to, and at the outlet side of the check valve, an approved pressure relief valve set to relieve at five (5) pounds per square inch above the maximum water pressure at the point of installation, if the heat-exchange units contain more than twenty (20) pounds of refrigerants. This device shall be equipped with a temperature limit control that would actuate a pump that would circulate hot water from the water heater through the preheater device.~~

~~(4) Condensate drain water shall be piped in accordance to the State Plumbing Code and it shall not be permitted to drain into crawl space, or into a sewer or vent stack, or be installed in an area subject to freezing. If a drain is not available or if a drain is located above the vent, a condensate pump shall be utilized.~~

~~Section 18.] Tanks and Vats below Rim Supply. A tank or vat with potable water supply below the rim shall be subject to the following requirements:~~

~~(1) If a potable water outlet terminates below the rim of a tank or vat and the tank or vat has an overflow of diameter not less than given in the table in this subsection, the overflow pipe shall be provided with an air gap as close to the tank as possible;~~

Sizes of Overflow Pipes for Water Supply Tanks			
Maximum capacity of water supply line to tank	Diameter of Overflow pipe (inches ID)	Maximum capacity of water supply line to tank	Diameter of overflow pipe (inches ID)
0-50 gpm	2	400-700 gpm	5
50-150 gpm	2 1/2	700-1000 gpm	6
150-200	3	Over 1000 gpm	8

~~(2) The potable water outlet to the tank or vat shall terminate at a distance not less than one and one-half (1 1/2) times the height to which water can rise in the tank above the top of the overflow. This level shall be established at the maximum flow rate of the supply to the tank or vat, and with all outlets, except the air gap overflow outlet, closed; and~~

~~(3) The distance from the outlet to the high water level shall be measured from the critical point of the potable water supply outlet.~~

~~Section 15.[19. Water Distribution for Fan Coil Units. (1) If a domestic water heater is used for heating purposes through a fan coil medium, its temperature shall not exceed 140 degrees Fahrenheit.~~

~~(2) It shall utilize not less than three-fourths (3/4) inch piping and its run shall not exceed 140 feet between the water heater and the heating unit.~~

~~(3) The applicable requirements established in 815 KAR 20:070 shall be met.~~

~~Section 20.] Fire Protection Systems. Except if installing an NFPA 13D fire protection system in a one (1) or two (2) family dwelling, a fire protection system using water from the potable water distribution system shall be equipped with two (2) check valves, one (1) of which may be an alarm check valve.~~

~~Section 16.[21. Water Distribution and Connections to Mobile Homes. (1) An adequate and safe water supply shall be provided to each mobile home.~~

~~(2) All materials, including the pipe or fitting used for a connection, shall conform with the State Plumbing Code.~~

~~(3) An individual water connection shall be provided at an~~

~~appropriate location for each mobile home space.~~

~~(a) The connection shall consist of a riser terminating at least four (4) inches above the ground with two and three-fourths (2 3/4) inch valve outlets with screw connection, one (1) for the mobile home water system and the other for lawn watering and fire control.~~

~~(b) The ground surface around the riser pipe shall be graded to divert surface drainage.~~

~~(c) The riser pipe shall be encased in an eight (8) inch vitrified clay pipe or an equivalent with the intervening space filled with an insulating material to protect it from freezing.~~

~~(d) An insulated cover shall be provided which shall encase both valve outlets but not prevent connection to the mobile home during freezing weather.~~

~~(e) A shutoff valve may be placed below the frost depth on the water service line, but this valve shall not be a stop-and-waste cock.~~

~~Section 22.] Conservation of water shall comply with the standards established in 815 KAR 20:070.~~

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PUBLIC PROTECTION CABINET Department of Housing, Buildings and Construction (As Amended at ARRS, February 10, 2020)

815 KAR 20:130. House sewers and storm water piping; methods of installation.

~~RELATES TO: KRS 318.010, 318.015, 318.130, 318.150[
310.200]~~

~~STATUTORY AUTHORITY: KRS 198B.040(10), 318.130~~

~~NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department to promulgate[an] administrative regulations[regulation] establishing the Kentucky State Plumbing Code to regulate plumbing, including the methods and materials that may be used in Kentucky for the construction of house sewers and storm water piping. This administrative regulation establishes the materials and methods of installation that may be used in the construction of house sewers or storm water piping.~~

~~Section 1. Independent System. (1) The drainage and plumbing system of a new building and of a new work installed in an existing building shall be separate and independent of other buildings except as otherwise established in this administrative regulation.~~

~~(2) A building shall have an independent connection with either a public or private sewer or sewer system.~~

~~Section 2. Exceptions. (1)(a) If a building stands in the rear of other buildings or on an interior lot and a sewer connection cannot be made available to the rear building through an adjoining alley, court, yard, or driveway, the sewer from the front building may be extended to the rear building and it shall be considered as one (1) sewer.~~

~~(b) The exception established in this subsection shall not apply to corner lots if a sewer connection is available from the street or alley or to a new or existing building that abuts a street or alley.~~

~~(2) A building sewer may serve additional buildings and still be considered as one (1) sewer if the additional buildings are:~~

~~(a) Used in conjunction with the primary building;~~

~~(b) Contained within the same deed as the primary building; and~~

~~(c) Restricted within the deed from being sold separately from the primary building.~~

~~Section 3. Connection with Private Sewage Disposal System. If a sewer is not available, the house drain from a building shall~~

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connect with an approved private sewage disposal system.

Section 4. Excavations. An excavation made for the installation of a house sewer shall be open trench work, and the trenches shall be kept open until the piping has been inspected, tested, and approved.

Section 5. Depth of Sewer at the Property Line. (1) The sewer at the property line shall be at a sufficient depth to properly serve a plumbing connection installed in the basement of a building.

(2)(a) A house sewer shall be laid on a grade of not less than one-eighth (1/8) inch nor more than one-fourth (1/4) inch per foot.

(b) A sewer shall have at least an eighteen (18) inch cover.

(c) Sewer piping installed under property subject to vehicular traffic (such as a driveway, parking lot, or similar location) shall have at least a twenty-four (24) inch cover unless:

1. Constructed of cast iron piping, schedule 40 or 80 PVC produced and labeled as ASTM D2665 or D1784, or schedule 40 or 80 ABS produced and labeled as ASTM D2661; and

2. If less than a twenty-four (24) inch cover is available, sewer piping shall be Encased in a minimum of six (6) inches of concrete on each side and the top. Pipe shall be covered to prevent direct contact with concrete.

(d) A sewer shall be backfilled by hand and tamped six (6) inches above the piping or filled with six (6) inches grillage above the piping.

(e) Each joint in cast iron and vitrified clay pipe shall be constructed to comply with 815 KAR 20:060, Sections 4 and 5.

(f) If less than eighteen (18) inches of cover is available, a request for a variance shall be submitted to the division in writing.

Section 6. New House Sewer Connections. A house sewer installed where a private sewerage system has been discarded may connect to the house drain if the existing plumbing system meets the State Plumbing Code.

Section 7. Materials for House Sewers. A house sewer or combined sewer shall be made of:

(1) Extra heavy cast iron pipe;

(2) Service weight cast iron;

(3) Vitrified clay;

(4) Concrete;

(5) Coextruded composite PVC pipe produced and labeled ASTM F-1488;

(6) PVC or ABS plastic pipe Schedules 40 and 80;

(7) Cellular core PVC produced and labeled as ASTM F-1891;

(8) Cellular core ABS produced and labeled as ASTM 628 or ASTM F-1488;

(9) Truss pipe;

(10) Extra heavy SDR 35 pipe;

(11) Type PS 46, PVC in sizes four (4) inches through fifteen (15) inches produced and labeled as ASTM F789;

(12) PVC ribbed pipe produced and labeled as ASTM F794; or

(13) PE (Polyethylene pipe) produced and labeled as ASTM F-714.

Section 8. Material for Storm Sewers Inside Buildings. (1) A storm sewer inside a building extending to a point two (2) feet outside a building in sizes eight (8) inches and smaller shall be made of:

(a) Cast iron pipe;

(b) Aluminum; or

(c) Schedule 40 ABS or PVC DWV pipe or PVC pipe produced and labeled as ASTM F-1488.

(2) A storm sewer in a size of ten (10) inches or larger shall be made of:

(a) Cast iron;

(b) Aluminum;

(c) Schedule 40 ABS or PVC DWV pipe;

(d) SDR 35;

(e) Vitrified clay or concrete conforming to appropriate commercial specifications with approved joints; or

(f) PE (Polyethylene pipe) produced and labeled as ASTM F-

714.

(3) Primary and secondary roof drains shall comply with the requirements established in this subsection.

(a)1. Roof drains shall have strainers extending not less than four (4) inches above the surface of the roof immediately adjacent to the roof drain.

2. Strainers shall have an available area not less than one and one-half (1 1/2) times the area of the conductor or leader to which the drain is connected.

(b) Roof drain strainers for use on sun decks, parking decks, and similar areas that are normally serviced and maintained, may be of the flat surface type, installed level with the deck, with an available inlet area not less than two (2) times the area of the conductor or leader to which the drain is connected.

(c) Secondary (emergency) roof drains or scuppers shall be provided where the roof perimeter construction allows ponding if the primary roof drains become blocked.

(d) Separate systems required.

1. Secondary roof drain systems shall have piping and point of discharge separate from the primary system.

2. Discharge shall be above grade plane in a location that would normally be observed by the building occupants or maintenance personnel.

(e) Primary and secondary drains shall be sized in accordance with Section 11 of this administrative regulation.

Section 9. Change of Direction. A change in direction of a sewer shall be made only with:

(1) Long curves;

(2) Forty-five (45) degree wyes;

(3) Half wyes;

(4) Quarter, sixth, eighth or sixteenth bends; or

(5) Sanitary tees installed on their back or on their sides. If installed, sanitary tees shall be at an angle of not more than forty-five (45) degrees.

Section 10. Size of House Sewers and Horizontal Branches.

(1) The minimum size of a house sewer shall not be less than four (4) inches nor less than that of the house drain.

(2) A house sewer receiving a branch shall be sized in the same manner as a house drain.

(3) The house drains shall be installed in accordance with 815 KAR 20:090.

Section 11. Size of Storm Systems. (1) The required size of a storm sewer shall be determined on the basis of the total drained area in horizontal projection in accordance with the table in subsection (4) of this section.

(2) A storm sewer shall not be laid parallel to or within two (2) feet of a bearing wall.

(3) The storm sewer shall be laid at a sufficient depth to protect it from freezing[-]

(4)

Diameter of pipe - inches	Maximum drained roof area square feet*	
	Slope 1/8 in. fall to 1 ft.	Slope 1/4 in. fall to 1 ft.
3	N/A	1,160
4	1,880	2,650
5	3,340	4,720
6	5,350	7,550
8	11,500	16,300[6,300]
10	20,700	29,200
12	33,300	47,000
15	59,500	84,000
*The calculations in this table are based on a rate of rainfall of four (4) inches per hour[-]		

Section 12. Combined Storm and Sanitary Sewer System. (1) If a combined sewer system is used, the required size of the house drain or house sewer shall be determined by multiplying the total number of fixture units carried by the drain or sewer by the conversion factor corresponding to the drained area, and the total fixture units, adding the product to the drained area and applying

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the sum from the table for storm water sewers in Section 11 of this administrative regulation.

(2) A combined house drain or house sewer shall not be less than four (4) inches in diameter, and a combined house drain or (3)

house sewer shall not be smaller in size than that required for the same number of fixture units or for the same roof area in separate systems.

CONVERSION FACTORS FOR COMBINED STORM AND SANITARY SYSTEM								
Number of Fixture Units on Sanitary System								
Drained roof area in square feet	Up to 6	7 to 18	19 to 36	37 to 60	61 to 96	97 to 144	145 to 216	217 to 324
Up to 120	180	105	60	45	30	22	18	15
121 to 240	160	98	57	43	29	21	17.6	14.7
241 to 480	120	75	50	39	27	20	16.9	14.3
481 to 720	75	62	42	35	24	18	15.4	13.2
721 to 1,080	54	42	33	29	20	15	13.6	12.1
1,081 to 1,620	30	18	16	15	12	11.5	11.1	10.4
1,621 to 2,430	15	12	11	10.5	9.1	8.8	8.6	8.3
2,431 to 3,645	7.5	7.2	7.0	6.9	6.6	6.5	6.4	6.3
3,646 to 5,460	2.0	2.4	3.0	3.3	4.1	4.2	4.3	4.4
5,461 to 8,190	0	2.0	2.1	2.2	2.3	2.4	2.5	2.6
8,191 to 12,285	0	0	2.0	2.1	2.1	2.2	2.3	2.3
12,286 to 18,420	0	0	0	2.1	2.1	2.1	2.2	2.2
18,421 to 27,630	0	0	0	0	2.0	2.1	2.2	2.2
27,631 to 40,945	0	0	0	0	0	2.0	2.1	2.2
40,946 to 61,520	0	0	0	0	0	0	2.0	2.1
Over 61,520	0	0	0	0	0	0	0	2.0

(4)

NUMBER OF FIXTURE UNITS ON SANITARY SYSTEMS								
Drained roof area in square feet	325 to 486	487 to 732	733 to 1,098	1,099 to 1,644	1,645 to 2,466	2,467 to 3,702	3,703 to 5,556	Over 5556
Up to 120	12	10.2	9.2	8.4	8.2	8.0	7.9	7.8
121 to 240	11.8	9.9	9.1	8.3	8.1	8.0	7.9	7.8
241 to 480	11.5	9.7	8.8	8.2	8.0	7.9	7.8	7.7
481 to 720	10.8	9.2	8.6	8.1	7.9	7.9	7.8	7.7
721 - 1,080	10.1	8.7	8.3	8.0	7.8	7.8	7.7	7.6
1,081 - 1,620	9.8	8.4	8.1	7.9	7.7	7.7	7.6	7.5
1,621 - 2,430	8.0	7.9	7.8	7.7	7.6	7.5	7.4	7.4
2,431 - 3,645	6.2	6.3	6.4	6.4	6.8	7.0	7.1	7.2
3,646 - 5,460	4.5	4.7	5.0	5.1	6.1	6.4	6.9	6.9
5,461 - 8,190	2.8	3.2	3.7	4.6	5.0	5.6	6.2	6.4
8,191 - 12,285	2.4	2.5	2.6	2.7	3.5	4.5	5.2	5.6
12,286 - 18,420	2.3	2.3	2.4	2.4	2.6	3.2	4.2	4.7
18,421 - 27,630	2.2	2.3	2.3	2.3	2.4	2.5	2.8	3.1
27,631 - 40,945	2.2	2.2	2.2	2.2	2.2	2.2	2.3	2.4
40,946 - 61,520	2.1	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Over 61,520	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0

(5) For a building constructed after August 1, 1996, each plumbing fixture or opening connecting to a combination sanitary and storm sewer system shall either:

(a) Be installed above the elevation of the cover of the nearest manhole serving the main; or

(b) Discharge through a sewage ejector to the combined sewer system at an elevation high enough to prevent flooding of the building.

Section 13. Storm Sewers and House Sewers[House Sewer] in Undisturbed or Filled Ground. (1) A house sewer laid in undisturbed ground shall be laid on at least four (4) inches of pea gravel, sand, or other approved grillage as defined in 815 KAR 20:010.

(2) A storm sewer laid in undisturbed ground shall not require grillage.

(3)[(2)] A storm sewer or house sewer laid in filled ground shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the invert, or other equivalent support[that shall be] approved by the department.

(4)[(3)] A support [in] filled in ground shall be on a ten (10) foot center to a solid footing, either undisturbed earth or rock.

(5)[(4)] A house sewer constructed of flexible thermoplastic sewer piping shall be installed with at least six (6) inches of gravel on the bottom, top, and sides of the piping.

Section 14.[Storm Sewers in Undisturbed or Filled Ground. (1) A storm sewer laid in undisturbed ground shall not require grillage.

(2) A storm sewer laid in filled ground shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the invert or other support [that shall be] approved by the department.

(3) A support in filled ground shall be on a ten (10) foot center to a solid footing, either undisturbed earth or rock.

Section 15.[Drainage Below Sewer Level (Public). In a public building in which the whole or part of the building drain and plumbing system lies below the level of a[the] main sewer, sewage and waste shall be lifted by a device that complies with Sections 16[47] and 17[48] of this administrative regulation and discharged into the building sewer.

Section 15.[46.] Drainage Below Sewer Level (Residential). (1) In a residential building[home] in which the[house] sewer level is above the basement floor, waste water shall be lifted by means of an approved sump pump appropriate for that installation.

(2) The sump pit shall:

(a) Be gas and air tight; and

(b) Be constructed of:

1. Poured or precast concrete;

2. Approved fiberglass; or

3. PE[Polyethylene] material.

(3) The sump pit shall be provided with a two (2) inch vent, which may also act as a waste and vent for a laundry tray.

(4) The pump discharge piping shall ~~be discharged~~[discharge] into a two (2) inch waste pipe extended inside the building to a height at least twelve (12) inches above the outside grade plane.

(5) The sump pit shall be provided with a tight-fitting concrete cover.

(6) (a) On the outside of the building, ~~the~~[this] waste piping shall connect into a four (4) inch by two (2) inch sanitary tee, which shall connect into a four (4) inch P trap and then into the sanitary sewer.

(b) The four (4) inch by two (2) inch sanitary tee shall be extended at least two (2) inches above the finished grade plane and shall be provided with a ventilated cap.

Section 16.[47-] Sumps and Receiving Tanks. (1) A subsoil drain shall discharge into an air tight sump or receiving tank located to receive the sewage by gravity.

(2) The sewage shall be lifted and discharged into the house sewer by a pump or ejector.

(3) Sewage sumps shall be a minimum twenty four (24) inches in diameter and no less than twenty four (24) inches in depth.

(4) A system that relies solely on a pump shall be equipped with both an audible and visual alarm to be placed within the occupied space.

(5) The sump shall automatically discharge.

Section 17.[48-] Ejectors, Vented. (1) A sewage ejector serving a residential installation shall be vented with a two (2) inch vent.

(2)(a) Except as established in paragraph (b) of this subsection, an ejector serving a commercial or industrial installation shall be vented with a three (3) inch vent.

(b)1. If a three (3) inch vent stack is serving a fixture that empties into the ejector pit and is located within twenty-five (25) feet of the pit, the ejector may be vented with a two (2) inch vent back to the three (3) inch vent stack.

2. The ejector vent shall not be smaller than that recommended by the manufacturer of the pump.

(3) A portion of the building drainage system that is above the cover of the manhole serving the main that can flow by the gravity to a sewer shall be installed for gravity flow to the combined sanitary and storm sewer, except for a system designed otherwise by a licensed professional engineer.

Section 18.[49-] Ejector Power: Motors, Compressors, and Air Tanks. (1) A motor, air compressor, or air tank shall be located so that it shall be open for inspection and repair at all times.

(2) An air tank shall be proportioned to furnish sufficient air at suitable pressure to the ejector to completely empty the sump or storage tank with the compressor not operating.

(3) The end pressure in the tank shall not be less than two (2) pounds for each foot of height through which sewage is raised.

Section 19.[20-] Ejectors for Subsoil Drainage. (1) If a subsoil catch basin is installed below the sewer level, an automatic ejector shall be used.

(2) The ejector or a device raising subsoil water shall discharge into a properly trapped fixture or into a storm water[storm-water] drain.

Section 20.[24-] Drainage of Yards, Areas, Roofs, and Traps. (1) A roof, paved area, court, or courtyard shall be drained into:

- (a) A storm water system;
- (b) A combined sewerage system; or
- (c) A surface drainage area unless prohibited by the local health department or sewer district.

(2) A yard, roof, paved area, court, or courtyard shall not be drained into a sewer intended for sewage only.

(3) Traps.

(a) If a drain is connected to a combined sewerage system, it shall be trapped.

(b) If a roof leader, conductor, or gutter opening is located more than ten (10) feet from a window, scuttle, or air shaft, a trap

shall not be required.

(c) A trap shall be set below the frost line or on the inside of the building.

(d) If a drain is not connected to a combined sewer, a trap shall not be required.

Section 21.[22-] Size of Rain Water Leader. An inside leader shall not be less size than as established in the following table:

Area of Roof (In Square Feet)	Leader, Diameter (Inches)
Up to 90	1 1/2
91 to 270	2
271 to 810	3
811 to 1,800	3 1/2
1,801 to 3,600	4
3,601 to 5,550	5
5,501 to 9600	6

Section 22.[23-] Inside Conductors or Roof Leaders. (1) If a conductor or roof leader is placed within the walls of a building, or in an interior court or ventilating pipe shaft, it shall be constructed of:

- (a) Cast iron pipe;
- (b) Galvanized wrought iron;
- (c) Galvanized steel;
- (d) Copper;
- (e) Schedule 40 ABS ~~or~~[PVC DWV][DMV] pipe; or
- (f) Reinforced thermosetting resin pipe produced and labeled as ASTM F1113 (red and silver thread).

(2)(a) Except as established in paragraph (b) of this subsection, PVC or ABS[plastic] pipe and fittings[~~(PVC or ABS)~~] shall be limited to buildings in which the conductor does not exceed forty-five (45) feet in height, measured from the grade plane as defined by the Kentucky Building Code, 815 KAR 7:120, or Kentucky Residential Code, 815 KAR 7: 125, and continuing through the vertical distance of the building to a maximum height of forty-five (45) feet.

(b) PVC or ABS[Plastic] pipe and fittings may be installed in a building in which the conductor exceeds forty-five (45) feet in height if the installation complies with all of the requirements established in this section.

(c) The use of PVC and ABS piping shall be limited to Schedule 40 or 80 produced and labeled as ASTM D2665 and D1784 for PVC piping and ASTM D2661 for ABS piping.

(d) The installation of the PVC or ABS[plastic] pipe and fittings [~~(PVC or ABS)~~] shall be made in compliance with the manufacturer's recommendations, which shall be made available to the inspector.

(e) Firestop systems shall be inspected in accordance with ASTM E2174 by an inspection agency approved by the department.

Section 23.[24-] Outside Conductors. (1) If an outside sheet metal conductor or downspout is connected to a house drain, it shall be connected by means of [a] cast iron pipe extending vertically at least one (1) foot above the grade plane.

(2) If the downspout runs along a public driveway without a sidewalk, it shall be placed in a niche in the walk, protected by wheel guards, or enter the building through the wall at a forty-five (45) degree slope at least twelve ~~(12)~~[~~9~~12](12) inches above the grade plane.

Section 24.[25-] Defective Conductor Pipes. If an existing sheet metal conductor pipe within the walls of a building becomes defective, the conductor shall be replaced by one that conforms to this administrative regulation.

Section 25.[26-] Vent Connections with Conductors Prohibited.

(1) A conductor pipe shall not be used as a soil, waste, or vent pipe.

(2) A soil, waste, or vent pipe shall not be used as a conductor.

Section 26.[27-] Overflow Pipes. An overflow pipe from a

cistern, supply tank, expansion tank, or drip pan shall connect indirectly with a house sewer, house drain, soil pipe, or waste pipe.

Section 27.[28-] Subsoil Drains. A subsoil drain below sewer level shall discharge into a sump or receiving tank and shall be automatically lifted and discharged into the storm drainage system or upon the ground outside the building it serves.

Section 28.[29-] Approvals of New Sewer Connections to Existing Buildings. If the local health department or sanitary sewage system board, plant[, district, or treatment plant owner prohibits the discharge of a basement floor drain or other apparatus into the sanitary sewer system, an existing basement floor drain or sump pump apparatus shall comply with the construction requirements of this administrative regulation and be inspected prior to the approval of a connection for a new sewer line.

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PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
(As Amended at ARRS, February 10, 2020)

815 KAR 20:150. Inspection and tests.

RELATES TO: KRS 318.090, 318.130, 318.134, 318.140, 318.160, 318.170

STATUTORY AUTHORITY: KRS 198B.040(10)[(1)], 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department to promulgate an administrative regulation establishing the Kentucky[office, after review by the] State Plumbing Code. KRS 318.160 requires a person who constructs, installs, or extensively alters any[Committee, to promulgate an administrative regulation establishing the Kentucky State] plumbing, sewerage, or water supply system of any public building or establishment to obtain approval of the department in writing[Code]. This administrative regulation establishes the requirements for the tests and inspections that are necessary in order to ensure compliance with 815 KAR Chapter 20, the Kentucky State Plumbing Code.

Section 1. Required Inspections and Tests. (1) Required inspections. The department[The office] shall inspect the following to ensure compliance with the[State Plumbing] code:

- (a) The water distribution system;
- (b) The soil, waste, and vent system;
- (c) The fixtures and fixture traps;
- (d) Appurtenances; **and**
- (e) All connections in a plumbing system.

(2) Required tests. Tests shall be made separately or as follows:

- (a) The house sewer and its branches from the property line to the house drain;
- (b) The house drain including its branches;
- (c) The soil, waste,[In buildings condemned by other authorities because of unsanitary conditions of the plumbing system, the alterations shall be considered as a new plumbing system.

Section 2. Material and Labor for Tests. All equipment, material] and vent system;

(d) Inside rain water conductors; and

(e) The final inspection and air test which shall include the complete plumbing system as required by Section 3[4](2) of this administrative regulation, exclusive of the house sewer.

(3) Rough-in inspection.

(a) The plumbing[labor necessary for inspections and tests shall be furnished by the persons procuring the plumbing

construction permits.

Section 3. Systems of Tests. (1) Test for the potable water supply system. The potable water supply] system shall not be covered until it has been inspected, tested, and approved.

(b) A rough-in inspection shall be conducted prior to the covering or concealment[be tested and found without leaks under the normal working pressure under which the system will function.

(2) Tests for the soil, waste, and vent system.

(a) The soil, waste, and vent system] of the plumbing system.

(c) If any part of a plumbing system is covered or concealed[shall be tested with water or air in accordance with this administrative regulation] before being inspected, tested, and approved, it shall be uncovered, or unconcealed and tested as required.

(4) Condemned buildings. In buildings condemned by other authorities because of unsanitary conditions of the plumbing system, necessary alterations shall be considered a new plumbing system.

(5) Tests of alterations, extensions, or repairs. Any alterations, repairs, or extensions that require more than ten (10) feet of soil, waste, or vent piping shall be inspected and tested as required by Section 3[4](2) of this administrative regulation.

Section 2[3]. Permit Holder Requirements. The person procuring the plumbing permit shall:

(1) Furnish all equipment, material,[it is concealed or covered within the floors or walls of a building.

(b) After the plumbing fixtures have been set and their traps filled with water and before the building is occupied, the entire system, other than the house sewer, shall be subjected to a final air pressure test.

(c) It shall be the responsibility of the person who secured the plumbing construction permit to notify the office representative and request a final inspection and air test upon completion of the installation.

(d) If only a portion of the plumbing fixtures are set, an air test shall be requested] and labor necessary for inspections and tests;

(2) Notify the department representative and request a rough-in[given prior to the time a building is occupied. After the plumbing system is finally completed, another] inspection for the plumbing system prior to the plumbing system being concealed or covered within the floors or walls[and test shall be requested and given.

(e) The office may require the removal of any clean-outs to ascertain whether or not the pressure has reached all parts] of a building; and

(3) Notify a department representative and request a final inspection and air test upon completion of the installation[the system.

(3) Tests of the house sewer. The house sewer shall be tested with a water, air, or smoke test].

Section 3[4]. Testing of Systems[Methods of Testing]. (1) The water distribution[potable water supply] system, as well as the water service, shall be:

- (a) Tested with air or water under a pressure of not less than the maximum working pressure under which it is to be used; and
- (b) Free from leaks.

(2)(a) Except as provided in subsection (3) of this section, a water test shall be performed:

- 1. On the entire soil, waste, and vent system; or
- 2. In sections.

(b) If it is applied to the entire system, all openings shall be closed, except the highest opening and the system shall be filled with water to the point of overflow.

(c) If the system is tested in sections, each opening shall be tightly plugged, except the highest opening and it shall be tested with not less than a ten (10) foot head of water. In testing successive sections, at least the upper ten (10) feet of the preceding section shall be retested.

(3) In lieu of a water test, an air pressure test may be used by attaching an air compressor or test apparatus to any suitable opening. All other inlets and outlets to the system shall be closed,

forcing air into the system until there is a uniform pressure of five (5) pounds per square inch (PSI). The pressure shall be maintained for fifteen (15) minutes.

(4) After the plumbing fixtures have been set and their traps filled with water and before the building is occupied, the final air test shall test the entire soil, waste, and vent system including the fixtures and appurtenances, other than a house sewer, by connecting an air machine to any suitable opening or outlet and applying air pressure equivalent to a one (1) inch water column. It shall be maintained for at least a fifteen (15) minute period. If there are no leaks or forcing of trap seals as may be indicated by the functioning of a drum, float, or water column, the system shall be determined as airtight.

(5) A garage drainage system shall be tested in the same manner as the soil, waste, and vent system.

(6) A house sewer shall be tested by a water, air, or smoke test. After the sewer trench has been filled with at least two (2) feet of earth cover, it shall be retested. A four (4) inch test tee or Y connection shall be provided at the property line for testing.

(7) The department may require the removal of any clean-outs to ascertain if whether or not the pressure has reached all parts of the system

(8) distance between cleanouts in sewers shall not exceed 150 feet.

(7) A building sewer not drained by gravity shall have a minimum of twenty-four (24) inches of cover and shall be tested with five (5) pounds per square inch for a period of fifteen (15) minutes.

(9) Section 5. Required Tests. Tests shall be made separately or as follows:

(1) The house sewer and its branches from the property line to the house drain;

(2) The house drain including its branches;

(3) The soil, waste, and vent system;

(4) Inside rain water conductors shall be; and

(5) The final inspection and air test which shall include the complete plumbing system as required by Section 4(2) of this administrative regulation, exclusive of the house sewer.

Section 6. Tests of Alterations, Extensions, or Repairs. Any alterations, repairs, or extensions that require more than ten (10) feet of soil, waste, or vent piping shall be inspected and tested with water, air, or smoke test as required by Section 3(2) of this administrative regulation.

Section 7. Covering of Work. The plumbing system shall not be covered until it has been inspected, tested, and approved.

Section 8. Uncovering of Work. If any part of a plumbing system is covered or concealed before being inspected, tested, and approved, it shall be uncovered, or unconcealed and tested as required.

Section 4[5][9]. Defective Work. If an inspection or a test indicates defective work or material, it shall be replaced and the inspection and the test repeated.

Section 5[6][10]. Testing Defective Plumbing. An air test shall be used in testing the condition of a plumbing system if there is reason to believe it has become defective.

Section 6[7][11]. Certificate of Approval. The department [inspections and Tests Not Required for Exhibition Purposes. Tests and inspections] shall issue a [not be required where a plumbing system shall be used for exhibition purposes and is not directly connected to a sewerage system.

Section 12. Inspections and Tests for the Replacement of Old Plumbing Fixtures. Inspections and tests shall not be required if:

(1) Old plumbing fixtures are replaced with new fixtures;

(2) Faucets or valves are replaced; or

(3) Leaks are repaired.

Section 13.] certificate of approval[.] upon the satisfactory completion and final test of the plumbing system[.] a certificate of approval shall be issued by the office].

CONTACT PERSON: Max Fuller, Staff Attorney, Department of Housing, Buildings and Construction, 500 Mero Street, 1 SW, Frankfort, Kentucky 40601, phone (502) 573-0365, fax (502) 573-1057, email max.fuller@ky.gov.

PUBLIC PROTECTION CABINET
Department of Housing, Buildings and Construction
(As Amended at ARRS, February 10, 2020)

815 KAR 20:170. Manufactured home and mobile home community[park] waste systems, water distribution, and connections.

RELATES TO: KRS 318.130, 318.150

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: [The office is directed by] KRS 318.130 requires[through] the department to promulgate administrative regulations establishing the Kentucky State Plumbing Code[Committee] to regulate[adopt and put into effect a State] plumbing[Code]. This administrative regulation establishes the requirements for manufactured home and mobile home community[park] waste systems[sysse—fortems] and connections, water distribution and connections, and specifies the materials and the methods[method] that shall be used in installing the necessary plumbing to serve manufactured homes and mobile homes.

Section 1. Sewers. (1) The main and branch sewers for the connections of manufactured homes and mobile homes shall be laid at a uniform grade of no less than one-eighth (1/8) of an inch per foot.[and alignment and] All joints shall be water tight.

(2) Clean-outs[Clean-outs] shall be provided at intervals not to exceed 100 feet for main and branch sewers in sizes six (6) inches and smaller.

(3) The clean-outs shall be extended to the grade with cast-iron soil pipe or schedule 40 ABS or schedule 40 PVC piping and shall be provided with a clean-out plug.

(4) A four (4) inch concrete pad, eighteen (18) inches square, shall be provided around each clean-out.

(5) All main and branch sewers eight (8) inches and larger shall not require clean-outs[Clean-outs] but shall require standard manholes at intervals not to exceed 400 feet as well as in all changes in direction.

(6) Each manufactured home and mobile home shall be provided with a four (4) inch sewer.

(7) A three (3) inch waste connection shall be provided and extended one (1) inch above the grade using a three (3) inch standard female thread.

(8) A four (4) inch concrete pad twenty-four (24) inches square shall be provided around the waste opening.

(9) A three (3) inch screw plug shall be fastened by a chain to the concrete pad which shall be used if the manufactured home or mobile home opening is not in use.

(10) The waste pipe connection between the manufactured home or mobile home and the sewer waste opening shall be a waterproof connection constructed of either cast-iron, schedule 40 steel pipe, copper pipe, or schedule 40 ABS or schedule 40 PVC piping.

(11) All branch sewers receiving waste from more than one (1) manufactured home or mobile home shall be sized as established in the following table:

Number of Manufactured Homes/Mobile Homes	Branch Sewer Size (in inches)
1 to 10	4
11 to 20	5
21 to 50	6
51 to 150	8
151 to 300	10

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Section 2. Individual Residential Manufactured Homes and Mobile Home Waste System and Connection. (1) An individual residential manufactured home or mobile home shall either be connected to a municipal sewer system or to an approved private sewage disposal system in accordance with this section.

(2) Each manufactured home and mobile home shall be provided with at least a three (3) inch waste connection to the house sewer.

(3) All piping that does not have at least an eighteen (18) inch cover shall be cast-iron pipe.

(4) Waste connections between the permanent piping and the manufactured home or mobile home waste connection shall be a waterproof connection constructed of either cast-iron, schedule 40 steel pipe, copper pipe, or schedule 40 ABS or PVC piping.

Section 3. Water Distribution and Connections to Manufactured Homes and Mobile Homes. (1) An adequate and safe water supply shall be provided to each manufactured home and mobile home.

(2) All materials, including the pipe and fitting used for a connection, shall conform with the code.

(3) An individual water connection shall be provided at an appropriate location for each manufactured home and mobile home space.

(a) The connection shall consist of a riser terminating at least four (4) inches above the ground with a minimum two (2), three-fourths (3/4) inch valve.

(b) A frost proof hydrant shall be provided and accessible for lawn watering and fire control outlets with screw connection for the following:

1. One (1) valve outlet for the manufactured home or mobile home water system; and

2. One (1) valve outlet for lawn watering and fire control.

(c) The ground surface around the riser pipe shall be graded to divert surface drainage.

(d) The riser pipe shall be encased in an eight (8) inch vitrified clay pipe or an equivalent with the intervening space filled with an insulating material to protect against freezing.

(e) An insulated cover shall encase both valve outlets, but not prevent connection to the manufactured home or mobile home during freezing weather.

(f) A shutoff valve may be placed below the frost depth on the water service line, but this shutoff valve shall not be a stop-and-waste cock.

(4) The water line shall be the size established by the following table when installing water service for a manufactured home or mobile home community:

Number of Manufactured Homes/Mobile Homes	Water Line Size (in inches)
1 to 2	3/4
3 to 6	1
7 to 12	1 1/4
13 to 20	1 1/2
21 to 50	2
51 to 100	3
101 to 300	4

STEVEN A. MILBY, Commissioner

K. GAIL RUSSELL, Secretary

APPROVED BY AGENCY: October 11, 2019

FILED WITH LRC: October 14, 2019 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 23, 2019, at 10:00 a.m., EDT, at the Department of Housing, Buildings and Construction, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written

comments on the proposed administrative regulation. Written comments shall be accepted through December 31, 2019. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Max Fuller, Staff Attorney, Department of Housing, Buildings and Construction, 500 Mero Street, 1 SW, Frankfort, Kentucky 40601, phone (502) 573-0365, fax (502) 573-1057, email max.fuller@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Max Fuller

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for manufactured home and mobile home community waste systems and connections, and specifies the materials and the methods that shall be used in installing the necessary plumbing to serve manufactured homes and mobile homes.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the requirements to install water lines and sewers in manufactured home and mobile home communities.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 318.130 requires the department to promulgate an administrative regulation establishing the Kentucky State Plumbing Code to regulate plumbing. KRS 198B.040(10) requires the department to promulgate administrative regulations for the safe installation and operation of plumbing and plumbing fixtures. This administrative regulation establishes the requirements for the installation of water lines and sewers servicing manufactured home and mobile home communities.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the requirements for the installation and connection of sewer lines and waste lines to individual manufactured homes and mobile homes within a manufactured home or mobile home community.

(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 corrects grammatical errors and reorganizes the administrative regulation for ease of use. The amendment also incorporates the water distribution and connection language for manufactured home or mobile home communities previously found in 815 KAR 20:120. The amendment adds two (2) new charts showing the size of sewer pipe and water line pipe for manufactured home or mobile home communities.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order to assist the Division of Plumbing in carrying out its duty to monitor and inspect the construction, installation, and alteration of plumbing and plumbing fixtures and appliances in the Commonwealth. Eliminating superfluous language reduces the likelihood of public confusion and simplifies the regulation, without altering the net effect of the regulation. Adding the water distribution language consolidates the specific requirements for manufactured homes and mobile homes into one administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statutes by promulgating an administrative regulation for the connection of sewers and water distribution in manufactured home or mobile home communities in furtherance of the department's requirement to establish the Kentucky State Plumbing Code to regulate plumbing.

(d) How the amendment will assist in the effective administration of the statutes: These amendments make the administrative regulation easier to understand, and locates all the manufactured home or mobile home community information into one administrative regulation for ease of use.

(3) List the type and number of individuals, businesses,

organizations, or state and local governments affected by this administrative regulation: All individuals engaged in the plumbing industry, manufactured home and mobile home communities, and Department of Housing, Buildings and Construction personnel.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: This amendment will not impose any additional requirements on any of the regulated entities identified in question (3).

(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 impose any additional costs on any of the regulated entities identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): It will help the entities in question (3) read and understand the administrative regulation.

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

(a) Initially: There are no anticipated additional initial costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs on a continuing basis to administer these regulatory amendments.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs to the Department. Any costs resulting from these administrative amendments will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment will not necessitate an increase in fees or require funding from the Department for implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This amendment does not establish any new fees. There are no fees directly or indirectly increased by this administrative regulation amendment.

(9) TIERING: Is tiering applied? Tiering is not applied as all individuals in the plumbing industry and Department personnel are affected by the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing 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. This amendment is authorized and required by KRS 198B.040(10) and 318.130.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment is not anticipated to generate additional revenue for the 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 amendment is not anticipated to generate additional revenue for the state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this

regulatory amendment for the first year.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory 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

PUBLIC PROTECTION CABINET Department of Housing, Buildings and Construction (As Amended at ARRS, February 10, 2020)

815 KAR 20:195. Medical gas piping installations.

RELATES TO: KRS 198B.050, 318.010, 318.134

STATUTORY AUTHORITY: KRS 198B.040(10)[198B.050(2), (5)], 318.130, 318.134(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130 requires the department to promulgate administrative regulations establishing the Kentucky State Plumbing Code to regulate plumbing. KRS 318.134(3) requires the department to establish a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. [KRS 318.130 authorizes the department to promulgate a reasonable rule or administrative regulation to administer the provisions of KRS Chapter 318.] This administrative regulation establishes the requirements for medical gas piping installation.

Section 1. [Definitions. (1) "Health care facility" means a hospital, nursing home, limited care facility, clinic, ambulatory care center, or office practice medical or dental office as defined in NFPA-99C.

(2) "Medical gas piping" means a permanent fixed piping system in a health care facility that is used to convey oxygen, nitrous oxide, nitrogen, carbon dioxide, helium, medical air, and mixtures of these gases from its source to the point of use. Medical gas piping includes the fixed piping associated with a medical, surgical, or gas scavenging vacuum system, as well as a bedside suction system.

(3) "NFPA" means the National Fire Protection Association.

Section 2. [Standards and Procedures. (1) Installation standards. ~~All~~ [Except as established in paragraphs (a) and (b) of this subsection, a] new medical gas piping installation or an addition to an existing medical gas piping system shall comply with the applicable provisions of NFPA 99 Health Care Facilities Code, 2012 Edition] 99C, Standard on Gas and Vacuum Systems, 2002 Edition.

(a) ~~Section 5.1.10.6.6, Branch Takeoffs, shall not be adopted nor enforced within the commonwealth.~~

(b) ~~Axially swaged, elastic strain preload fittings providing metal to metal seal having a temperature rating not less than 538 degrees Celsius (1,000 degrees Fahrenheit) and a pressure rating not less than 2,070 kPa (300 psi), and that, at completion, are permanent and nonseparable, shall be permitted to be used to join copper or stainless steel tube. The axially swaged, elastic strain preload fittings shall not be installed within six (6) inches of a brazed joint, and a brazed joint shall not be installed within six (6) inches of an existing axially swaged, elastic strain preload fitting.~~

(2) Permit required. A licensed master plumber shall ~~apply~~ [make application] for a permit to install medical gas piping prior to the installation. To obtain the permit, the master plumber shall:

(a) Pay a fee of forty-five (45) dollars base permit for the medical gas system for each building;

(b) Pay a fee of fifteen (15) dollars per opening; and

(c) Identify the person who shall perform the installation.

(3) The person installing the medical gas piping [making the installation] shall be:

~~(a)(1)~~ A certified medical gas installer as required by NFPA 99 Health Care Facilities Code; and

~~(b)(2)~~ [99C as well as] A licensed master plumber or journeyman plumber.

~~(4)(3)~~ Supervision by ~~a~~[the] master plumber. It shall be the responsibility of the licensed master plumber to ensure that the person doing the installation:

(a) Is properly certified as required by NFPA 99 Health Care Facilities Code [99C];

(b) Uses the proper products and stores them correctly; and

(c) ~~Requests and receives~~[Request and receive] Requests and receives] all inspections at the initial pressure test for the complete system from a qualified[~~certified~~—state] plumbing inspector.

~~(5)(4)~~ Final approval. Upon completion of the installation, the master plumber shall furnish the division [of Plumbing] with certification from the medical gas system verifier as required by NFPA 99 Health Care Facilities Code [99C].

Section ~~2.3.1~~ Incorporation by Reference. (1) "NFPA 99 Health Care Facilities Code, 2012[99C Standard on Gas and Vacuum Systems", 2002] Edition, National Fire Protection Association, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Housing, Buildings and Construction, 500 Mero St.[101 Sea Hero Road, Suite 100], Frankfort, Kentucky 40601-5412, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) A copy may also be obtained by contacting the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101.

CONTACT PERSON: Max Fuller, Staff Attorney, Department of Housing, Buildings and Construction, 500 Mero Street, 1 SW, Frankfort, Kentucky 40601, phone (502) 573-0365, fax (502) 573-1057, email max.fuller@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Public Health

Division of Administration and Financial Management

(As Amended at ARRS, February 10, 2020)

902 KAR 8:070. Recruitment, examination, and certification of eligible applicants for local health departments.

RELATES TO: KRS 61.872, 211.170(1), (2), 211.1751, 212.170, 212.870

STATUTORY AUTHORITY: KRS 194A.050(1), 211.1755(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. KRS 211.1755(2) requires the cabinet to promulgate administrative regulations that establish policies and procedures for the personnel program for local health departments[through the promulgation of administrative regulations pursuant to KRS Chapter 13A]. This administrative regulation establishes[provides for] a recruitment program, [and establishes] procedures, and standards for the recruitment, examination, and certification of individuals for potential employment by local health departments.

Section 1. Announcement of a Vacant Position. (1) An agency, prior to announcing a specific vacancy, shall determine whether to recruit for a vacant position on a scheduled basis or on a continuous basis for positions that are difficult to recruit and fill ~~with~~[attract] qualified applicants.

(2) Except as provided by 902 KAR 8:090, Sections 1 and 2, and 902 KAR 8:080, Section 3, an agency desiring to fill a vacant position shall announce the vacant position in the following manner:

(a) Provide notice of the vacant position within the agency in a manner that affords the ability of current employees to know of the

vacancy and procedures for submitting an application;

(b) Provide notice of the vacant position through recruitment resources that are external to the agency; or

(c) A combination of paragraphs (a) and (b) of this subsection.

(3) An announcement shall contain the following information:

(a) The conditions under which an application for potential employment will be received;

(b) The assessment method utilized to select the individual, ~~which~~[that] may include an interview or demonstration of skills and abilities;

(c) The title and minimum salary of the class of position;

(d) The rates of pay at which appointments are expected to be made;

(e) A general statement of the duties to be performed;

(f) The minimum qualifications of education, training, and experience required as stated in the classification plan;

(g) The date, if required, on which an application is to be received in the agency; and

(h)[Veteran's preference, if applicable;

(i) All other conditions of competition, including the fact that failure in one (1) part of the selection criteria shall disqualify an applicant; and

(j) If an agency requires pre-employment drug testing, criminal records information, physical examination, or other special conditions, a statement that they shall be required upon an offer of employment.

(4) The notice of the external recruitment effort shall meet the criteria of subsection (3) of this section and shall be distributed to one (1) or more of the following advertising methods:

(a) Newspapers;

(b) Web site;

(c) Other media viewable by the public;

(d) Employment services offices;

(e) Educational institutions;

(f)[Public officials;

(g)] Professional and vocational societies; or

~~(h)~~ Other media, individuals, and organizations as appropriate.

Section 2. Application for Employment Submittal and Review Process. (1) The agency shall be the custodian of applications.

(2) Until July 1, 2020, an Application for Employment, form CH-36, shall be required of an individual seeking employment with an agency.

(3) Effective July 1, 2020, all applications for employment shall be submitted electronically via <https://kog.chfs.ky.gov/home/> and form CH-36 ~~shall not be~~[no longer] accepted.

Section 3. Review of Applications by the Department. (1) The department shall review and determine the eligibility of an applicant for a position announced by an agency.

(2)(a) The department shall take one (1) or more of the actions listed in paragraph (b) of this subsection if an applicant, eligible, or appointee:

1. Lacks a specific requirement established for the assessment for the class or position;

2. Is unable to perform the duties of the class;

3. ~~Makes~~[Except as provided for in subsection (3) of this section, has been convicted of a felony or misdemeanor;

4. ~~Has previously been dismissed from a public service or agency for delinquency, misconduct, or other similar cause~~;

5. ~~Made~~] a false statement or misrepresentation in the application;

4.[6.] Has used or attempted to use political pressure or bribery to secure an advantage in obtaining the position in the examination or appointment;

5.[7.] Has directly or indirectly obtained information regarding the assessment method to which the applicant was not entitled;

6.[8.] Has failed to submit a complete application[as determined by the department];

7.[9.] Has failed to submit the application by the end date established[within the time limits prescribed] by the agency in a published announcement;

~~8.[40:]~~ Has taken part in the compilation or administration of the interview process;

~~9.[44:]~~ Has submitted an application for an unadvertised position to an agency that is not on continuous open recruitment; or

~~10.[42:]~~ Has failed a background check or drug screen.

(b) Based on one (1) or more of the reasons listed in paragraph (a) of this subsection, the department shall take any of the following actions:

1. Refuse to examine an applicant;
2. Not qualify an applicant;
3. Remove the applicant's name from a register;
4. Refuse to certify an eligible on a register; or
5. Consult with the appointing authority in taking steps to remove a person already appointed.

(3) An applicant or employee who has been convicted of a misdemeanor or felony may be employed, or continue employment, if the appointing authority and the department determine after review that:

(a) The applicant is highly qualified and eligible for appointment;

(b) The misdemeanor or felony conviction will not adversely affect the applicant's job performance;

(c) A specific need exists for the appointment or continuing appointment of this applicant or employee; and

(d) Every determination made is fully supported by written documentation available for public inspection under the provisions of KRS 61.872[Chapter 61].

(4) A disqualified applicant shall be promptly notified of the action in writing[by letter to the applicant's last known address].

Section 4. Establishment of Registers of Eligible Applicants. (1) An agency may announce a position on a continuous basis for a position that is difficult to recruit for and fill.

(2) If a job classification requires an applicant to meet the minimum qualifications, an individual shall remain on the register for a period of one (1) year from the date on which the individual is determined qualified.

(3) If a vacancy exists in a class of positions for which there is no appropriate register, the department may certify a new[prepare an appropriate] register for the class from a previous existing register[one (1) or more existing related registers].

(4) A register may be deemed to be exhausted by the department if fewer than five (5) eligible applicants remain on the register. [If a register is exhausted, each eligible on the register shall be notified by mail at his last known address.]

(5) The department may remove the name of an eligible from a register:

(a) For a disqualifying cause stipulated in Section 3(2)(a) of this administrative regulation;

~~(b)[If the eligible applicant cannot be located by the postal authorities as evidenced by the return of one (1) notice or a returned notice marked "no forwarding address";~~

~~(c)[(d)]~~ On receipt of a statement from the eligible stating that he or she no longer desires consideration for a position;

~~(c)[(d)]~~ If an offer of a probationary appointment to the class for which the register was established has been declined by the eligible;

~~(d)[(e)]~~ If the eligible declines an offer of appointment for which the eligible previously indicated acceptance;

~~(e)[(f)]~~ If the eligible fails to report for a scheduled interview without valid reason; or

~~(f)[(g)]~~ If an eligible fails to maintain a current address as evidenced by the return from postal authorities of unclaimed but properly addressed letters; or

~~(h)[(f)]~~ If an eligible has been certified three (3) times to a valid register[an appointing authority] and has not been offered employment within one (1) year of the application.

(6) If an eligible receives a probationary appointment, the eligible shall be removed from the applicable register unless otherwise requested in writing.

Section 5. Issuance of Certification of Eligible Applicants. (1)

The department shall issue a certification of eligible applicants to an agency in the following manner:

(a) A promotional certification of eligible applicants that responded to an announcement provided within an agency;

(b) A regular certification of eligible applicants that responded to an announcement provided to recruitment resources external to the agency; or

(c) A combination of paragraphs (a) and (b) of this subsection.

~~(2)[The appointing authority may request in writing to the department, special experience, education, or skills different from the minimum requirements of the class. If, after investigation of the duties and responsibilities of the position, the department approves the request, a certification may be issued to the agency containing the names of those individuals who possess the qualifications specified.~~

~~(3)[The life of a] certification of eligible applicants [during which action may be taken] shall expire[be] sixty (60) days from the date of issue unless otherwise specified on the certification of eligible applicants.~~

~~(3)[(4)]~~ A regular [-]status employee, placed in a layoff category, shall be considered[have first priority for consideration] in filling a vacancy in a classified position for which the employee is qualified in the agency from which the employee was laid off, for up to one (1) year.

~~(4)[(5)]~~ A regular [-]status employee in the layoff category shall indicate in writing to the agency[department] that he or she desire[desires] reemployment.

~~(5)[(6)]~~ If a laid-off regular status employee desires reemployment in a different job classification, the employee shall meet the minimum requirements of the classification. ~~[(7) The life of the reemployment register is one (1) year or until the employee is reemployed, whichever comes first.]~~

Section 6. Assessment Method. (1) An assessment method shall be practical in nature, constructed to reveal the capacity of the applicant for the particular position, as well as general background and related knowledge. An assessment method may be:[:]

(a) A personal interview;

(b) Physical examination;

(c) An evaluation of experience and training;

(d) A demonstration of skill; or

(e) A combination of types, if all applicants for a position are given the same assessment method.

(2) An agency may form an interview committee to evaluate an eligible applicant through a structured interview process.

(3) The interview committee shall structure questions to assess the knowledge, skills, abilities, ~~[and the]~~ education, and work experience of the applicants chosen to be interviewed.

(4) The interview questions, criteria for selecting applicants to be interviewed, profiles of interviewed applicants, and results of the interview process shall be maintained by the agency for a period of thirteen (13)[sixteen (16)] months after an applicant has been appointed to the vacant position.

Section 7. Incorporation by Reference.

(1) "Form CH-36 Application for Employment", 2/2011, Cabinet for Health and Family Services, is incorporated by reference.

(2) Until July 1, 2020, this material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Public Health, Division of Administration and Financial Management, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.[Section 7. Incorporation by Reference.

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CONTACT PERSON: Donna Little, Deputy Executive Director, 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 Public Health Division of Administration and Financial Management (As Amended at ARRS, February 10, 2020)

902 KAR 8:120. Leave provisions applicable to employees of local health departments.

RELATES TO: KRS 211.170(1), (2), 212.170(4), 212.870, Chapter 337, 29 C.F.R. Part 825, 29 U.S.C. 207, 2601, Pub.L. 103-3[206]

STATUTORY AUTHORITY: KRS 194A.050(1), 211.1755(2) NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. KRS 211.1755(2) requires the cabinet to promulgate administrative regulations establishing the policies and procedures of the local health department personnel program. This administrative regulation establishes work hours, leave, and compensatory time provisions for employees of local health departments.

Section 1. Hours of Work. (1) The normal work week shall consist of thirty-seven and one-half (37.5) hours per week.

(a) The appointing authority shall establish the hours and days of work for the agency or for specific employees.

(b) The work schedule may be changed by the appointing authority to provide for flexibility in meeting particular work requirements of the agency or specific employees whose schedules may require them to work different hours.

(2) Hours worked in excess of the thirty-seven and one-half (37.5) hours during the established work week shall be:

(a) Approved by the appointing authority; and

(b) Subject to compensatory time and overtime provisions of this administrative regulation.

(3) The standard pay period shall consist of seventy-five (75) hours.

(4) An appointing authority, with department approval, may establish a position having special conditions of employment based on the needs of the agency.

(5) The employee who requests and receives consideration for special conditions shall acknowledge acceptance of the special conditions in writing. ~~[(6) Special conditions may include the following:~~

~~(a) Earning annual leave and sick leave at a rate based on the hours worked;~~

~~(b) An arrangement for handling nonwork time that may occur with the specific job responsibilities.]~~

Section 2. Earning of Annual Leave. (1) Except for a temporary or emergency employee, a full-time employee shall earn annual leave credit at the following rate:

Years of Service	Annual Leave Hours Earned Per Pay Period- [4]Per Year of Twenty-six (26) Pay Periods
0 to 5 years	3.5 hours per pay period- [4] 91.0 hours per year
5 to 10 years	4.4 hours per pay period- [4] 114.4 hours per year
10 to 15 years	5.2 hours per pay period- [4] 135.2 hours per year
15 to 20 years	6.1 hours per pay period- [4] 158.6 hours per year
20 years or more	7.0 hours per pay period- [4] 182 hours per year

(2) Annual leave for a full-time employee shall not accrue unless the employee has been in pay status at least thirty-seven and one-half (37.5) hours of the standard pay period. The employee shall be credited with additional leave credit upon the

first day of the pay period following the pay period in which the leave was earned.

(3) Except for a temporary or emergency employee, a part-time employee, who is designated as serving on a part-time 100 hour basis and is in pay status at least twenty-three (23) hours each pay period, shall earn annual leave credit at the following rate:

Years of Service	Annual Leave Hours Earned Per Pay Period- [4]Per Year of Twenty-six (26) Pay Periods
0 to 5 years	2.1 hours per pay period- [4] 54.6 hours per year
5 to 10 years	2.6 hours per pay period- [4] 67.6 hours per year
10 to 15 years	3.1 hours per pay period- [4] 80.6 hours per year
15 to 20 years	3.6 hours per pay period- [4] 93.6 hours per year
20 years or more	4.2 hours per pay period- [4] 109.2 hours per year

(4) In computing years of total service for determining the rate of earning annual leave for designated part-time 100 hour employees, only the[those] months[shall be used during which] the employee was designated as a full-time, part-time 100 hour, or was on educational leave with pay shall be used.

(5) An employee who has retired from a position covered by a state retirement system, is receiving retirement benefits, and returns to an agency, shall not receive credit for months of service prior to retirement.

(6) An employee who has resigned from one agency and returns to another agency as an original appointment shall not receive credit for months of service prior to resignation.

(7) Annual leave shall not accrue unless an employee is working or on authorized leave with pay. Annual leave shall not accrue if an employee is on authorized educational leave with pay.

(8) The maximum amount of annual leave earned by a full-time employee that may be accumulated and carried forward to the next calendar year shall not exceed the following amounts:

Years of Service	Maximum Amount of Annual Leave Earned by Full-time Employees
0 to 5 years	225.0 hours
5 to 10 years	277.5 hours
10 to 15 years	337.5 hours
15 to 20 years	390.0 hours
Over 20 years	450.0 hours

(9) The maximum amount of annual leave for a designated part-time 100 hour employee who works an average of 100 hours per month that may be accumulated and carried forward to the next calendar year shall not exceed the following amounts:

Years of Service	Maximum Amount of Annual Hours Earned by Designated Part-time 100 Employees
0 - 5 years	120 hours
5 - 10 years	148 hours
10 - 15 years	180 hours
15 - 20 years	208 hours
Over 20 years	240 hours

(10) Except as provided for in Section 3(8) of this administrative regulation, annual leave earned in excess of that which is allowed to be accumulated shall be converted to sick leave and credited during the first pay period following the end of the calendar year. Annual leave shall not be granted in excess of that earned.

Section 3. Use of Annual Leave Credit. (1) An employee who has accumulated annual leave credit, upon timely request and subsequent approval of the supervisor[appointing authority], shall be granted leave subject to the operating requirements of the agency.

(2) An employee shall not be charged with annual leave for absence except on a day upon which they would otherwise work and receive pay.

(3) Absence for a fraction or part of a day that is chargeable to annual leave shall be charged in fifteen (15) minute periods.

(4) An employee shall be paid a lump sum for accumulated annual leave, not to exceed the maximum amounts established in Section 2 of this administrative regulation, if separated by proper resignation, layoff, retirement, or change from full-time or part-time 100 hour to part-time. Following payment of annual leave, leave

remaining after the payment of the maximum provided in Section 2 of this administrative regulation shall be removed from the balance.

(5) Upon the death of an employee, the employee's estate shall be entitled to be paid for the unused portion of the employee's accumulated annual leave.

(6) Annual leave shall not be advanced or taken until it is earned.

(7) An absence due to sickness, injury, or disability in excess of accumulated sick leave, may be charged against annual leave if approved by the appointing authority.

(8) An employee who has accumulated annual leave in excess of 275 hours may request payment of an amount of annual leave not to exceed seventy-five (75) hours during the fiscal year of the agency. The requested annual leave payment, if approved by the appointing authority, shall not reduce the employee's balance of annual leave below 275 hours and shall be paid in a manner convenient to the agency.

(9) An appointing authority may require an employee who has a balance of compensatory leave hours to use compensatory leave before the employee's request to use annual leave balance is granted, unless the employee's annual leave balance will exceed the maximum number of hours that may be carried forward pursuant to Section 2(8) and (9) of this administrative regulation.

Section 4. Earning of Sick Leave. (1) A full-time employee, except an emergency employee, shall earn sick leave at the rate of three and one-half (3.5) hours per pay period.

(a) An employee shall have worked or been in pay status for at least thirty-seven and one-half (37.5) hours of the seventy-five (75) standard hours in each pay period in order to accumulate sick leave.

(b) The employee shall be credited with sick leave upon the first day of the pay period following the pay period in which the leave was earned.

(2) An employee designated as a part-time 100 hour employee, except an emergency employee, who is in pay status at least twenty-three (23) hours in a pay period shall earn sick leave at the rate of two and one-tenth (2.1) hours per pay period. A part-time 100 hour employee shall be credited with additional sick leave upon the first day of the pay period following the pay period in which the leave was earned.

(3) A full-time employee completing ten (10) years of total service in full-time status with an agency shall be credited with seventy-five (75) additional hours of sick leave.

(4) An employee designated as a part-time 100 hour employee completing ten (10) years of total service in a part-time 100 status with an agency shall be credited with forty-five (45) additional hours of sick leave.

(5) A full-time employee completing 240 months of total service in a full-time status with one (1) or more agencies shall be credited with an additional seventy-five (75) hours of sick leave.

(6) An employee designated as a part-time 100 hour employee completing 240 months of total service in a part-time 100 status with one (1) or more agencies shall be credited with forty-five (45) additional hours of sick leave.

Section 5. Uses of Sick Leave Credit. (1) The appointing authority, upon proper request, may grant sick leave with pay to a full-time or designated part-time 100 hour employee with sufficient leave credit, if the employee:

(a) Receives medical, psychiatric, dental, or optical examination or treatment;

(b) Is disabled by sickness or injury;

(c) Is required to provide care for a sick or injured spouse, child, step-child, parent, step-parent, brother, step-brother, sister, step-sister, grandparent, step-grandparent, grandchild, step-grandchild, mother- or father-in-law, or daughter- or son-in-law;

(d) Would jeopardize the health of others at his or her workstation post because of exposure to a contagious disease;

(e) Has lost by death a spouse, child, step-child, parent, step-parent, brother, step-brother, sister, step-sister, grandparent, step-grandparent, grandchild, step-grandchild, mother- or father-in-law, or daughter- or son-in-law; or

(f) Is required to take the employee's spouse, child, step-child, parent, step-parent, brother, step-brother, sister, step sister, grandparent, step-grandparent, grandchild, step-grandchild, mother- or father-in-law, or daughter- or son-in-law; for medical, psychiatric, dental, or optical examination or treatment.

(2) Accumulated sick leave may be granted for death in the employee's family, as described in subsection (1) of this section, and shall be limited to three (3) days or a reasonable extension at the discretion of the appointing authority.

(3) An employee shall file a written request for sick leave with or without pay within a reasonable time. An employee shall request advance approval for sick leave for medical, dental or optical examination and for sick leave without pay.

(4) Except for an unexpected absence from work because of an illness, the employee shall notify the employee's supervisor or other designated person in advance. Failure to do so in a reasonable time period may be cause for denial of the sick leave for the period of absence or for disciplinary action.

(5) An appointing authority may, for good cause and on notice, require an employee to supply supporting evidence in order to receive sick leave for the days or hours sick leave[that] is requested. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required signed by a licensed practitioner and certifying to the incapacity, examination, and treatment during the time for which sick leave was taken. An appointing authority may grant sick leave if the application is supported by acceptable evidence.

(6) If an employee requests leave in excess of five (5) working days, a statement from the employees' licensed practitioner shall accompany the request for leave. The statement shall contain the following:

(a) The licensed practitioner's judgment[judgement] that the employee is incapable of performing the essential duties of the job;

(b) Estimate of the length of time that the employee's illness or disability will last;

(c) Restrictions which would render the employee incapable of performing the essential duties of the job; and

(d) Recommendation for special considerations to accommodate the employee once released to return to work.

(7) An appointing authority may place an employee on sick leave if:

(a) The employee's health might jeopardize others;

(b) The employee's health prevents performance of job[his] duties and responsibilities;

(c) The employee fails to produce a satisfactory medical certificate upon request; or

(d) The employee exhibits behavior that disrupts the agency's ability to function in providing services or that might endanger the employee or others.

(8) Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in fifteen (15) minute periods.

(9) An employee who is transferred or otherwise changed from one (1) agency to another shall retain accumulated sick leave in the receiving agency.

(10) A former employee who is reinstated or reemployed shall have his or her previous rate of earning annual leave and unused sick leave balances reinstated upon successful completion of probation, if applicable.

(11) Sick leave may be utilized in cases of absence due to illness or injury for which workers[worker's] compensation income benefits are received for lost time to the extent of the differences between these benefits and the employee's regular salary.

Section 6. Family and Medical Leave. An appointing authority shall comply with the requirements of the Family and Medical Leave Act (FMLA) of 1993, 29 U.S.C. 2601 et seq., Pub.L. 103-3, and the federal regulations implementing the Act, 29 C.F.R. Part 825.

Section 7. Maternity Leave. (1) The appointing authority shall grant a maternity leave of absence to an employee because of pregnancy or the adoption of a child. Maternity leave shall not exceed twelve (12) weeks, unless the appointing authority

approves additional maternity leave. However, the total leave shall not exceed twenty-six (26) pay periods.

(2) The employee on maternity leave shall use accumulated sick leave credit if available;

~~(a) [–only] For the period of time medically necessary to be absent from work as indicated by the certification of a licensed practitioner; or~~

~~(b) For the period of time for placement of a child for adoption with the employee that includes:~~

~~1. Counseling sessions;~~

~~2. To appear in court;~~

~~3. Consult with attorneys or doctors representing the birth parents;~~

~~4. Submit to a physical; or~~

~~5. Travel to complete adoption.~~

~~(c) [(a)] If sick leave is not available, the employee shall use accumulated annual or compensatory leave if available.~~

~~(d) [(b)] If leave credit is exhausted, the employee shall be placed on leave without pay.~~

(3) Accumulated annual and compensatory time shall be used for maternity leave that extends beyond the period of absence that is medically necessary for the employee as certified by the employee's medical practitioner.

(4) The employee shall submit a written request for maternity absence, which shall include a statement from a licensed practitioner indicating the expected date of delivery.

(a) The request shall be submitted to the appointing authority as soon as practical to allow for adjustments in the work schedule during the employee's absence.

(b) Additional information from the employee's licensed practitioner may be required if there are complications and the period of absence begins sooner than agreed, extends further than agreed, or requires the use of maternity leave beyond twelve (12) weeks.

Section 8. Workers' Compensation. (1)(a) The required medical expense for a service rendered by a hospital or doctor, or for a prescribed medication, shall be paid subject to approval of the claim.

(b) A percentage of the employee's average weekly wage shall be paid if the employee is unable to work for an extended period due to a job-related injury or illness.

(c) 1. Except as provided in subparagraph 2. of this paragraph, compensation shall not be payable for the first seven (7) days of disability.

2. If the disability continues over two (2) weeks, compensation shall be allowed from the first day of disability.

(2) The appointing authority shall offer an employee one of the following options of compensation for an absence due to illness or injury for which workers' compensation benefits are eligible:

(a) Allow employee to accept the workers' compensation benefits directly and use accumulated leave in order to maintain regular full salary; or

(b) Allow employee to use accumulated leave to maintain regular full salary, or a portion thereof, and remit the workers compensation benefits to the agency to reinstate accumulated leave used for the period of time benefits were paid.

(3) The employee shall not receive and retain the benefit of paid leave and workers' compensation income benefits that exceeds his or her regular full salary for the same period of time [if an absence is due to illness or injury for which workers' compensation benefits are received, accumulated sick or annual leave may be used to maintain full salary.

(2) If paid leave is used to maintain regular full salary, workers' compensation pay benefits shall be assigned to the agency for the period of time the employee received paid leave.

(3) The employee's sick and annual leave shall be immediately reinstated to the extent that workers compensation benefits are assigned. An employee shall not receive paid sick and annual leave and workers compensation pay for the same period of time].

Section 9. Sick Leave Without Pay. (1) An appointing authority may[shall] approve sick leave without pay upon appropriate

request of an employee for reasons provided for in this section[and in Section 7 of this administrative regulation].

(2) An employee shall have used accumulated annual, sick, and compensatory leave credit prior to approved leave without pay.

(3) The amount of continuous sick leave without pay approved by an appointing authority shall not exceed twenty-six (26) pay periods.

(4) If an employee approved for leave with pay exhausts accumulated annual, sick, and compensatory leave credit, the employee shall be placed on sick leave without pay, if the total absence does not exceed twenty-six (26) pay periods.

(5) The appointing authority may require periodic statements from a licensed practitioner during the sick leave without pay period attesting to the employee's inability to perform the essential functions of the employee's job duties with or without reasonable accommodation.

Section 10. Return from Sick Leave With or Without Pay. (1) At the termination of sick leave with pay not exceeding thirteen (13) pay periods, the appointing authority shall return the employee to his or her former position. At the termination of sick leave with pay exceeding thirteen (13) pay periods, the appointing authority shall return the employee to a position for which he or she is qualified and which resembles his or her former position as closely as circumstances[circumstance] permit. If the employee is unable to perform the essential functions of the position, and there is no other vacant position for which the employee qualifies and is able to perform, the employee may be laid off.

(2) If an employee on approved sick leave without pay for less than twenty-six (26) pay periods has given notice of his or her ability to resume his or her duties, the appointing authority shall return the employee to a position for which he or she is qualified and which resembles his or her former position as closely as circumstances permit. If the employee is unable to perform the essential functions of the position, and there is no other vacant position for which the employee qualifies and is able to perform, the employee may be laid off.

(3) An employee shall be considered to have resigned if the employee:

(a)1. Has been on continuous sick leave without pay for twenty-six (26) pay periods;

2. Has been requested by the appointing authority in writing to return to work at least ten (10) days prior to the expiration of sick leave; and

3. Is unable to return to work; or

(b)1. Has been given priority consideration by the appointing authority for a vacant position with the agency, for which the employee qualifies and is capable of performing its essential functions with or without reasonable accommodation; and

2. The appointing authority has been unable to place the employee in a vacant position.

Section 11. Sharing of Sick Leave. (1) An employee of the local health department who has accrued a sick leave balance of more than seventy-five (75) hours may, with the approval of the appointing authority, request the transfer of a specified amount of the employee's sick leave balance in excess of seventy-five (75) hours to another named status employee of the local health department who is authorized to receive sick leave.

(2) The appointing authority may approve the amount of sick leave received under this section[–if any:] if:

(a) The employee or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or psychiatric condition which has caused, or is likely to cause, the employee to go on leave[for at least ten (10) consecutive working days];

(b) The employee's need for absence and use of leave are certified by a licensed practitioner; and

(c) The employee has exhausted his or her accumulated sick leave, annual leave, and compensatory leave balances.

(3) Leave may be transferred from an employee of one agency to an employee within the same agency or may be transferred from an employee of one (1) agency to an employee of another agency.

The agency[department] shall maintain records of leave transferred between employees and the utilization of transferred leave.

(4) If an employee is on leave transferred under this section, he or she shall receive the same treatment with respect to salary, wages, and employee benefits.

(5) Salary and wage payments made to an employee while on leave transferred under this section shall be made by the agency employing the person receiving the leave. Leave transferred under this section which remains unused shall be returned, on a prorated basis, to the employees who transferred the leave if the appointing authority finds that the leave is no longer needed and will not be needed at a future time in connection with the illness or injury for which the leave was transferred to an employee in his or her agency.

(6) An employee shall not intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce, either directly or indirectly, another employee for the purpose of interfering with the employee's right to voluntarily contribute leave as authorized under this section.

Section 12. Court Leave. An employee shall be entitled to a leave of absence, without loss of pay or time, for each day during which the employee is subpoenaed by a court to serve as a juror or witness, except in a case where the employee or a member of the employee's family is a party plaintiff. If relieved from duty as a juror or witness during normal working hours, the employee shall return to work. An employee shall retain the fees earned while serving as a potential juror.

Section 13. Military Leave. (1) Upon request, an employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from duty without the loss of pay or time to serve under orders on training duty for a period of up to ten (10) working days, not to exceed seventy-five (75) hours in any one (1) federal fiscal (October 1 to September 30) year. The appointing authority, before granting military leave, may require a copy of the orders requiring the attendance of the employee.

(2) The appointing authority shall grant an employee entering military duty a leave of absence without pay for a period of active duty not to exceed six (6) years. Accumulated annual leave and compensatory leave may be paid in lump sum at the request of the employee, upon being placed on leave.

(3) A part-time 100 or full-time status employee, who is a spouse or a member of the U.S. Armed Forces, including a member of a state National Guard or a Reserve component on federal duty, shall receive one (1) day off, with pay, from work when the member is deployed and one (1) day off, with pay, from work when the member returns.

Section 14. Voting Leave. The appointing authority shall allow each employee four (4) hours paid leave to vote, if requested in advance. The absence shall not be charged against accumulated leave.

Section 15. Special Leave of Absence. (1) An appointing authority may grant special leave for education, training, or for other circumstances.

(2) Leave may be granted for a period not to exceed twenty-six (26) pay periods.

(3) Leave may be granted [with-or] without pay if all other leave has been exhausted.

(4) Leave for attendance at a college, university, vocational or business school shall be for training in subjects that:

- (a) Relate to the employee's work; and
- (b) Will benefit the agency.

Section 16. Administrative[Special] Leave for Investigative Purposes. (1) An appointing authority may place an employee on special leave with pay for investigative purposes pending an

investigation of an allegation of employee misconduct.

(2) Leave shall not exceed thirty (30) working days.

(3) The employee shall be notified in writing by the appointing authority that he or she is being placed on special leave for investigative purposes, and the reasons for being placed on leave.

(4) If the investigation reveals no misconduct by the employee:

(a) The employee shall be made whole for the period of the leave; and

(b) Records relating to the investigation shall be purged from agency files.

(5) The appointing authority shall notify the employee, in writing, of the completion of the investigation and the action taken. Notification shall be made to the employee, whether the employee has remained with the agency, or has voluntarily resigned during the interim between being placed on special leave for investigative purposes and the completion of the investigation.

Section 17. Absence Without Leave. (1) An employee who is absent from duty without approval shall report the reason for the absence to the employee's supervisor immediately.

(2) Unauthorized or unreported absence shall be considered absence without leave and deduction of pay may be made by the appointing authority for each period of absence.

(3) Absence without leave may constitute grounds for disciplinary action.

(4) An employee who has been absent without leave or notice to the supervisor for more than three (3) working days shall be considered to have resigned the employee's position.

Section 18. Holidays. (1) Agency full-time employees shall be given a holiday on the following days:

- (a) The first day of January and one (1) extra day;
- (b) The third Monday in January;
- (c) One-half (1/2) day for Good Friday (3.75 hours);
- (d) The last Monday in May;
- (e) The fourth day of July;
- (f) The first Monday in September;
- (g) The 11th day of November;
- (h) The fourth Thursday in November plus one (1) extra day;
- (i) The 25th of December and one (1) extra day; and
- (j) Presidential election day.

(2) If a day enumerated in subsection (1) of this section falls on a Saturday, the preceding Friday shall be observed as the holiday. If the day enumerated falls on a Sunday, the following Monday shall be observed as the holiday. If an extra day is provided for, it shall be observed as stated by the department.

(3) A full-time employee shall be in pay status on the work day prior to the holiday in order to receive the holiday benefit.

(4) Full-time exempt employees required to work on a holiday shall accrue compensatory time for the time worked.

Section 19. Absences Due to Adverse Weather. (1) An employee who chooses not to report to work, or who leaves early, in the event of adverse weather conditions, shall have the absence:

- (a) Charged to annual leave; or
- (b) Taken as leave without pay, if annual and compensatory leave has been exhausted.

(2) An employee who is on prearranged annual, compensatory, or sick leave shall charge leave as originally requested unless the agency closes down. Once the agency closes down all employees are paid other paid leave.

(3) If catastrophic, life-threatening weather conditions occur, such as that created by hurricane, tornado, flood, or blizzard, and it becomes necessary for authorities to order evacuation or shutdown of the place of employment, the following provisions shall apply:

(a) An employee who is required to evacuate or who would report to a location that has been shut down shall not be required to make up the time lost from work during the period officially declared hazardous to life and safety.

(b) An employee who is required to work in an emergency situation shall be compensated pursuant to Section 20 of this

administrative regulation.

Section 20. Earning of Compensatory Time. (1) An employee determined to be exempt under the provisions of the Fair Labor Standards Act, 29 U.S.C. 207[206], and Kentucky Wage and Labor Law, KRS Chapter 337, authorized by the appointing authority to work in excess of the prescribed thirty-seven and one-half (37.5) hours of duty in one (1) week shall accumulate compensatory time in fifteen (15) minute periods for excess time worked on an hour-for-hour basis. The maximum amount of compensatory time accumulated shall be 200 hours.

(2) An employee shall have the prior approval of the appointing authority or the employee's immediate supervisor before compensatory leave may be earned.

(3) A nonexempt employee authorized by the appointing authority to work in excess of the prescribed thirty-seven and one-half (37.5) hours of duty in one (1) week shall be paid at the employee's current salary for each hour not subject to the provisions of the Fair Labor Standards Act, 29 U.S.C. 207[206], and Kentucky Wage and Labor Law, KRS Chapter 337.

(4) Any time worked in excess of forty (40) working hours in one (1) week shall be paid overtime at a rate of one and one-half (1 1/2) for each hour exceeding forty (40) working hours. Holiday pay and other types of non-working hours paid are not included in the total number of working hours subject to time and a half overtime pay.

Section 21. Using Accumulated Compensatory Time. (1) An employee who has accrued compensatory time shall be permitted by the appointing authority to take compensatory time off if practical and upon proper request by the employee.

(2) An employee who has accumulated at least thirty (30) hours of compensatory time may be paid for the accumulated leave by the appointing authority upon written request. If payment is approved by the appointing authority, it shall be at the employee's regular rate of pay and in thirty (30) hour increments.

(3) If an employee has accumulated the maximum amount of compensatory leave, the appointing authority shall pay the employee for at least fifty (50) hours of accumulated compensatory leave at the employee's regular rate of pay and shall reduce the employee's compensatory leave balance accordingly.

(4) Upon separation from service or transfer to another agency, unused compensatory time shall be reimbursed in a lump sum payment to the employee.

(5) Upon the death of an employee, the employee's estate shall be paid for unused accumulated compensatory time.

CONTACT PERSON: Donna Little, Deputy Executive Director, 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 Medicaid Services
Division of Fiscal Management
(As Amended at ARRS, February 10, 2020)

907 KAR 10:840. Hospital Rate Improvement Program.

RELATES TO: KRS 45.229, 142.303, 205.565, 205.637, 205.638, 205.639, 205.640, 205.6405, 205.6406, 205.6407, 205.6408, 216.380, 42 C.F.R. 413.17, 433.51, 438.340, 440.140, 447.271, 447.272, 42 U.S.C. 1396a, 1395ww

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, 205.6406(13), 42 C.F.R. 447.252, 447.253, 42 U.S.C. 1396a

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 to qualify for federal funds. KRS

205.6406(13) requires the department to promulgate an administrative regulation to implement the Hospital Rate Improvement Program, KRS 205.6405 to 205.6408. This administrative regulation establishes the requirements for implementing the Hospital Rate Improvement Program for qualifying hospitals.

Section 1. Definitions. (1) "Assessment" is defined by KRS 205.6405(1).

(2) "Department" means the Department for Medicaid Services or its designee.

(3) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(4) "Program year" is defined by KRS 205.6405(14).

(5) "Qualifying hospital" is defined by KRS 205.6405(16).

(6) "Received date" means the date a claim is accepted and approved into the Medicaid Management Information System and does not mean the date a claim is actually paid.

(7) "Upper payment limit" or "UPL" is defined by KRS 205.6405(19).

Section 2. Hospital Rate Improvement Program. (1) Prior to the start of each program year and in accordance with the payment methodology required by KRS 205.6406(2), the department shall calculate for each qualifying hospital:

(a) A per-discharge uniform add-on amount that the qualifying hospital is eligible to receive as a supplemental payment for the program year for Medicaid fee-for-service discharges; and

(b) A per discharge uniform add-on amount that the qualifying hospital is eligible to receive as a supplemental payment for the program year for Medicaid managed care discharges.

(2) With the exception of the initial implementation year, no less than thirty (30) days prior to the beginning of each program year, the department shall provide each qualifying hospital written notice of the total per-discharge uniform add-on amounts for both Medicaid fee-for-service and Medicaid managed care discharges. The notice shall include the data sources and methodologies used to arrive at the value for each variable upon which the qualifying hospital's per-discharge uniform add-on amounts shall be calculated for the program year.

(3) For each quarter in a program year, the department shall:

(a) Calculate each qualifying hospital's supplemental payments for Medicaid fee-for-service and Medicaid managed care in accordance with KRS 205.6406(3) through (11) by:

1. Excluding all inpatient claims with discharge dates preceding October 1, 2018 from enhanced payment calculations;

2. Reducing the number of inpatient claims eligible for enhanced reimbursement by the number of previously enhanced claims that have been voided in the Medicaid Management Information System; and

3. Excluding from enhanced payment calculations partial or adjusted inpatient claims that have previously received an enhanced payment;

(b) Make a quarterly Medicaid fee-for-service supplemental payment to each qualifying hospital, or its designee acting as a fiscal intermediary, in accordance with the methodology in KRS 205.6406(3)(a) and (c); and

(c) Make a quarterly Medicaid managed care supplemental payment to each qualifying hospital, or its designee acting as a fiscal intermediary, in accordance with the methodology in KRS 205.6406(3)(b), (d), and (e).

(4) Payment of the quarterly Medicaid managed care supplemental payment shall be made by distribution to each Medicaid managed care organization through a quarterly supplemental capitation payment.

(5) The department shall submit with, or prior to, the quarterly supplemental capitation payment directions to the Medicaid managed care organization for the payment of the quarterly Medicaid managed care supplemental payments to qualifying hospitals.

(6) In accordance with KRS 205.6406(6), each Medicaid managed care organization shall remit to each qualifying hospital, or its designee, as directed by the department the quarterly

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Medicaid managed care supplemental payment within five (5) business days of receipt of the quarterly supplemental capitation payment. The department shall establish contractual penalty provisions to require that each Medicaid managed care organization remit the required amounts within five (5) business days.

(7) In accordance with KRS 205.6406(9), a qualifying hospital may seek review by the department of any quarterly supplemental payment that the qualifying hospital suspects is in error~~[and affects the amount of the quarterly supplemental payment by five (5) percent or more]~~.

(a) The qualifying hospital shall submit a detailed listing of any disputed claim or claims for department consideration and potential updates to the Medicaid Management Information System.

(b) Once each claim is received and validated in the Medicaid Management Information System, the department ~~shall~~*may* adjust the qualifying hospital's future quarterly supplemental payment to account for ~~any warranted~~*[the]* correction.

(c) If the department determines that a correction is not warranted, the hospital may request an administrative appeal pursuant to 907 KAR 1:671.

(8) In order to receive a supplemental payment and to pay the assessment for that quarter, an entity shall be a qualifying hospital each day of a quarter for the program year.

(9) Medicaid Management Information System (MMIS) fee-for-service and managed care encounter data, queried by the claim received date, shall be utilized to calculate the quarterly payments.

(10) For each quarter in a program year, the department shall:

(a) Calculate each qualifying hospital's per-discharge hospital assessment in accordance with the methodology in KRS 205.6406(3)(g) and (h); and

(b) Provide notice to each qualifying hospital in accordance with KRS 205.6406(3)(i).

(11) A qualifying hospital's per-discharge hospital assessment shall be calculated using the Medicare cost report period ending in the calendar year that is two (2) calendar years prior to the first day of a program year. For example, for the program year beginning July 1, 2019, cost report periods ending in calendar year 2017 shall be utilized.

(a) If a qualifying hospital's cost report period referenced in this subsection is greater than or less than a normal calendar year of 365 days, the total discharges used in accordance with KRS 205.6406(3)(g) shall be annualized to a 365-day period.

(b) If a qualifying hospital is newly enrolled in the Medicaid program and does not have cost report information available for the period established in this subsection, the department may utilize the cost report information of a comparable hospital to approximate the newly enrolled hospital's utilization.

(12) A qualifying hospital shall pay its calculated per-discharge hospital assessment in accordance with KRS 205.6406(7).

(13) If a hospital assessment is not received in a timely manner, the department may deny or withhold future quarterly supplemental payments until the assessment is submitted.

(14) A qualifying hospital may authorize a third-party entity to serve as a fiscal intermediary to facilitate the implementation of this administrative regulation by providing letter notice to the department.

Section 3. Reporting Requirements. (1) Throughout a program year, a qualifying hospital shall submit any documentation or information to the department that the department requests in a timely manner as designated by the department. This request may include any documentation pertaining to:

(a) Resolution of a quarterly supplemental payment that the qualifying hospital suspects is in error; or

(b) Quality metrics set forth in the department's Quality Strategy filed with the Centers for Medicare and Medicaid Services pursuant to 42 C.F.R. 438.340.

(2) If a qualifying hospital fails to provide the department with any requested documentation in a timely manner, the department may deny or withhold future quarterly supplemental payments, until the documentation is submitted.

Section 4. Upper Payment Limit. A supplemental payment referenced in this administrative regulation is not intended to cause aggregate Medicaid hospital reimbursement to exceed the aggregate statewide upper payment limit for privately-owned and non-state government-owned hospitals established in:

(1) 42 C.F.R. 447.271;

(2) 42 C.F.R. 447.272; or

(3) Any other applicable statute or administrative regulation.

Section 5. Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

CONTACT PERSON: Donna Little, Deputy Executive Director, 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**

**COUNCIL ON POSTSECONDARY EDUCATION
(Amended After Comments)**

13 KAR 4:010. State Authorization Reciprocity Agreement.

RELATES TO: KRS 164.020(23), 164.945, 164.946, 164.947, 164.992, 165A.320-165A.450

STATUTORY AUTHORITY: KRS 164.540(3)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.540(3) authorizes the Council on Postsecondary Education to promulgate an administrative regulation to enter into the State Authorization Reciprocity Agreement, which establishes uniform national standards for interstate offerings of postsecondary distance education and authorizes postsecondary educational institutions meeting those standards located in member states or territories to provide distance education to residents of other member states. KRS 164.540(3) also authorizes the council to serve as the lead or portal agency on behalf of the Commonwealth's public and private postsecondary institutions seeking to offer distance education in member states. This administrative regulation establishes the mechanism by which Kentucky institutions may join the State Authorization Reciprocity Agreement and sets forth the process by which non-resident students can file complaints against Kentucky member institutions.

Section 1. Definitions. (1) "Accredited" means holding institutional accreditation by name as a U.S.-based institution from an accreditor recognized by the U.S. Department of Education.

(2) "Commission" means the Kentucky Commission on Proprietary Education.

(3) "Council" means the Kentucky Council on Postsecondary Education.

(4) "Degree" means an award conferred at the associate level or higher by an institution as official recognition for the successful completion of a program of studies.

(5) "Institution" means a Kentucky degree-granting postsecondary entity.

(6) "NC-SARA" means the National Council for State Authorization Reciprocity Agreements.

(7) "President" means the President of the Kentucky Council on Postsecondary Education.

(8) "State Authorization Reciprocity Agreement," or "SARA," means the agreement among member states, districts, and U.S. territories that establishes comparable national standards for interstate offering of degrees through distance education and authorizes institutions meeting those standards located in member states or territories to provide distance education to residents of other member states.

Section 2. Initial Application Procedures. (1) In order to participate in SARA, an institution shall submit the following items to the president for review and action:

(a) The current NC-SARA Application and Approval Form for Institutional Participation in SARA, in electronic format; and

(b) The fees due to the Council, in accordance with Section 6 of this administrative regulation.

(2) The application referenced in subsection (1)(a) of this section may be found online at www.nc-sara.org.

Section 3. Renewal Application Procedures. (1) In order to continue participating in SARA, an institution shall submit the following items to the president for review and action at least sixty (60) days before the anniversary date of the institution's initial approval:

(a) The current NC-SARA Application for Institutional Renewal to Participate in SARA, in electronic format; and

(b) The fees due to the council, in accordance with Section 6 of this administrative regulation.

(2) The application referenced in subsection (1)(a) of this section may be found online at www.nc-sara.org.

Section 4. Standards for Approval. In order to participate in SARA, an institution shall comply with the following:

(1) Maintain authorization to operate in Kentucky through one (1) of the following:

(a) Creation by Kentucky Revised Statutes;

(b) Licensure by the council; or

(c) Licensure by the commission; and

(2) Meet the current minimum requirements to participate in SARA.

Section 5. Consumer Complaints. (1) After first exhausting the institution's internal procedure for complaint resolution, a non-resident student may file a complaint against the institution for failure to comply with any SARA standard within two (2) years of the incident about which the complaint is made.

(2) In order to be considered, a complaint shall be submitted by the student in writing and include the following information:

(a) Name, address, email address, and phone number of student;

(b) Name of institution;

(c) Location of institution;

(d) Dates of attendance;

(e) An explanation of the steps taken to exhaust the institution's grievance process;

(f) A full description of the issue and any relevant documentation supporting the complaint; and

(g) The desired resolution of the complaint.

(3) Complaints regarding student grades or student conduct violations shall not be considered.

(4) The president shall forward the complaint by email to the institution and require a written response no later than thirty (30) days from the date of transmittal.

(5) After review of information and materials provided by the student and the institution, the president may request additional information from either party.

(6) After review of all relevant information and materials, the president shall facilitate a resolution of the complaint. The relief provided the student, if any, shall be commensurate with the circumstances.

(7) Resolution of a complaint by the president shall be final, except in instances where the subject matter of the complaint may violate any other applicable laws.

(8) The president shall provide to the executive director of the commission, for reference purposes, a copy of:

(a) Any complaint initiated against an institution licensed by the commission;

(b) The resolution; and

(c) Any related materials.

Section 6. Fees. The council shall charge an initial and annual renewal fee to institutions based on all enrolled full time equivalent students, which shall be due at time of application. Applications shall not be reviewed without receipt of fee payment. Failure to pay a fee on or before the date of application shall be sufficient grounds for denial of an application. Fees shall be in addition to any fees charged by NC-SARA and shall be in accordance with the following schedule:

(1) Under 2,500 - \$3,000;

(2) 2,500 – 9,999 - \$5,000; or

(3) 10,000 or more - \$7,000.

Section 7. Appeals.

(1) An institution denied approval for an initial or renewal application may request an appeal of that decision in accordance with the terms of this subsection.

(a) The institution shall notify the president of the intent to appeal the decision within seven (7) days of the receipt of the notice of denial.

(b) The president shall request that the Office of Administrative

Hearings appoint a hearing officer who shall conduct an administrative hearing consistent with the provisions of KRS 13B.005-13B.170.

(c) The appeal shall be presented in writing no later than thirty (30) days following the receipt of notification of intent to appeal. [The appeal shall be considered on the written record alone.]

(d) The appeals officer shall review findings of fact, consider testimony, draw conclusions, and formulate a recommendation consistent with the facts and this administrative regulation.

(e) Upon completion, the report of the appeals officer shall be forwarded to the institution and to the president.

(f) Within thirty (30) working days of receiving the report of the appeals officer, the president shall either uphold the decision or approve the application.

BEN BRANDSTETTER, Chair

TRAVIS POWELL, General Counsel

APPROVED BY AGENCY: February 10, 2020

FILED WITH LRC: February 12, 2020 at 3 p.m.

CONTACT PERSON: Sarah Levy, Executive Director of Postsecondary Licensing, Council on Postsecondary Education, 1024 Capital Center Dr., Suite 350, Frankfort, Kentucky 40601, phone 502.573.1555, fax 502.573.1535, email sarah.levy@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Sarah Levy

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures for participation by Kentucky postsecondary institutions in the State Authorization Reciprocity Agreement (SARA), which establishes uniform national standards for interstate offerings of postsecondary distance education and authorizes postsecondary educational institutions meeting those standards located in member states or territories to provide distance education to residents of other member states.

(b) The necessity of this administrative regulation: KRS 164.540(3) provides the Council with the authority to enter into SARA on behalf of the Commonwealth and promulgate regulations to establish procedures for Kentucky postsecondary institutions to participate.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation sets out the procedures for Kentucky postsecondary institutions to participate in SARA as required by KRS 164.540(3)(c).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The procedures set forth in this regulation are in conformance with SARA requirements which must be met in order for Kentucky to be a member as authorized by KRS 164.540(3).

(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 an appeals process for institutions who are denied approval.

(b) The necessity of the amendment to this administrative regulation: SARA state participation requirements were recently amended to mandate an institutional appeal process at the state portal agency level.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes give the Council the authority to adopt provisions via regulation to meet the SARA participation requirements.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will allow Kentucky to continue to participate in SARA as contemplated in the authorizing statutes.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All public and private colleges and universities offering Associate's degrees or higher.

(4) Provide an assessment of how the above group or groups

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 will be required of regulated entities unless an application is denied. If an application is denied, the institution wants to appeal the decision, it must file its appeal in accordance with the provisions set forth in the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will no additional cost of compliance related to this amendment, except the staff or outside counsel cost of filing an appeal and arguing for consideration of the decision to deny.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Institutions will be able to appeal application denials.

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

(a) Initially: The amendment will not result in any additional cost of implementation initially.

(b) On a continuing basis: The amendment will only result in additional costs to the Council if an appeal is filed. There may be cost incurred for the use of a hearing officer.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: SARA fees and 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: No. The amendment does not require an increase in fees.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Yes. This regulation assesses fees.

(9) TIERING: Is tiering applied? No, the amendment does not apply any tiering as all regulated entities will be treated identically in its application.

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 Council is responsible for implementation, and this regulation applies to Kentucky public institutions and private colleges and universities that seek to become members of SARA.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 164.540(3)(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? Revenue from SARA fees is approximately \$170,000 annually.

(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? See 3(a).

(c) How much will it cost to administer this program for the first year? About \$87,500

(d) How much will it cost to administer this program for subsequent years? Approximately \$175,000

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: N/A

BOARDS AND COMMISSIONS
Board of Veterinary Examiners
(Amended After Comments)

201 KAR 16:510. Fees for veterinarians.

RELATES TO: KRS 321.193, 321.211, 321.240

STATUTORY AUTHORITY: KRS 321.193, 321.211, 321.235(3), 321.240(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.240(5) requires the board to promulgate administrative regulations as it may deem necessary and proper to effectively carry out and enforce the provisions of KRS Chapter 321, including regulations to establish authorized fees. This administrative regulation establishes those fees for veterinarians.

Section 1. Payment and Submission of Fees. (1) Fees to the board shall be paid by check or money order, or, when available, online payment by debit or credit card. Checks and money orders shall be made payable to the Kentucky State Treasurer.

(2) All fees shall be nonrefundable.

Section 2. Application Fees for Veterinarians. (1) The application fee for a veterinarian shall be \$100.

(2) The fee shall be attached to the completed Application for Licensure as a Veterinarian form as found in 201 KAR 16:700 or online equivalent form, including all required attachments.

Section 3. Examination Fees for Veterinarians. (1) The fee for the North American Veterinary Licensing Examination (NAVLE) shall be paid directly to the International Council for Veterinary Assessment (ICVA), its designee, or current test administrator.

(2) The fee for the Kentucky State Board Examination shall be \$100 paid directly to the board.

(3) The fee for an applicant to obtain board approval to retake the NAVLE shall be fifty (50) dollars paid directly to the board and attached to the Application for Retake of the NAVLE form as found in 201 KAR 16:700 or online equivalent form.

Section 4. Renewal Fees for Veterinarians. The following fees shall be paid in connection with licensure renewals:

(1) Except as provided for in subsections (a) and (b) of this section, the biennial renewal fee for licensure as a veterinarian in active status shall be \$200 if the Renewal Application for Veterinarians form as found in 201 KAR 16:700 or online equivalent form is complete, including all required attachments, continuing education credits, and fee payment, and the complete package submitted to the board for review and approval not later than September 30.

(a) For veterinarians who are initially licensed in the second year of the biennium between 365 days and 182 days prior to the end of the renewal biennium~~[October 1 and March 31]~~, the licensure renewal fee shall be reduced to \$100 during a licensee's first licensure cycle. The late fee for renewal, if applicable, shall not be reduced or waived without board authorization.

(b) For veterinarians who are initially licensed in the second year of the biennium between 181 days and the last day of the renewal beinnium~~[April 1 and September 30]~~, the licensure renewal fee shall be waived during a licensee's first licensure cycle.

(2) During the grace period established by KRS 321.211, a licensed veterinarian who failed to meet the September 30 renewal deadline may continue to function as though licensed until a late renewal application is submitted to the board. The late fee for biennial renewal shall be \$100 in addition to the renewal fee as described in Section 4(1), Section 4(2), or Section 6 of this administrative regulation. The veterinarian shall submit the complete renewal form, including all required attachments, continuing education hours, and fee payment, to the board between October 1 and November 30 during the last year of the biennium.

(3) A veterinarian's license shall expire if no renewal application package and all attachments, and late fee if applicable,

is paid to the board by November 30.

Section 5. Reinstatement Fees for Veterinarians. (1) Except as provided for in Section 6 of this administrative regulation, if not more than five (5) years have elapsed since the last date of license expiration pursuant to KRS 321.211(3), a veterinarian may pay a reinstatement fee of \$400 and submit a complete Reinstatement Application for Veterinarians form as found in 201 KAR 16:700 or online equivalent form, including all required attachments, to the board for reinstatement of his or her license. A veterinarian may not apply for a new license during this five (5) year window; a reinstatement application is required.

(2) If more than five (5) years have elapsed since the last date of license expiration, a veterinarian must apply as a new applicant to obtain a license in the Commonwealth of Kentucky.

Section 6. Inactive Status of License. (1) A veterinarian may opt to renew his or her license with status of "inactive" during the renewal period by completing the Renewal Application for Veterinarians form as found in 201 KAR 16:700 or online equivalent form, or at any point during the biennium by completing a Request for Licensure Status Change form as found in 201 KAR 16:700 or online equivalent form. Licensees with an inactive status shall not practice the profession of veterinary medicine in the Commonwealth of Kentucky until the board approves the license to return to active status.

(2) Renewal of an inactive veterinary license.

(a) The biennial renewal fee for inactive veterinarian licensure status shall be \$100 per renewal biennium.

(b) The late fees established in Section 4(2) of this administrative regulation shall apply to a license in an inactive status that was not renewed by September 30 of the biennium.

(c) No continuing education is required while a veterinarian's license is in inactive status.

(d) A license in an inactive status that is not renewed by November 30 shall be deemed to be expired.

(3) Reinstatement of inactive veterinarian license status to active status.

(a) A veterinarian licensee in inactive status may reinstate his or her license to active status at any time by completing and submitting a reinstatement application or designating the status change on a renewal form during the open renewal period, paying a reinstatement fee of \$200, and complying with the provisions established in 201 KAR 16:540, 201 KAR 16:580, and 201 KAR 16:590.

(b) At the time of reinstatement, an inactive licensee shall be required to comply with continuing education requirements established in 201 KAR 16:590.

Section 7. Retirement of a Veterinary License. (1) A veterinarian may request to retire his or her license at any time. The one (1)-time fee for this service is twenty-five (25) dollars, which must be attached to a Request for Licensure Status Change form as found in 201 KAR 16:700 or the renewal form or online equivalent forms provided by the board. Once a license is retired it cannot be reactivated. If a veterinarian holds a retired license and wishes to practice again, he or she must apply to the board for a new license to practice veterinary medicine in the Commonwealth of Kentucky.

Section 8. Fee Reduction for Military Personnel. If a veterinarian applicant submits a copy of his or her DD-214 (or other documentation acceptable to the board) with their application or renewal paperwork, the board will waive or reduce fees as indicated in this section of this administrative regulation.

(1) For active duty military, active reserves, and National Guard service persons, an individual's initial application fees, the Kentucky State Exam fee, and the biennial renewal fees shall be waived.

(2) For retired military personnel with twenty (20) or more years of service, an individual's initial application fees shall be waived, and the biennial renewal fees shall be reduced by

half, rounded to the nearest whole dollar.

(3) For any other military veteran, the initial application fees shall be waived.

(4) All other requirements of licensure, including renewal deadlines and continuing education requirements established in 201 KAR 16:590, must still be met.

STEVEN J. WILLS, DVM, Chair

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 12, 2020 at 11 a.m.

CONTACT PERSON: Michelle Shane, Executive Director,
Kentucky Board of Veterinary Examiners, 107 Corporate Drive,
Second Floor, Frankfort Kentucky 40601, phone (502) 782-0273,
fax (502) 695-5887, email michelle.shane@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the fee for persons seeking a veterinary license.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the fee that the KBVE board approves for veterinarian licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.193, 321.211, 321.240 each require the board to set fees for veterinarian licenses.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly expressing what fee has been approved by the KBVE 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: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 2528 veterinary licenses, and future applicants.

(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: Applicants will be required to have paid the fee prior to licensure.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs are associated with compliance, as this is a prerequisite for application and renewal.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease of clear communications of the fees associated with licensure.

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

(a) Initially: The KBVE expects costs for their operations to be approximately \$230,000 in the near term.

(b) On a continuing basis: The KBVE expects costs for their operations may exceed \$230,000 after the implementation of their revised administrative regulations.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Fees for the KBVE come from license and certification fees established in this filing and the other fee filings.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fee increases are anticipated by the KBVE.

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

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.193, 321.211, 321.240

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This filing will generate approximately \$250,000.

(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 filing will generate approximately \$250,000.

(c) How much will it cost to administer this program for the first year? The KBVE estimates expenditures of approximately \$230,000 or more in the near term.

(d) How much will it cost to administer this program for subsequent years? The KBVE estimates expenditures of approximately \$230,000 or more in the near term, with major expenses anticipated for computer systems and other needed items.

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

Revenues (+/-): \$250,000

Expenditures (+/-): \$230,000

Other Explanation: Additional expenses are anticipated by the KBVE.

BOARDS AND COMMISSIONS Board of Veterinary Examiners (Amended After Comments)

201 KAR 16:512. Fees for veterinary technicians.

RELATES TO: KRS 321.240, 321.441

STATUTORY AUTHORITY: KRS 321.235(3), 321.240(5), 321.441

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.240(5) requires the board to promulgate administrative regulations as it may deem necessary and proper to effectively carry out and enforce the provisions of KRS Chapter 321, including regulations to establish authorized fees. This administrative regulation establishes those fees for veterinary technicians.

Section 1. Payment and Submission of Fees. (1) Fees to the board shall be paid by check or money order, or, when available, online payment by debit or credit card. Checks and money orders shall be made payable to the Kentucky State Treasurer.

(2) All fees shall be nonrefundable.

Section 2. Application Fees for Veterinary Technicians. (1) The application fee for a veterinary technician shall be twenty-five (25) dollars.

(2) The fee shall be attached to the completed Application for

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Licensure as a Veterinary Technician form as found in 201 KAR 16:700 or online equivalent form, including all required attachments.

Section 3. Examination Fees for Veterinary Technicians. (1) The fee for the Veterinary Technician National Exam (VTNE) shall be paid directly to the American Association of Veterinary State Boards (AAVSB), its designee, or current test administrator.

Section 4. Renewal Fees for Veterinary Technicians. The following fees shall be paid in connection with licensure renewals for veterinary technicians:

(1) Except as provided for in subsection (a), the annual renewal fee for licensure as a veterinary technician in active status shall be thirty (30) dollars if the Renewal Application for Veterinary Technicians form as found in 201 KAR 16:700 or online equivalent form is complete, including all required attachments, continuing education credits, and fee payment, to the board not later than September 30.

(a) For a veterinary technician who is initially licensed **120 days prior to the end[on or after June 2]** of the renewal period, the licensure renewal fee shall be waived during a licensee's first licensure cycle.

(2) During the grace period established by KRS 321.211, the licensed veterinary technician who failed to meet the September 30 renewal deadline may continue to function as though licensed until a late renewal application is submitted to the board. The late fee for annual renewal shall be fifteen (15) dollars in addition to the renewal fee as described in Section 4(1) of this administrative regulation. The veterinary technician shall submit the complete renewal form, including all required attachments, continuing education credits, and fee payment, to the board between October 1 and November 30.

(3) A veterinary technician's license shall expire if no renewal application package and all attachments, and late fee if applicable, is paid to the board by November 30.

Section 5. Reinstatement Fees for Veterinary Technicians. (1) Except as provided for in Section 5(3) of this administrative regulation, if not more than five (5) years have elapsed since the last date of license expiration pursuant to KRS 321.211(3), a veterinary technician may pay a reinstatement fee of **fifty (50)[seventy-five (75)]** dollars and submit a complete Reinstatement Application for Veterinary Technicians form as found in 201 KAR 16:700 or online equivalent form, including all required attachments, to the board for reinstatement of his or her license. A veterinary technician may not apply for a new license during this five (5) year window; a reinstatement application is required.

(2) If more than five (5) years have elapsed since the last date of license expiration, a veterinary technician must apply as a new applicant to obtain a license in the Commonwealth of Kentucky.

Section 6. Inactive Status of a License. (1) A veterinary technician may opt to renew his or her license with status of "inactive" during the renewal period by completing Renewal Application for Veterinary Technicians form as found in 201 KAR 16:700 or online equivalent form, or at any point during the annual cycle by completing the Request for Licensure Status Change form as found in 201 KAR 16:700 or online equivalent form provided by the board. Licensees with an inactive status shall not practice as a veterinary technician in the Commonwealth of Kentucky until the license status is approved by the board to move back to active status.

(2) Renewal of an inactive veterinary technician license.

(a) The annual renewal fee for inactive veterinary technician licensure status shall be ten (10) dollars per renewal period.

(b) The late fees established in Section 4(2) of this administrative regulation shall apply to licenses not renewed annually by September 30.

(c) No continuing education is required while a veterinary technician's license is in inactive status.

(d) A license in an inactive status that is not renewed by

November 30 shall be deemed to be expired.

(3) Reinstatement of inactive veterinary technician license status to active status.

(a) A licensed veterinary technician in inactive status may reinstate his or her license to active status by completing and submitting a reinstatement application, paying a reinstatement fee of twenty-five (25) dollars, and complying with the provisions established in 201 KAR 16:540, 201 KAR 16:580, and 201 KAR 16:590.

(b) At the time of reinstatement, an inactive licensee shall still be required to comply with continuing education requirements established in 201 KAR 16:590.

Section 7. Retirement of License. (1) A veterinary technician may request to retire his or her license at any time. The one (1)-time fee for this service is ten (10) dollars, which must be attached to a Request for Licensure Status Change form as found in 201 KAR 16:700 or the renewal form or online equivalent forms provided by the board. Once a license is retired, it cannot be reactivated. If a veterinary technician holds a retired license and wishes to practice again, he or she must apply to the board for a new license to practice the profession of a veterinary technician in the Commonwealth of Kentucky.

Section 8. Fee Reduction for Military Personnel. If a veterinary technician applicant submits a copy of his or her DD-214 (or other documentation acceptable to the board) with their application or renewal paperwork, the board will waive or reduce fees as indicated in this section of this administrative regulation.

(1) For active duty military, active reserves, and National Guard service persons, an individual's initial application fees and annual renewal fees shall be waived.

(2) For retired career military, an individual's initial application fees shall be waived, and the annual renewal fees shall be reduced by half, rounded to the nearest whole dollar.

(3) For any other military veteran, the initial application fees shall be waived.

(4) All other requirements of licensure, including renewal deadlines and continuing education requirements established in 201 KAR 16:590, must still be met.

STEVEN J. WILLIS, DVM, Chair

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 12, 2020 at 11 a.m.

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email michelle.shane@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the fee for persons seeking a veterinary technician license.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the fee that the KBVE board approves for veterinary technician licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.241 requires the board to set a fee for veterinary licenses.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly expressing what fee has been approved by the KBVE 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: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative

regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 441 veterinary technician licenses, and future applicants.

(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: Applicants will be required to have paid the fees prior to licensure.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs are associated with compliance, as this is a prerequisite for application and licensure renewal.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease of clear communications of the fees.

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

(a) Initially: The KBVE expects costs for their operations to be approximately \$230,000 in the near term.

(b) On a continuing basis: The KBVE expects costs for their operations may exceed \$230,000 after the implementation of their revised administrative regulations.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Fees for the KBVE come from license and certification fees established in this filing and the other fee filings.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees increases are anticipated by the KBVE.

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

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.193, 321.211, 312.235, 321.240

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This filing will generate approximately \$14,000.

(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 filing will generate approximately \$14,000.

(c) How much will it cost to administer this program for the first year? The KBVE estimates expenditures of approximately \$230,000 or more in the near term.

(d) How much will it cost to administer this program for subsequent years? The KBVE estimates expenditures of approximately \$230,000 or more in the near term, with major expenses anticipated for computer systems and other needed

items.

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

Revenues (+/-): \$14,000

Expenditures (+/-): \$230,000

Other Explanation: Additional expenses are anticipated by the KBVE

BOARDS AND COMMISSIONS Board of Veterinary Examiners (Amended After Comments)

201 KAR 16:514. Fees for animal control agencies and animal euthanasia specialists.

RELATES TO: KRS 321.207

STATUTORY AUTHORITY: KRS 321.207, 321.235(3), 321.240(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207(1) authorizes the board to permit qualified animal control agencies in the Commonwealth of Kentucky to apply for a registration certificate from the United States Drug Enforcement Administration (DEA). KRS 321.207(3) authorizes the board to certify animal control agencies to perform euthanasia services for animals. KRS 321.207(4) authorizes the board to issue certificates to those persons who are deemed to be qualified to work as animal euthanasia specialists.

Section 1. Payment and Submission of Fees. (1) Fees to the board shall be paid by check or money order, or, when available, online payment by debit or credit card. Checks and money orders shall be made payable to the Kentucky State Treasurer.

(2) All fees shall be nonrefundable.

Section 2. Application Fees. (1) The application fee for issuance of a board certificate authorizing an animal control agency to apply for a restricted controlled substance registration with the United States Drug Enforcement Administration (DEA) shall be fifty (50) dollars. The fee shall be attached to the completed Application for Certification as an Animal Control Agency form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments. The animal control agency shall undergo inspection by an authorized representative of the board in accordance with 201 KAR 16:550 prior to the issuance of a certificate.

(2) The application fee for issuance of a certificate to a certified animal euthanasia specialist shall be fifty (50) dollars. The fee shall be attached to the completed Application for Certification as an Animal Euthanasia Specialist form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments.

Section 3. Renewal Fees for Animal Control Agencies. (1) Except as provided for in subsection (a) of this section, a certified animal control agency shall annually, on or before March 1, pay to the board a renewal fee of fifty (50) dollars for the renewal of the certificate. The animal control agency shall submit the complete Renewal Application for Animal Control Agencies form as found in 201 KAR 16:700 or online equivalent form, including all required attachments, and fee payment to the board.

(a) The renewal fee for the first renewal shall be waived for a certificate issued 120 days prior to the end~~on or after November 1]~~ of the renewal period.

(2) A sixty (60) day grace period shall be allowed after March 1, during which time the animal control agency may continue to function as though certified until a late renewal application is submitted to the board. The late fee for renewal shall be ten (10) dollars in addition to the renewal fee as described in Section 3(1) of this administrative regulation. The animal control agency shall submit the complete renewal form, including all required attachments, and fee payment, to the board between March 2 and

April 30 of the annual renewal period. The late fee for renewal, if applicable, shall not be reduced or waived without board authorization.

(3) An animal control agency restricted controlled substance registration certificate shall expire if no renewal package, and late fee if applicable, is paid to the board annually by April 30.

(4) If not more than five (5) years have elapsed since the last date of certificate expiration, an animal control agency that has an expired restricted controlled substance registration certificate may be reinstated upon the submission of a completed Reinstatement Application for Animal Control Agencies form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all attachments, and the payment of a reinstatement fee of seventy-five (75) dollars. The animal control agency shall undergo inspection by an authorized representative of the board in accordance with 201 KAR 16:550 prior to the reinstatement of a certificate. An animal control agency may not apply for a new certificate during this five (5) year window; a reinstatement application is required.

(5) If more than five (5) years have elapsed since the last date of certificate expiration, an animal control agency must reapply to obtain a board certificate authorizing restricted controlled substance registration with the DEA.

Section 4. Renewal Fees for Animal Euthanasia Specialists.

(1) Except as provided for in subsection (a) of this section, a certified animal euthanasia specialist shall annually, on or before March 1, pay to the board a renewal fee of fifty (50) dollars for the renewal of the certificate. The animal euthanasia specialist shall submit the complete Renewal Application for Animal Euthanasia Specialists form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments, and fee payment to the board.

(a) The renewal fee for the first renewal shall be waived for a certificate issued **120 days prior to the end[on or after November 1]** of the renewal period.

(2) A sixty (60) day grace period shall be allowed after March 1, during which time the certified animal euthanasia specialist may continue to function as though certified until a late renewal application is submitted to the board. The late fee for renewal shall be ten (10) dollars in addition to the renewal fee as described in Section 4(1) of this administrative regulation. The animal euthanasia specialist shall submit the complete renewal form, including all required attachments and fee payments, to the board between March 2 and April 30 of the renewal period. The late fee for renewal, if applicable, shall not be reduced without board authorization.

(3) An animal euthanasia specialist certificate shall expire if no renewal package, and late fee if applicable, is paid to the board annually by April 30.

(4) If not more than five (5) years have elapsed since the last date of certificate expiration, an animal euthanasia certificate that has expired may be reinstated upon the submission of a completed Reinstatement Application for Animal Euthanasia Specialists form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all attachments, and the payment of a reinstatement fee of seventy-five (75) dollars. An animal euthanasia specialist may not apply for a new certificate during this five (5) year window; a reinstatement application is required.

(5) If more than five (5) years have elapsed since the last date of certificate expiration, an individual must reapply to obtain a certificate as an animal euthanasia specialist in the Commonwealth of Kentucky.

Section 5. Inactive Status for Animal Euthanasia Specialists. A certified animal euthanasia specialist may opt to renew a certificate with a status of inactive at any time by indicating so on a completed Request for Licensure Status Change form as found in 201 KAR 16:700 or the renewal form or online equivalent forms provided by the board. (1) There is no fee for inactive status for a certified animal euthanasia specialist.

(2) When a certified animal euthanasia specialist's employment with a certified animal control agency terminates or the certificate

for the certified animal control agency expires, his or her certificate shall be moved to inactive status for a period not to exceed five (5) years.

(a) During the five (5) year period, the animal euthanasia specialist may apply to reinstate the certificate to active status by completing a reinstatement application.

(b) After five (5) years, the individual must reapply for certification as an animal euthanasia specialist.

(3) A certified animal euthanasia specialist may convert his or her certificate from inactive to active status at any time when he or she is employed with a certified animal control agency by completing and submitting a reinstatement application, paying a fifty (50) dollar reinstatement fee, and complying with the provisions established in 201 KAR 16:514, 201 KAR 16:560, and 201 KAR 16:572.

STEVEN J. WILLS, DVM, Chair

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 12, 2020 at 11 a.m.

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email michelle.shane@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the fee for persons seeking an animal control agency certificate or animal euthanasia specialist certificate.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the fee that the KBVE board approves for animal control agency certificates or animal euthanasia specialist certificates.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.207 requires the board to set a fee for animal control agency certificates or animal euthanasia specialist certificates.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly expressing what fee has been approved by the KBVE 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: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 58 animal control agency certificates, 211 animal euthanasia specialist certificates, and future applicants.

(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: Applicants will be required to have paid the fee prior to licensure.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs are associated with compliance, as this is a prerequisite for application and renewal.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease of clear

communications of the fees.

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

(a) Initially: The KBVE expects costs for their operations to be approximately \$230,000 in the near term.

(b) On a continuing basis: The KBVE expects costs for their operations may exceed \$230,000 after the implementation of their revised administrative regulations.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Fees for the KBVE come from license and certification fees established in this filing and the other fee filings.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees increases are anticipated by the KBVE.

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

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.193, 321.211, 321.235, 321.240

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This filing will generate approximately \$15,000.

(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 filing will generate approximately \$15,000.

(c) How much will it cost to administer this program for the first year? The KBVE estimates expenditures of approximately \$230,000 or more in the near term.

(d) How much will it cost to administer this program for subsequent years? The KBVE estimates expenditures of approximately \$230,000 or more in the near term, with major expenses anticipated for computer systems and other needed items.

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

Revenues (+/-): \$15,000

Expenditures (+/-): \$230,000

Other Explanation: Additional expenses are anticipated by the KBVE

BOARDS AND COMMISSIONS Board of Veterinary Examiners (Amended After Comments)

201 KAR 16:516. Fees – other fees.

RELATES TO: KRS 321.240, 321.201

STATUTORY AUTHORITY: KRS 321.240, 321.201, 321.235(3), 321.240(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.240 authorizes the board to promulgate administrative regulations as it may deem necessary and proper to effectively carry out and enforce the provisions of KRS Chapter 321, including regulations to establish authorized fees. This administrative regulation

establishes fees for various services provided by the board. KRS 321.201 authorizes the board to issue a special permit for the practice of veterinary medicine and to require a fee for such permits. This administrative regulation establishes the fee for a special permit.

Section 1. Payment and submission of fees. (1) Fees to the board shall be paid by check or money order, or, when available, online payment by debit or credit card. Checks and money orders shall be made payable to the Kentucky State Treasurer.

(2) All fees shall be nonrefundable.

Section 2. Fees for special permits. (1) The fee for a special permit issued by the board pursuant to KRS 321.201 shall be fifty (50) dollars. The fee shall be attached to either the Application for Licensure as a Veterinarian form or the Application for Retake of the NAVLE form as found in 201 KAR 16:700 or online equivalent forms provided by the board.

Section 3. Fees for license verification letters and letters of good standing. (1) The fee for a license verification letter or a letter of good standing is ten (10) dollars. The fee shall be attached to a Request for Licensure Verification form as found in 201 KAR 16:700 or online equivalent form provided by the board. Upon receipt of the request and payment, the board will issue the requested letter and complete any forms required by regulatory bodies in other jurisdictions.

Section 4. Fees for mailing lists. (1) The fee for a request to obtain a copy of the mailing list of the board's licensees is fifteen (15) dollars. The fee shall be attached to a Request for Mailing List form as found in 201 KAR 16:700 or online equivalent form. Upon the receipt of the request and payment, the board will send a current licensee mailing list to the requesting party.

Section 5. Fees for duplicate wall certificates and laminated credentials. (1) The fee for a duplicate wall certificate, including the board's seal, or a new laminated wallet-sized card, is ten (10) dollars. The fee shall be attached to a Request for Printed Credentials form as found in 201 KAR 16:700 or online equivalent form.

Section 6. Fees for processing payments. (1) The board shall have authority to require a reasonable service charge for processing payments submitted online or in paper form. Such fees shall be calculated as a percentage of the underlying fee pursuant to the board's current contracted rate for payment processing services. Service charge fees are non-refundable.

Steven J. Wills, DVM, Chair

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 12, 2020 at 11 a.m.

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email michelle.shane@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the fees for specific KBVE services as outlined in the filing.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the fee that the KBVE board approves for the various other services that are not specifically related to licensure and renewal.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.240, 321.201, and the balance of that chapter allow the KBVE broad regulatory authority. The KBVE provides additional services that it wishes to capture a portion of the expenses thereof through this filing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly expressing what fee has been approved by the KBVE 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: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 2528 veterinary licenses, 441 veterinary technician licenses, 58 animal control agency certificate holders, 211 animal euthanasia specialist certificate holders, and future applicants.

(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: Persons will be required to have paid the fee prior to the specific service being performed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs are associated with compliance, as this is a prerequisite for a specific service.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease of clear communications of the fees.

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

(a) Initially: The KBVE expects costs for their operations to be approximately \$230,000 in the near term.

(b) On a continuing basis: The KBVE expects costs for their operations may exceed \$230,000 after the implementation of their revised administrative regulations.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Fees for the KBVE come from license and certification fees established in this filing and the other fee filings.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees increases are anticipated by the KBVE.

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

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.193, 321.211, 321.235, 321.240

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This filing will generate approximately \$15,000.

(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 filing will generate approximately \$15,000.

(c) How much will it cost to administer this program for the first year? The KBVE estimates expenditures of approximately \$230,000 or more in the near term.

(d) How much will it cost to administer this program for subsequent years? The KBVE estimates expenditures of approximately \$230,000 or more in the near term, with major expenses anticipated for computer systems and other needed items.

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

Revenues (+/-): \$2,500

Expenditures (+/-): \$230,000

Other Explanation: Additional expenses are anticipated by the KBVE.

BOARDS AND COMMISSIONS Board of Veterinary Examiners (Amended After Comments)

201 KAR 16:540. Application requirements for veterinarians and veterinary technicians.

RELATES TO: KRS 321.193, 321.221, 321.441

STATUTORY AUTHORITY: KRS 321.235(3), 321.240(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.193 and 321.221 provides for application requirements for veterinarians. KRS 321.441 sets forth the requirements for licensure as a veterinary technician. This administrative regulation sets forth application requirements for veterinarians and veterinary technicians applying for licensure in the Commonwealth of Kentucky from the board.

Section 1. New application to the board for licensure as a veterinarian shall include the following components:

(1) A completed application on an Application for Licensure as a Veterinarian form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments;

(2) A current color photograph of the applicant not smaller than 2 in. x 2 in., or a color copy of the applicant's current valid driver's license or passport with photo;

(3) An official copy of final transcripts, or a copy of the applicant's diploma from the issuing school;

(4) ~~A complete national background check from a board approved background check provider, which may include a copy of the applicant's fingerprints captured at a board approved office for the purpose of a national background check. The board has the power to impose additional requirements as a condition of licensure or deny licensure following the board's review of findings from a national background check;~~

~~(5)~~ A copy of any court documents, final orders, settlement agreements, or other documents requested by the board in support of the application;

~~(5) [(6)]~~ An official copy of an applicant's testing score report. The score report shall be sent directly to the board from the International Council for Veterinary Assessment (ICVA), the American Association of Veterinary State Boards (AAVSB), other board recognized testing body, their designee, or official records custodian. The report shall include results for either:

(a) The North American Veterinary Licensing Exam (NAVLE), or

(b) The National Board Examination (NBE) and the Clinical Competency Test (CCT), if completed prior to May 31, 2000;

~~(6) [(7)]~~ The completed State Exam Answer Sheet; and

~~(7) [(8)]~~ Payment for the application fee required by 201 KAR

16:510.

~~(8)~~~~(9)~~ In addition to the requirements listed in subsections (1), (2), (4), (5), (7), and (8) of this section, requirements for veterinary license endorsement applications include:

(a) Licensure verifications from all jurisdictions in which an applicant once held or currently holds a license as a veterinarian; and

(b) A current credential report, which shall include an applicant's score report for the NAVLE or NBE and CCT, directly from the AAVSB, its designee, or official records custodian.

~~(9)~~~~(10)~~ In addition to the requirements listed in subsections (1), (2), (4), ~~(6)~~, ~~and~~~~(5)~~, ~~(7)~~~~—and~~ ~~(8)~~ of this section, requirements for foreign graduate veterinary license applications include,

(a) Licensure verifications from all jurisdictions in which an applicant once held or currently holds a license as a veterinarian;

(b) A current credential report, which shall include an applicant's score report for the NAVLE or NBE and CCT, directly from the AAVSB, its designee, or official records custodian; and

(c) An official report or letter showing completion of one (1) of the programs listed in the subparagraphs of Section 1(10)(c) of this administrative regulation. The report or letter shall be sent directly to the board from the testing organization, its designee, or current official records custodian.

1. The Educational Commission for Foreign Veterinary Graduates (ECFVG) Program of the American Veterinary Medical Association (AVMA), or

2. The Program for the Assessment of Veterinary Education Equivalence (PAVE) of the AAVSB.

Section 2. Reinstatement applications to the board for licensure as a veterinarian shall include the following components:

(1) A completed application on a Reinstatement Application for Veterinarians form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments;

~~(2) [A complete national background check from a board approved background check provider, which may include a copy of the applicant's fingerprints captured at a board approved office for the purpose of a national background check;~~

~~(3)~~ A copy of any court documents, final orders, settlement agreements, or other documents requested by the board in support of the application;

~~(3)~~~~(4)~~ Licensure verifications from all jurisdictions in which an applicant once held or currently holds a license as a veterinarian;

~~(4)~~~~(5)~~ A current credential report directly from the AAVSB, its designee, or official records custodian;

~~(5)~~~~(6)~~ Proof of a minimum of thirty (30) board approved continuing education credits during the twenty-four (24) months immediately prior to the date of application; and

~~(6)~~~~(7)~~ Payment for the reinstatement application fee pursuant to 201 KAR 16:510.

Section 3. A veterinary license holder of the board shall be required to renew his or her license pursuant to 201 KAR 16:570.

Section 4. New applications to the board for licensure as a veterinary technician shall include the following components:

(1) A completed application on an Application for Licensure as a Veterinary Technician form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments;

(2) A current color photograph of the applicant not smaller than 2 in. x 2 in., or color copy of the applicant's current valid driver's license or passport with photo;

(3) An official copy of final transcripts, or copy of the applicant's diploma from the issuing school;

~~(4) [A complete national background check from a board approved background check provider, which may include a copy of the applicant's fingerprints captured at a board approved office for the purpose of a national background check;~~

~~(5)~~ A copy of any court documents, final orders, settlement agreements, or other documents requested by the board in support of the application.

~~(5)~~~~(6)~~ An official copy of an applicant's test scores pursuant to 201 KAR 16:530, Section 2(1), directly from PSI Services, the American Association of Veterinary State Boards (AAVSB), their designee, or official records custodian; and

~~(6)~~~~(7)~~ Payment for the application fee pursuant to 201 KAR 16:512.

~~(7)~~~~(8)~~ In addition to the requirements listed in subsections (1) – ~~(6)~~~~(7)~~ in Section 3 of this administrative regulation, requirements for endorsement veterinary technician applications include licensure verifications from all jurisdictions in which an applicant once held or currently holds a license as a veterinary technician.

~~(8)~~~~[Section 5.]~~ In addition to the requirements listed in subsections (1) – ~~(6)~~~~(7)~~ of Section 4 of this administrative regulation, requirements for foreign graduate veterinary technician license applications include,

(a) Licensure verifications from all jurisdictions in which an applicant once held or currently holds a license as a veterinary technician;

(b) A current credential report directly from the AAVSB, its designee, or official records custodian; and

(c) An official score report or letter showing results for the Program for the Assessment of Veterinary Education Equivalence (PAVE) or equivalent program of the AAVSB for veterinary technicians. The score report shall be sent directly to the board from the testing organization, its designee, or official records custodian.

Section ~~5.~~~~[6.]~~ Reinstatement applications to the board for licensure as a veterinary technician shall include the following components:

(1) A completed application on a Reinstatement Application for Veterinary Technicians form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments;

~~(2) [A complete national background check from a board approved background check provider, which may include a copy of the applicant's fingerprints captured at a board approved office for the purpose of a national background check;~~

~~(3)~~ A copy of any court documents, settlement agreements, or other documents requested by the board in support of the application;

~~(3)~~~~(4)~~ Proof of a minimum of six (6) board approved continuing education credits during the twelve (12) months immediately prior to the date of application.

~~(4)~~~~(5)~~ Licensure verifications from all jurisdictions in which the applicant once held or currently holds a license as a veterinary technician;

~~(5) If more than one (1) year since the date of license expiration,~~~~(6)~~ a current credential report from the AAVSB; and

~~(6)~~~~(7)~~ Payment for the application fee pursuant to 201 KAR 16:512.

Section 6. A veterinary technician license holder of the board shall be required to renew his or her license pursuant to 201 KAR 16:570.

Section 7. Change in licensure status. Veterinarian and veterinary technician license holders may apply to the board for a change in licensure status. Such requests shall include the following components:

(1) A completed application on a Request for Licensure Status Change form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments;

(2) Payment for the application fee pursuant to 201 KAR 16:510 for veterinarians or 201 KAR 16:512 for veterinary technicians.

Section 8. Background checks. The board is authorized to

conduct a national or jurisdictional level background check on each applicant for licensure. **The check must be processed by a board-approved background check provider, and may include a copy of the applicant's fingerprints captured at a board-approved location. The board may reject background checks that do not have an official seal or watermark, or that are more than ninety (9) days old.** The board has the power to impose additional requirements as a condition of licensure or to deny licensure following the board's review of findings from a background check.

STEVEN J. WILLS, DVM, Chair

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 12, 2020 at 11 a.m.

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email michelle.shane@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the application requirements for persons seeking a veterinary license or veterinary technician license.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the application material that the KBVE board approves as a requirement for licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.193, 321.221 and 321.441 each require the board to approve a degree or program for each applicant for veterinary and veterinary technician licenses.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly expressing what application requirements are created by the KBVE 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: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 2528 veterinary licenses, 441 veterinary technician licenses, and future applicants.

(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: Applicants will be required to submit application materials as outlined in this filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs are associated with compliance, as this is a prerequisite for application.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease of clear communications of the approved requirements.

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

(a) Initially: No costs are anticipated.

(b) On a continuing basis: No costs are anticipated.

(6) What is the source of the funding to be used for the

implementation and enforcement of this administrative regulation: This administrative regulation does not establish fees. Fees for the KBVE come from license and certification fees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees are necessary at this time.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.193, 321.221, 321.235, 321.240, 321.441

(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 from this filing.

(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? Staff time for record keeping.

(d) How much will it cost to administer this program for subsequent years? Staff time will be required for record keeping. Costs will be very minimal.

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 or negligible.

Other Explanation:

BOARDS AND COMMISSIONS

Board of Veterinary Examiners (Amended After Comments)

201 KAR 16:550. Authorization for animal control agencies to apply for a restricted controlled substances certificate from DEA.

RELATES TO: KRS 321.207

STATUTORY AUTHORITY: KRS 321.207(2), 321.235(3), 321.240(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207 permits the board to authorize an animal control agency to apply for a registration certificate by the United States Drug Enforcement Administration (DEA) to euthanize animals. KRS 321.207 requires the applicant agency to comply with administrative regulations that establish standards for the proper storage and handling of the drugs the board has authorized for use, and other provisions that may be necessary to ensure that the drugs are used safely and solely for the purpose of euthanizing animals. This administrative regulation establishes the certification requirements, standards for proper drug storage, and drugs that may be used by certified animal control agencies and the certified animal euthanasia specialists they employ.

Section 1. General Requirements. (1) The applicant animal control agency shall apply to the board for authorization as defined

by KRS 321.207.

(2) A complete application to the board shall include the following components:

(a) A completed Application for Certification as an Animal Control Agency form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments;

(b) Identification of the agency designated onsite manager;

(c) ~~[A complete national background check on the agency designated onsite manager from a board approved background check provider, which may include a copy of the applicant's fingerprints captured at a board approved office for the purpose of a national background check;~~

(d) A complete and current list of all individuals performing euthanasia activities at the animal control facility; and

(d)(e) Payment of the fee in accordance with 201 KAR 16:514.

(3) Prior to the board's issuance of the certificate of authorization, the applicant shall undergo an inspection of the facility by the board inspector or other designee of the board.

(4) Following board application approval, the applicant shall apply to DEA for registration as a practitioner and designate "animal shelter" on the appropriate DEA form.

(5) A certified animal control agency shall submit to inspection by a board representative at any time, with or without advanced notice.

(6) A certified animal control agency shall designate an onsite manager of the shelter. The agency shall notify the board in writing within ten (10) days of any change in the onsite manager of the shelter. ~~[The board is authorized to conduct a national or jurisdictional level background check on each manager. The board has the power to impose additional requirements as a condition of certification or to deny certification following the board's review of findings from a background check.]~~

(7) Background checks. The board is authorized to conduct a national or jurisdictional level background check on each designated shelter manager. The check must be processed by a board approved background check provider, and may include a copy of the designated manager's fingerprints captured at a board approved location. The board may reject background checks that do not have an official seal or watermark, or that are more than ninety (90) days old. The board has the power to impose additional requirements as a condition of certification for the animal control agency or to deny certification following the board's review of findings from a background check.

(8) Animal control agency certificate renewal requirements.

(a) An animal control agency shall renew the board certification annually in accordance with 201 KAR 16:572.

(b) Failure to renew the certificate for an animal control agency shall result in the following actions by the board:

1. The animal control agency certificate shall be moved to expired status;

2. All certified animal euthanasia specialists under the employment of the formerly certified animal control agency shall be moved to inactive status; and

3. The DEA shall be notified of the lapse in certification.

4. An animal control agency shall have five (5) years to reinstate their certificate, after which the agency must apply for a new certificate in accordance with this administrative regulation and 201 KAR 16:572.

Section 2. Approved Drugs. A certified animal control agency shall be restricted to the purchase of sodium pentobarbital and other euthanasia drugs currently approved by the American Veterinary Medical Association (AVMA) for the purpose of euthanizing animals. DEA's Schedule II order forms (titled "DEA-222") shall be used for each purchase of sodium pentobarbital or other AVMA approved euthanasia drugs.

Section 3. Records. (1) A certified animal control agency shall maintain records of purchases and administration of sodium pentobarbital and other AVMA approved euthanasia drugs for a

period of not less than two (2) years.

(2) Records of administration shall include, at a minimum, the following information:

(a) The date of use;

(b) Identification of the animal;

(c) The amount of the drug used;

(d) The signature of the person administering the drug;

(e) The signature of the onsite manager certifying the accuracy of the administration of sodium pentobarbital and other AVMA approved euthanasia drugs not less than once per month; and

(f) The signature of the onsite manager certifying to the accuracy of the records.

(3) Records of purchase and destruction of sodium pentobarbital and other AVMA approved euthanasia drugs shall be maintained in a separate file from the records of administration of such substances.

(4) The records of purchase, destruction, and administration are subject to audit by representatives of the DEA or authorized designees of the board to determine adequacy, accuracy, and validity of the recordkeeping. The board has the power to impose restrictions and administrative penalties on certificate holders as a result of substandard controls or records of said drugs.

(5) The records of purchase, destruction, and administration shall be maintained at the location of the agency.

Section 4. Storage. (1) Sodium pentobarbital and other AVMA approved euthanasia drugs shall be stored in a securely locked cabinet within a locked storage room or other enclosure at the certified animal control agency.

(2) Schedule II order forms shall be stored in a securely locked cabinet, separate from the storage location of the drugs, within a locked storage room or other enclosure at the certified animal control agency.

Section 5. Disposal of Needles and Medical Waste. All needles generated in the process of euthanizing animals shall be disposed of pursuant to KRS 217.177(6).

Section 6. Disciplinary Action. An animal control agency and its employees shall be subject to disciplinary action pursuant to KRS 321.235(7) and KRS 321.351 for a violations of state or federal statutes or administrative regulations.

STEVEN J. WILLS, DVM, Chair

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 12, 2020 at 11 a.m.

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email michelle.shane@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the application requirements for animal control agencies seeking approval to use restricted controlled substances.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the application material that the KBVE board approves as a requirement for certification.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.207 requires the board to create qualifications for authorization of applicant to seek DEA approval for use of restricted controlled substances.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly expressing what application requirements are created by the KBVE 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: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 58 animal control agencies and 211 animal euthanasia specialists, and future applicants.

(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: Applicants will be required to submit application materials as outlined in this filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs are associated with compliance, as this is a prerequisite for application.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease of clear communications of the approved requirements.

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

(a) Initially: No costs are anticipated.

(b) On a continuing basis: No costs are anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation does not establish fees. Fees for the KBVE come from licensure and certification fees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees are necessary at this time.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.207, 321.235, 321.240

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated from this filing.

(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? This is not a new program. Staff time will be required for record keeping.

(d) How much will it cost to administer this program for subsequent years? Staff time will be required for record keeping. Costs will be very minimal.

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 or negligible.

Other Explanation:

BOARDS AND COMMISSIONS Board of Veterinary Examiners (Amended After Comments)

201 KAR 16:560. Certification as an animal euthanasia specialist.

RELATES TO: KRS 321.207

STATUTORY AUTHORITY: KRS 321.235(3), 321.240(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207(3) requires the board to issue a certificate to a person who meets the qualifications of an animal euthanasia specialist and is approved by the board for a certificate. This administrative regulation establishes the qualifications for certification as an animal euthanasia specialist and the duties of an animal euthanasia specialist.

Section 1. In order to be eligible for certification as a certified animal euthanasia specialist an applicant shall:

(1) Be twenty-one (21) years of age;

(2) Be of good moral character;

(3) Not have been convicted of, or entered an "Alford" plea or plea of nolo contendere to, irrespective of an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of such plea, one (1) or more of the following in the last ten (10) years:

(a) A felony;

(b) An act involving moral turpitude or gross immorality; or

(c) A violation of any law, rule, or administrative regulation of this state, any other state, or the United States government which involves the use or trafficking of illegal substances;

(4) Have received a high school diploma or general equivalency degree (GED);

(5) Paid the initial certification fee as specified in 201 KAR 16:514;

(6) Be employed by a board certified animal control agency; and

(7) Complete a board approved sixteen (16) hour euthanasia specialist training course as set forth in Section 2 of this administrative regulation within ten (10) years prior to application.

Section 2. Euthanasia Specialist Training Course Curriculum.

(1) The curriculum for the sixteen (16) hour euthanasia specialist course shall provide information on the following subjects:

(a) Pharmacology, proper administration, and storage of euthanasia solutions that shall consist of a minimum of eight (8) hours;

(b) Federal and state laws regulating the storage and accountability for euthanasia solutions;

(c) Euthanasia specialist stress management;

(d) Proper animal handling with emphasis on easing the trauma and stress to the animal; and

(e) Disposal of euthanized animals.

(2) A training course for a euthanasia specialist shall be reviewed and approved by the board prior to presentation. A provider of a euthanasia specialist training shall submit the following information to the board:

(a) A published course or similar description;

(b) Names and qualifications of current instructors;

(c) A copy of the program agenda indicating hours of education, coffee, and lunch breaks;

(d) A copy of the full program curriculum;

(e) A copy of an official certificate of completion from the sponsoring agency; and

(f) Upon completion of the instruction of a sixteen (16)-hour euthanasia course, a complete attendee list to the board, including

the following:

1. The dates and locations of the course;
2. Each attendee's full name and address; and
3. Notation by an individual's name if the course was not completed.

Section 3. An application to the board for certification/licensure as a [certified] animal euthanasia specialist shall include the following components:

(1) A completed application on an Application for Certification as an Animal Euthanasia Specialist form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments;

(2) An official copy of final transcripts or a copy of the applicant's diploma from high school, or GED certificate, or highest level of education attained;

(3) A copy of a certificate of completion from a board approved sixteen (16)-hour euthanasia training course; and

(4) ~~[A complete national background check from a board approved background check provider, which may include a copy of the applicant's fingerprints captured at a board approved office for the purpose of a national background check; and~~

(5)] Payment for the application fee pursuant to 201 KAR 16:514.

Section 4. An individual with an expired animal euthanasia specialist certificate may reinstate their certificate. Reinstatement applications seeking board approval for certification as an animal euthanasia specialist shall include the following components:

(1) A completed application on a Reinstatement Application for Animal Euthanasia Specialists form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments;

(2) ~~[A complete national background check from a board approved background check provider, which may include a copy of the applicant's fingerprints captured at a board approved office for the purpose of a national background check; and~~

(3)] Payment for the application fee pursuant to 201 KAR 16:514.

Section 5. An application to the board for approval for a change in licensure status shall include the following components:

(1) A completed application on a Request for Licensure Status Change as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments; and

(2) Payment for the application fee pursuant to 201 KAR 16:514.

Section 6. Background checks. The board is authorized to conduct a national or jurisdictional level background check on each applicant for certification. The check must be processed by a board approved background check provider, and may include a copy of the applicant's fingerprints captured at a board approved location. The board may reject background checks that do not have an official seal or watermark, or that are more than ninety (90) days old. The board has the power to impose additional requirements as a condition of certification or to deny certification following the board's review of findings from a background check.~~[The board is authorized to conduct a national or jurisdictional background check on each applicant for licensure. The board has the power to impose additional requirements as a condition of licensure or deny licensure following the board's review of findings from a background check.]~~

Section 7. Employment and Termination.

(1) A person may function as a certified animal euthanasia specialist only while he or she remains employed by a certified animal control agency in the Commonwealth of Kentucky.

(2) Upon termination of employment with a certified animal control agency or upon expiration of the certified animal control

agency's certificate, a certified animal euthanasia specialist's certificate status shall automatically be moved by the board from an active to inactive status. The inactive certified individual shall not perform animal euthanasia until he or she has obtained employment with a certified animal control agency with a certificate in active status, and applied to the board and been approved to move the animal euthanasia specialist certificate back into active status.

Section 8. Duties of a Certified Animal Euthanasia Specialist. The duties of certified animal euthanasia specialist shall include the following:

- (1) Preparing animals for euthanasia;
- (2) Carefully and accurately recording dosages, administration, and drug waste;
- (3) Ordering supplies and drugs;
- (4) Maintaining the security of all controlled substances and drugs in accordance with 201 KAR 16:550 and other applicable federal, state, and local laws;
- (5) Reporting to the board any infraction of KRS Chapter 321 or the administrative regulations promulgated thereunder;
- (6) Humanely euthanizing animals;
- (7) Disposing of the bodies in a manner consistent with KRS 257.160;
- (8) Maintaining his or her certification;
- (9) Reporting to the board any change of address within thirty (30) days; and
- (10) Providing a written response to a grievance or inquiry from the board within thirty (30) days of receipt.

Section 9. Approved Methods of Euthanasia. (1) A certified animal euthanasia specialist shall perform euthanasia by means of lethal injection on an animal by use of sodium pentobarbital or other AVMA approved euthanasia drug and AVMA approved administration methodology, in a manufactured dosage form, whose only indication is for euthanizing animals.

(2) When using a lethal solution to perform euthanasia on an animal, a certified animal euthanasia specialist shall use the appropriate solution in accordance with the following methods and in the following order of preference:

- (a) Intravenous injection by hypodermic needle;
- (b) Intraperitoneal injection by hypodermic needle;
- (c) Intracardial injection by hypodermic needle, but only on a sedated or unconscious animal;
- (d) Solution or powder added to food.

Section 10. Disciplinary Action. A certified animal euthanasia specialist shall be subject to disciplinary action pursuant to KRS 321.235(7) and 321.351 for violations of state or federal statutes or regulations.

STEVEN J. WILLS, DVM, Chair

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 12, 2020 at 11 a.m.

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email michelle.shane@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle Shane

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This regulation establishes the application requirements for animal euthanasia specialists.
 - (b) The necessity of this administrative regulation: This regulation is necessary to establish the application material that the KBVE board approves as a requirement for licensure.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.207 requires the board to create qualifications for authorization of applicant to seek board approval as an animal euthanasia specialists.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly expressing what application requirements are created by the KBVE 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: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 211 animal euthanasia specialists, and future applicants.

(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: Applicants will be required to submit application materials as outlined in this filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs are associated with compliance, as this is a prerequisite for application.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease of clear communications of the approved requirements.

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

(a) Initially: No costs are anticipated.

(b) On a continuing basis: No costs are anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation does not establish fees. Fees for the KBVE come from licensure and certification fees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees are necessary at this time.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.207, 321.235, 321.240

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated from this filing.

(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? Staff time will be required for record keeping.

(d) How much will it cost to administer this program for subsequent years? Staff time will be required for record keeping. Costs will be very minimal.

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 or negligible.

Other Explanation:

BOARDS AND COMMISSIONS Board of Veterinary Examiners (Amended After Comments)

201 KAR 16:572. License renewal for registered animal control agencies and animal euthanasia specialists; renewal notice.

RELATES TO: KRS 321.207

STATUTORY AUTHORITY: KRS 321.207, 321.235(3), 321.240(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.207 requires the board to issue a certificate or registration to all agencies being qualified to register with the United States Drug Enforcement Administration (DEA) to purchase, possess, and use board authorized controlled substances, and to all persons qualified to engage in the practice of animal euthanasia in the Commonwealth of Kentucky. This administrative regulation requires a renewal notice to all registered animal control agencies and animal euthanasia specialists and requires all registered animal control agencies and animal euthanasia specialists to complete the renewal application and return it, along with the renewal fee to the board. It further requires all registered animal control agencies and animal euthanasia specialists to keep the board apprised of the legal name and current address of the licensee.

Section 1. (1) The board shall, not later than February 1 of each year, email or mail to each registered animal control agencies and animal euthanasia specialists a renewal notice.

(2) The renewal application shall be completed by the certified entity and returned to the board, including all required attachments and fees.

(3) Timely receipt of renewal application.

(a) Renewals bearing a postmark, or, in the case of online renewal, a timestamp, of March 1 or earlier shall be considered received on time.

(b) Renewals bearing a postmark, or, in the case of online renewal, a timestamp, between March 2 and April 30 shall be considered late and therefore incur a late fee pursuant to 201 KAR 16:514.

(5) The renewal fee shall be attached to the completed renewal form when it is returned to the board.

(a) For certified animal control agencies, the renewal form is the Renewal Application for Animal Control Agencies form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments.

(b) For certified animal euthanasia specialists, the renewal form is the Renewal Application for Animal Euthanasia Specialists form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments.

(5) The renewal fee shall be paid in accordance with 201 KAR 16:514.

Section 2. The board shall not be held responsible or liable for lost renewal notices, or renewal notices not received, or not received on time. (1) Regardless of cause, the board has no obligation to refund money to a certificate holder who fails to renew in a timely manner pursuant to Section 1(3) of this administrative regulation.

(2) If a certificate holder fails to renew by the grace period deadline, the certificate shall expire. The former certificate holder has not more than five (5) years from the date of expiration to apply for reinstatement of the license in accordance with 201 KAR 16:550 and 201 KAR 16:560. A reinstatement application is required during this period; an application for a new license will not be accepted until five (5) years after the last date of expiration.

Section 3. Current contact information must be on file with the board. (1)(a) Every certified animal control agency shall file a proper and current mailing address with the board at its principal office and shall within thirty (30) days notify the board of any changes of the agency's mailing address.

(b) Every certified animal control agency shall file an update with the board to notify the board of any changes to the designated onsite manager tasked with management of controlled substances and the euthanasia program pursuant to 201 KAR 16:550, or of any changes of the onsite manager's legal name or personal address. **Updates may be filed on the annual renewal form or online equivalent form, or on the Request to Designate a New Agency Onsite Manager form or online equivalent form, including all required attachments.**

(c) **Background checks.** For new agency designated onsite managers, **the board is authorized to conduct a national or jurisdictional level background check on each designated onsite manager. The check must be processed by a board approved background check provider, and may include a copy of the designated manager's fingerprints captured at a board approved location. The board may reject background checks that do not have an official seal or watermark, or that are more than ninety (90) days old. The board has the power to impose additional requirements as a condition of certification or to deny certification following the board's review of findings from a background check.**~~[the certified animal control agency shall submit a complete national background check from a board approved background check provider, which may include a copy of the applicant's fingerprints captured at a board approved office for the purpose of a national background check.]~~ The results shall be submitted to the board within thirty (30) days of designating a new onsite manager.

(2) Every certified animal euthanasia specialist shall file his or her legal name and proper and current mailing address with the board at its principal office and shall within thirty (30) days notify the board of any changes of his or her legal name or mailing address. **Updates may be filed on the annual renewal form or online equivalent form, or on the Request to Designate a New Agency Onsite Manager form or online equivalent form, including all required attachments.**

STEVEN J. WILLIS, DVM, Chair

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 12, 2020 at 11 a.m.

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email michelle.shane@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the requirements for agencies and persons seeking to renew an animal control agency certification or an animal euthanasia specialist certification.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the material that the KBVE board approves as a requirement for licensure renewal.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.207 which requires the board to approve materials needed for renewals of animal control agency certification or an animal euthanasia specialist certification.

(d) How this administrative regulation currently assists or will

assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly expressing what renewal requirements are created by the KBVE.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 58 certified animal control agencies, 211 certified animal euthanasia specialists, and future applicants.

(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: Applicants will be required to submit renewal materials as outlined in this filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs are associated with compliance, as this is a prerequisite for renewal.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease of clear communications of the approved requirements.

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

(a) Initially: Costs of review and administration.

(b) On a continuing basis: Costs of review and administration.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation does not establish fees. Fees for the KBVE come from license and certification fees that are established in 201 KAR 16:510 – 16:516.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees are necessary at this time.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established. 201 KAR 514 establishes the renewal fees for animal control agency certification or an animal euthanasia specialist certification.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.207, 321.235, 321.240

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated from this filing.

(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? This is not a new program. Staff time will be required for record keeping.

(d) How much will it cost to administer this program for subsequent years? Staff time will be required for record keeping. Costs will be very minimal.

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 or negligible.

Other Explanation:

BOARDS AND COMMISSIONS
Board of Veterinary Examiners
(Amended After Comments)

201 KAR 16:580. Board issued licenses and certificates, inactive and retired statuses.

RELATES TO: KRS 321.207, 321.211, 321.441

STATUTORY AUTHORITY: KRS 321.190, 321.211, 321.235(3), 321.240(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.441 provides for the establishment of conditions under which retired or inactive licenses may be renewed. This administrative regulation sets forth those conditions.

Section 1. Inactive License Status for Veterinarians and Veterinary Technicians. (1) A veterinarian or veterinary technician licensee of the board with a license in active status may request inactive licensure status by:

(a) Submitting a completed application Request for Licensure Status Change form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments; or

(b) Designating his or her intent to convert to inactive status on the appropriate renewal form for that license type during a renewal period.

(2) A licensee whose license is designated with an inactive status shall pay a renewal fee during each license cycle in accordance with 201 KAR 16:510 for veterinarians and 201 KAR 16:512 for veterinary technicians.

(3) No continuing education credits are required for licensees in inactive status.

(4) A licensee whose license is in an inactive status shall request reinstatement to an active license status by:

(a) Submitting a completed reinstatement application or online equivalent form provided by the board, including all required attachments, or designating intent to reinstate to active status on the appropriate renewal form for that license type during a renewal period; **and**

(b) Providing proof of continuing education in accordance with 201 KAR 16:590; ~~and~~

~~(c) Providing a complete national background check from a board approved background check provider, which may include a copy of the applicant's fingerprints captured at a board approved office for the purpose of a national background check.]~~

(5) There shall be no time limit on the number of years a veterinarian's license or veterinary technician's license may remain in an inactive status.

(6) A licensee whose license is in an inactive status shall not practice his or her profession in any capacity within the Commonwealth of Kentucky as long as the license remains in inactive status.

Section 2. Inactive License Status for Animal Euthanasia Specialists. (1) A certified animal euthanasia specialist with a certificate in active status may request inactive licensure status by:

(a) Submitting a completed application Request for Licensure Status Change form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments; or

(b) Designating his or her intent to convert to inactive status on the appropriate renewal form during a renewal period.

(2) A certified animal euthanasia specialist with a certificate in active status may be moved to inactive licensure status by the board if:

(a) His or her employment is severed with the animal control agency of record with the certificate holder's file; or

(b) The animal control agency employing the animal euthanasia specialist fails to renew its certificate in a timely manner.

(3) A certified animal euthanasia specialist whose certificate is designated with a status of inactive shall not pay a renewal fee.

(4) A certified animal euthanasia specialist whose certificate is in an inactive status shall request reinstatement to an active certificate status by:

~~(a)] submitting a completed reinstatement application on a form provided by the board, including all required attachments, or designating his or her intent to reinstate to active status on the appropriate renewal form for that certificate type during a renewal period; and~~

~~(b) Providing a complete national background check from a board approved background check provider, which may include a copy of the applicant's fingerprints captured at a board approved office for the purpose of a national background check.]~~

(5) A certified animal euthanasia specialist whose certificate is in an inactive status due to a board action can have their certificate reinstated to active status by an action of the board following the reinstatement of the certified animal control agency where the animal euthanasia specialist is employed.

(6) An animal euthanasia specialist certificate in inactive status shall expire after five (5) years.

(7) A certificate holder whose license is in an inactive status shall not practice his or her profession in any capacity within the Commonwealth of Kentucky as long as the certificate remains in inactive status.

Section 3. Background checks. The board is authorized to conduct a national or jurisdictional level background check on each applicant for reinstatement of licensure or certification. The check must be processed by a board approved background check provider, and may include a copy of the applicant's fingerprints captured at a board approved location. The board may reject background checks that do not have an official seal or watermark, or that are more than ninety (90) days old. The board has the power to impose additional requirements as a condition of licensure or certification or to deny licensure or certification following the board's review of findings from a background check.

Section 4. Retired License Status. (1) A licensee of the board may request retired status by:

(a) Submitting a completed application Request for Licensure Status Change form as found in 201 KAR 16:700 or online equivalent form provided by the board, including all required attachments; or

(b) Designating his or her intent to convert to retired status on the appropriate renewal form for that license type during a renewal period.

(2) A licensee whose license is designated in a retired status shall pay a one-time fee in accordance with 201 KAR 16:510 for veterinarians and 201 KAR 16:512 for veterinary technicians.

(3) Once a license has been designated in a retired status, the license cannot be reinstated.

(a) The board shall not authorize a person whose license is in a retired status to reinstate his or her license.

(b) A person whose license is in a retired status who desires to practice again must complete and submit a new application for licensure to the board in accordance with 201 KAR 16:540.

(4) A person whose license is a retired status shall not be able to practice his or her profession in any capacity within the Commonwealth of Kentucky unless he or she holds a new, separate license issued by the board.

STEVEN J. WILLS, DVM, Chair

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 12, 2020 at 11 a.m.

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email michelle.shane@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the requirements for persons with a veterinary license or veterinary technician license that seek retirement or inactive status for that license, and parameters for the inactivation of animal euthanasia specialist certificates.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the KBVE board procedure for licensure retirement or inactive statuses.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.221 requires the board to create a procedure for licensure retirement or inactive status.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly expressing what requirements by the KBVE board for licensure and certificate retirement or inactive status.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 2528 veterinary licenses, 441 veterinary technician licenses, 211 animal euthanasia specialists, and future applicants.

(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: Applicants for licensure status change will be required to submit application materials as outlined in this filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs are associated with compliance, as this is a prerequisite for change in licensure or certificate status.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease of clear communications of the approved requirements.

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

(a) Initially: No costs are anticipated.

(b) On a continuing basis: No costs are anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation does not establish fees. Fees for the KBVE come from license and certification fees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees are necessary at this time.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.190, 321.193, 321.211, 321.221, 321.235, 321.240, 321.441

(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 from this filing.

(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? Staff time for record keeping.

(d) How much will it cost to administer this program for subsequent years? Staff time will be required for record keeping. Costs will be very minimal.

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 or negligible.

Other Explanation:

BOARDS AND COMMISSIONS

Board of Veterinary Examiners

(Amended After Comments)

201 KAR 16:590. Continuing education requirements, veterinarians and veterinary technicians.

RELATES TO: KRS 321.211, 321.221, 321.235, 321.441

STATUTORY AUTHORITY: KRS 321.211, 321.235(3), 321.240(5), 321.441

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.211(7) authorizes the board to require a person applying for renewal or reinstatement to show evidence of completion of continuing education. This administrative regulation establishes the requirements for continuing education hours relating to the practice of veterinary medicine and veterinary technicians.

Section 1. Continuing Education Requirements for License Renewal.

(1) A veterinarian shall complete biennially thirty (30) hours of continuing education to be eligible for renewal of his or her license. At least twenty (20) of the thirty (30) hours shall be directly related to the practice of veterinary medicine. No more than ten (10) of the thirty (30) hours shall pertain to practice management or other topics that are not directly related to the practice of veterinary medicine.

(2) A veterinary technician shall annually complete six (6) hours of continuing education to be eligible for renewal of his or her license.

(3) In addition to attendance at a conference, lecture, or seminar, a veterinarian or veterinary technician may complete the hours of continuing education required for renewal by the completion of audio or video recordings or electronic, computer, or interactive material prepared or approved by any of the organizations established in Section 2(1) and (2) of this administrative regulation. There is no limit to the number of online hours a licensee may apply to his or her renewal.

(4) Continuing education shall be earned from October 1 of each renewal period until September 30 at the end of the period, or until November 30 at the end of the grace period with the addition of a late fee.

(a) A licensee may apply continuing education hours to only one (1) renewal cycle. Continuing education hours earned for a given course may not be applied to the total required hours again in the following renewal cycle.

(5) A veterinarian applying for renewal after completing his or her initial term of licensure after graduating from a veterinary college may complete a reduced number of hours of continuing education to be eligible for renewal as established in this subsection:

(a) A veterinarian completing his or her initial term of licensure who graduated from a veterinary college during the first year of the preceding biennium shall complete fifteen (15) hours of continuing education to be eligible for renewal. This paragraph shall not apply to applicants for licensure by endorsement under KRS 321.221.

(b) Continuing education requirements shall be waived for a veterinarian completing his or her initial term of licensure who graduated during the second year of the preceding biennium. This paragraph shall not apply to applicants for licensure by endorsement under KRS 321.221.

(6) For a veterinary technician, continuing education requirements shall be waived for a new licensee completing his or her initial term of licensure who also graduated within 12-months of initial licensure. This paragraph shall not apply to applicants for licensure by endorsement.

(7) A veterinarian or veterinary technician may submit a written request to the board for approval of a fellowship, internship, or residency in lieu of the continuing education hours required for license renewal. Continuing education requirements shall be waived when the written request has been approved by the board. The request must include a letter of verification from an authorized representative of the organization providing the fellowship, internship, or residency opportunity; must be printed on the organization's letterhead; and must provide a description of the position itself, a summary of assigned tasks, and the anticipated or completed beginning and ending dates of the position.

(8) [(7)] Continuing education requirements for reinstatement applications:

(a) For veterinarians, thirty (30) hours in a twenty four (24) month period prior to the date of application; and

(b) For veterinary technicians, six (6) hours in a twelve (12) month period prior to the date of application.

Section 2. Approved Continuing Education Courses.

(1) The board hereby approves the following continuing education courses:

(a) All scientific programs of the American Veterinary Medical Association (AVMA), its constituent organizations, and its recognized specialty groups and accredited veterinary medical institutions whose meetings impart educational material directly relating to veterinary medicine;

(b) Programs approved by the Registry of Approved Continuing Education (RACE) of the American Association of Veterinary State Boards (AAVSB);

(c) Accreditation modules offered by the United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS), and

(d) All programs approved by the board pursuant to subsection (2) of this section.

(2) By a majority vote, the board may approve programs that are deemed to impart knowledge directly relating to the practice of veterinary medicine, including but not limited to the utilization and

application of new techniques, scientific and clinical advances, and the achievement of research to assure expansive and comprehensive care to the public.

Section 3. Continuing Education Documentation Requirements.

(1) A licensee shall:

(a) Secure documentation of completed attendance at a course, detailing the hours earned;

(b) Submit on the Renewal Application for Veterinarians form or Renewal Application for Veterinary Technicians form as found in 201 KAR 16:700 or online equivalent forms provided by the board, as appropriate, the name, dates, and identifying information for each course he or she attended;

(c) Retain copies of continuing education documentation for a period of four (4) years from the date of licensure renewal.

(2) The board may require an applicant or licensee to submit copies of documentation of his or her attendance at continuing education courses.

Section 4. Continuing Education Requirement Waivers. (1) The board may, in individual cases involving medical disability or illness, grant waivers of the continuing education requirements or extensions of time within which to fulfill the same or make the required reports.

(a) A written request for an extension or waiver of continuing education requirements for medical disability or illness reasons waiver or extension of time shall be submitted by the licensee. The board may require a signed document from a physician or other health care provider to verify the licensee's claimed disability or illness.

(b) A waiver of the minimum continuing education requirements or an extension of time within which to fulfill the requirements shall not be granted by the board for a period of time exceeding one (1) calendar year.

(c) If the medical disability or illness upon which a waiver or extension has been granted persists beyond the period of the waiver or extension, the licensee shall have the option to apply for another extension.

(2) The board shall grant a waiver to a licensee who is unable to meet the continuing education requirements of this administrative regulation because of obligations arising from military duty.

(a) A licensee engaged in active military duty and deployed outside the United States for more than eight (8) months shall not be required to complete the continuing education requirement for licensure periods during which that status exists.

(b) A licensee who is called to active duty in the armed forces shall not be required to complete the continuing education requirement for licensure periods during which that status exists.

(c) The licensee requesting an extension or waiver pursuant to this subsection shall submit with his or her renewal or reinstatement paperwork, the appropriate military assignment form, deployment orders, or a statement from the licensee's unit commander confirming the call-up or deployment.

STEVEN J. WILLS, DVM, Chair

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 12, 2020 at 11 a.m.

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email michelle.shane@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the continuing education requirements for persons seeking a veterinary license or veterinary technician license renewal or reinstatement.

(b) The necessity of this administrative regulation: This

regulation is necessary to establish the continuing education material that the KBVE board approves as a requirement for licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.211 and 321.441 each require the board to approve continuing education for veterinary and veterinary technician licenses.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly expressing what continuing education requirements are created by the KBVE 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: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 2528 veterinary licenses, 441 veterinary technician licenses, and future applicants.

(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: Applicants will be required to submit application materials as outlined in this filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs are associated with compliance, as this is a prerequisite for application.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease of clear communications of the approved requirements.

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

(a) Initially: No costs are anticipated.

(b) On a continuing basis: No costs are anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation does not establish fees. Fees for the KBVE come from license and certification fees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees are necessary at this time.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.221, 321.235, 321.240, 321.441

(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 from this filing.

(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? This is not a new program. Staff time is required for record keeping.

(d) How much will it cost to administer this program for subsequent years? Staff time will be required for record keeping. Costs will be very minimal.

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 or negligible.

Other Explanation:

BOARDS AND COMMISSIONS

Board of Veterinary Examiners (Amended After Comments)

201 KAR 16:600. Prescription and dispensation of drugs for animal use.

RELATES TO: KRS 321.181(5)(b)

STATUTORY AUTHORITY: KRS 321.235(3), 321.240(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.181(5)(b) provides that the practice of veterinary medicine includes the prescribing, administering, or dispensing of drugs and medications for veterinary purposes. KRS 321.235(3) and 321.240(5) authorize the board to promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 321. This administrative regulation establishes a procedure for the prescription and dispensation of drugs by licensed veterinarians for use in animals.

Section 1. Definitions. (1) "Legend drug" means veterinary prescription drug.

(2) "Prescription" means an order from a veterinarian to a pharmacist or another veterinarian authorizing the dispensing of a veterinary prescription drug to a client for use on or in a patient;

(3) "Veterinary drug" means:

(a) A drug for animal use recognized in the official United States Pharmacopoeia or official National Formulary of the United States;

(b) A drug intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals;

(c) A drug, other than feed, medicated feed, or a growth promoting implant intended to affect the structure or function of the body of an animal; or

(d) A drug intended for use as a component of a drug in paragraph (a), (b), or (c).

(4) "Veterinary prescription drug" means:

(a) A drug that is not safe for animal use without a veterinarian using or ordering the use of the product, and that is required by federal law to bear the following statement: "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian";

(b) A drug that is required by state law to be dispensed only on order or prescription of a licensed veterinarian;

(c) The extra-label use of an over-the-counter animal drug or human drug; and

(d) A medicament compounded by mixing two (2) or more legally-obtained over-the-counter or prescription drugs.

Section 2. Prescribing and Dispensing. (1) A veterinary prescription shall include all of the following:

(a) The name and address of the veterinarian and, if the prescription is a written order, the signature of the veterinarian;

- (b) The name and address of the client;
- (c) The species and identity of the patient for which the prescription is issued;
- (d) The name, strength, and quantity of the drug prescribed;
- (e) The date on which the prescription is issued;
- (f) The directions for administering the drug;
- (g) If the patient is a food producing animal, the withdrawal time for the veterinary drug;
- (h) If the prescription authorizes extra-label use, the manner in which the client may use the drug;
- (i) Any cautionary statements required by law; and
- (j) Number of refills allowed, not to exceed the limitations set forth in Section 6(2) of this administrative regulation.

(2) A veterinarian shall not prescribe for or dispense to a client a veterinary prescription drug or a drug for extra-label use without first personally examining the patient unless a veterinarian-client-patient relationship (VCPR) already exists between the prescribing veterinarian, client and patient, and the veterinarian determines that the client has sufficient knowledge to administer the drug properly.

(3) A veterinarian shall not prescribe or dispense a veterinary prescription drug to a client unless the veterinarian indicates in the appropriate records described in Section 4 of this administrative regulation, within seventy-two (72) hours after the prescription is issued or the drug is dispensed, that the prescription has been issued or that the drug has been dispensed.

(4) A veterinarian shall not prescribe a drug to a client for extra-label use on a patient unless all of the following apply:

(a) The VCPR exists between the veterinarian, client and patient, and the veterinarian has made a careful medical diagnosis of the condition of the patient within the context of that VCPR;

(b) The veterinarian determines that there is no drug that is marketed specifically to treat the patient's diagnosed condition, or determines that all of the drugs that are marketed for that purpose are clinically ineffective;

(c) The veterinarian recommends procedures to ensure that the identity of the patient(s) receiving the drug can be readily ascertained in the future; and

(d) If the patient is a food producing animal, the veterinarian prescribes a sufficient time period for drug withdrawal before the food from the patient may be marketed.

(5) A veterinarian shall not transmit a prescription electronically unless the client approves the transmission and the prescription is transmitted to a pharmacist or veterinarian designated by the client.

(6) A veterinarian shall not refuse to write an otherwise appropriate prescription for a patient with a valid VCPR solely because the prescription may be filled at an establishment other than the veterinarian's own clinic or pharmacy.

Section 3. Labeling. (1) A veterinarian shall not dispense a drug that has been prepared, mixed, formulated, or packaged by the veterinarian unless the veterinarian affixes to the container in which the drug is dispensed a label containing all of the information specified in Section 2(1) of this administrative regulation, except the address of the client.

(2) A veterinarian shall not dispense a veterinary prescription drug that has been prepackaged by its manufacturer for dispensing unless the veterinarian affixes to the container in which the drug is dispensed a label containing all of the information specified in Section 2(1) of this administrative regulation, except the address of the client.

(3) A veterinarian may dispense a veterinary over-the-counter drug without affixing any information to the container in which the drug is dispensed if a label that has been affixed to the container by its manufacturer provides adequate information for its use.

Section 4. Prescription Records. (1) A veterinarian shall maintain complete records of each veterinary prescription drug that the veterinarian receives, prescribes, dispenses, or administers, and of each prescription issued by the veterinarian that authorizes extra-label use.

(2) Records of each veterinary prescription drug shall include

the name of each veterinary prescription drug that is received, the name and address of the person from whom the drug is received, and the date and quantity received, the name and address of the person to whom the drug is dispensed, and the date and quantity dispensed, and, if the veterinarian prescribes or administers the drug, the information specified in Section 2(1) of this administrative regulation.

(3) Records of each prescription authorizing extra-label use shall include the information specified in Section 2(1) of this administrative regulation.

(4) A veterinarian shall maintain records of each veterinary prescription drug for at least five (5) years after the date on which the veterinarian prescribes, dispenses or administers the drug or extra-label use.

Section 5. (1) A veterinarian may refuse to write a prescription for controlled substances or a prescription for any medication that, in the veterinarian's medical judgment, is not appropriate for the patient's medical care.

(2) A veterinarian may refuse to write a prescription if it is not directly requested by a client with whom there is, in the veterinarian's opinion, a current and existing VCPR.

(3) A prescription shall be construed to include any manner of authorization for filling a prescription, including verbal or electronic communication.

(4) The veterinarian may delegate to an office employee the authority to communicate a refill of a legend drug to the pharmacy on behalf of the veterinarian pursuant to written protocol established prior to the delegation of that authority.

Section 6. (1) A veterinarian shall ensure that federal legend drugs and veterinary prescription drugs are maintained, logged, administered, prescribed, dispensed, and destroyed in compliance with state and federal laws.

(2) A veterinarian shall not prescribe or dispense a quantity of drug that is greater than that the amount required for one (1) year of treatment for an animal, herd, or flock.

(3) To prescribe, sell, distribute, or dispense any drug requiring a prescription for use in the context of an animal, herd, or flock, a veterinarian shall first do all of the following:

(a) Perform an appropriate history and physical examination;

(b) Make a diagnosis based upon the history, physical examination, and pertinent diagnostic and laboratory tests;

(c) Formulate a therapeutic plan, and discuss it with the animal's owner (or the owner's agent), along with the basis for it and the risks and benefits of various treatments options, a part of which might be a prescription drug; and

(d) Ensure availability of the veterinarian or the veterinarian's staff for appropriate follow-up care.

Section 7. **Rabies vaccine administration. The administration of a rabies vaccine must be in accordance with the provisions of KRS 258.015 and 902 KAR 2:070.**

Section 8. (1) A veterinarian may dispense a prescription drug only if the prescribing veterinarian has established a VCPR.

(2) If the dispensing veterinarian does not have a VCPR, a licensed veterinary technician or a veterinary assistant may assist in the delivery of a veterinary drug, legend drug, or veterinary prescription drug only while he or she is under the direct supervision of a licensed veterinarian.

(3) If the dispensing veterinarian does have a VCPR, a licensed veterinary technician or veterinary assistant may assist in the delivery of a veterinary drug, legend drug, or veterinary prescription drug while he or she is under the indirect supervision of a licensed veterinarian.

(4) If a licensed veterinary technician or a veterinary assistant acts under the provisions of this section, it shall be the responsibility of the licensed veterinarian to ensure that the requirements of this administrative regulation are met.

Section 9.**[8.]** Enforcement. Except as provided in this section of this administrative regulation, if the board has reason to believe

that a veterinarian or person claiming to be a veterinarian[person] is violating or has violated this administrative regulation, the board may:

(1) Inspect the premises on which the veterinarian or person claiming to be a veterinarian[person] possesses, prescribes, dispenses, labels or administers veterinary drugs;

(2) Inspect relevant records, equipment, materials, containers, or facilities;

(3) Collect samples of veterinary drugs found on the premises; and

(4) Conduct any other investigative activities necessary to open a case and issue a determination and, if necessary, hold hearings and enact discipline on the individual.

STEVEN J. WILLIS, DVM, Chair

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 12, 2020 at 11 a.m.

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email michelle.shane@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the requirements for persons with a veterinary license for prescription and dispensation of drugs for animal use.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the KBVE board requirements for prescription and dispensation of drugs for animal use.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321.235 and 321.240 each require the board to create requirements for prescription and dispensation of drugs for animal use. This filing fulfills that requirement.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly expressing what requirements are created by the KBVE board for prescription and dispensation of drugs for animal use.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 2528 veterinary licensees, and future applicants.

(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: Applicants will be required to follow approved procedures as outlined in this filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs are associated with compliance as the requirement is record keeping.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease of clear communications of the board approved requirements.

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

(a) Initially: No costs are anticipated.

(b) On a continuing basis: No costs are anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation does not establish fees. Fees for the KBVE come from licensure and certification fees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees are necessary at this time.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321.235, 321.240

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated from this filing.

(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? This is not a new program. The licensee is required to keep the records. KBVE may have costs if inspecting or investigating a licensee.

(d) How much will it cost to administer this program for subsequent years? The licensee is required to keep the records. KBVE may have costs if inspecting or investigating a licensee.

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 or negligible.

Other Explanation:

BOARDS AND COMMISSIONS Board of Veterinary Examiners (Amended After Comments)

201 KAR 16:700. Material Incorporated by Reference.

RELATES TO: KRS 321.235, 321.351, 321.360

STATUTORY AUTHORITY: KRS 321.235(3), 321.240(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 321 authorizes the KBVE to promulgate administrative regulations to prescribe rules for veterinary medicine in the Commonwealth of Kentucky. This administrative regulation incorporates the materials and forms used in the in 201 KAR Chapter 16.

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

(a) "Application for Certification as an Animal Control Agency", 2020[2019];

(b) "Application for Certification as an Animal Euthanasia Specialist", 2019;

(c) "Application for Licensure as a Veterinarian," 2020[2019];

(d) "Application for Licensure as a Veterinary Technician",

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2020[2019];

(e) "Application for Retake of the NAVLE," 2020[2019];

(f) "Authorization for the Release of Medical Records",

2020[2019];

(g) "Grievance Form," 2020[2019];

(h) "Reinstatement Application for Animal Control Agencies",

2020[2019];

(i) "Reinstatement Application for Animal Euthanasia Specialists", 2019;

(j) "Reinstatement Application for Veterinarians", 2020[2019];

(k) "Reinstatement Application for Veterinary Technicians",

2020[2019];

(l) "Renewal Application for Animal Control Agencies",

2020[2019];

(m) "Renewal Application for Animal Euthanasia Specialists", 2019;

(n) "Renewal Application for Veterinarians", 2020[2019];

(o) "Renewal Application for Veterinary Technicians,"

2020[2019];

(p) "Request for Continuing Education Approval", 2020[2019];

(q) "Request for Licensure Status Change", 2020[2019];

(r) "Request for Licensure Verification", 2020[2019];

(s) "Request for Mailing List", 2020[2019]; and

(t) "Request for Name or Address Change", 2020[2019];

(u) "Request for Printed Credentials", 2020; and

(v) "Request to Designate a New Agency Onsite Manager".

2020.

(2) These materials may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. These materials may also be obtained at www.kybve.com.

STEVEN J. WILLS, DVM, Chair

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 12, 2020 at 11 a.m.

CONTACT PERSON: Michelle Shane, Executive Director, Kentucky Board of Veterinary Examiners, 107 Corporate Drive, Second Floor, Frankfort Kentucky 40601, phone (502) 782-0273, fax (502) 695-5887, email michelle.shane@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michelle Shane

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the materials incorporated by reference for the KBVE.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the materials incorporated by reference for the KBVE.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 321 charged the KBVE with regulation of veterinary medicine. This filing establishes the materials incorporated by reference for the KBVE that are necessary to fulfill that function.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by clearly expressing what forms are used by the KBVE.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 2528 veterinary licenses, 441 veterinary

technician licenses, 58 animal control agency certificate holders, 211 animal euthanasia specialist certificate holders, and future applicants.

(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: Persons interacting with the KBVE will be required to use the forms in this filing in compliance with the requirements of 201 KAR Chapter 16.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No costs are associated with compliance, as this is a prerequisite for KBVE interaction.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease and public understanding of a consolidated list of all materials incorporated by reference and all forms utilized by the KBVE.

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

(a) Initially: No costs are anticipated.

(b) On a continuing basis: No costs are anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation does not establish fees. Fees for the KBVE come from license and certification fees.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees are necessary at this time.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 321, 321.235, 321.240

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated from this filing.

(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? This is not a new program. Staff time for record keeping.

(d) How much will it cost to administer this program for subsequent years? Staff time will be required for record keeping. Costs will be very minimal.

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 or negligible.

Other Explanation:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education

Department of Education
(Amended After Comments)

780 KAR 2:060. Discipline of students.

RELATES TO: KRS 156.802(3)[154B.025(3)], 158.150, 158.444

STATUTORY AUTHORITY: KRS 156.802(3)[154B.025(3)], 156.852 [154B.150]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.802(3)[154B.025(3)] gives the Kentucky Department of Education[Office of Career and Technical Education] the responsibility for all administrative functions of the state in relation to the management, control, and operation of state-operated secondary area technology centers. KRS 156.852[154B.150] authorizes the Kentucky Board of Education[Executive Director of the office] to promulgate administrative regulations to implement career and technical education in Kentucky. KRS 158.150 establishes the grounds and procedures for discipline from the state's common schools. This administrative regulation establishes the procedure for the suspension and expulsion of students from Kentucky TECH schools for disciplinary reasons following the grounds and procedures established in KRS 158.150 for the common schools.

Section 1. Definition. "Kentucky TECH" means the system of state-operated secondary career and technical education programs in the area technology centers.

Section 2. Teachers and administrators employed in or assigned to work in a Kentucky TECH school shall be responsible for the supervision and discipline of students during the time the students are in attendance at a state-operated career and[vocational-] technical facility.

Section 3. All students shall comply with the policies of the Kentucky TECH school in which they are enrolled. The following actions, subject to due process requirements set forth in KAR Title 707, shall constitute[be] cause for disciplinary suspension or expulsion:

- (1) Willful disobedience or defiance of the authority of a teacher or administrator;
- (2) Assault, battery or abuse of another student or school personnel;
- (3) Threat of force or violence;
- (4) Use or possession of illicit drugs or alcohol;
- (5) Stealing, destroying or defacing school or personal property;
- (6) Possessing or using a dangerous weapon or instrument; or
- (7) Other incorrigible bad conduct on school property or at school-sponsored activities.

Section 4. (1) Except as provided in subsection (2) of this section, any secondary student subject to disciplinary action shall be referred by the school administrator of a Kentucky TECH school to the principal of the sending[parent] school in which the student is enrolled, where pursuant to KRS 158.444, the incident must be recorded within the student information system.

(2) The Kentucky TECH school administrator or his/her designee shall have the authority to immediately suspend secondary students from the area technology center[for—a maximum of three (3) days-] without action by the sending[parent] school, to:

- (a) Protect persons or property; or
- (b) Avoid disruption of the ongoing academic programs.
- (3) The Kentucky TECH school administrator shall submit in writing to the principal of the sending[parent] high school the reason for disciplinary action and recommend any further action.
- (4) The principal of the sending[parent] high school shall respond to the Kentucky TECH school administrator as to the action to be taken.
- (5) The due process procedures outlined in KRS 158.150(5) shall follow the suspension as soon as practicable, but no later

than three (3) school days after the suspension.

Section 5. A secondary student who is suspended~~or expelled~~ from a participating local high school or expelled from a participating local school district shall be suspended or expelled from the Kentucky TECH school in which the student is enrolled.

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).

KEVIN BROWN, Interim Commissioner

DAVID KAREM, Chairperson

APPROVED BY AGENCY: February 2, 2020

FILED WITH LRC: February 6, 2019 at 4 p.m.

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 administrative regulation establishes the procedures for the suspension and expulsion of students from Kentucky TECH schools (also known as Area Technology Centers or ATCs) for disciplinary reasons following the grounds and procedures established in KRS 158.150 and ensures compliance with discipline data reporting requirements outlined in KRS 158.444.

(b) The necessity of this administrative regulation: KRS 156.802(3) gives the Kentucky Department of Education (KDE) the responsibility for all administrative functions of the state in relation to the management, control and operation of state-operated secondary area vocational education and technology centers.

(c) How this administrative regulation conforms to the content of the authorizing statute: This regulation establishes the procedures for the suspension and expulsion of students from a Kentucky TECH school. Because the Kentucky TECH system of ATCs is governed by the KDE, such regulations are necessary to ensure proper management, control and operation of these centers. Additionally, pursuant to KRS 156.852, the Kentucky Board of Education (KBE) is vested with the authority to carry out the purposes of career and technical education programs and is given all necessary power and authority in promulgating administrative regulations and carrying out the provisions of the acts relating thereto.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation ensures proper action is taken when a student is suspended from an ATC for disciplinary reasons.

(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: Amendments to this regulation provide clarity to the procedures for suspension, bring its contents up-to-date with current statutory references, inserts gender neutral language, ensures compliance with due process procedures for the student being suspended and requires the sending high school to record the behavior/discipline even within the student information system, pursuant to KRS 158.444.

(b) The necessity of the amendment to this administrative regulation: Amendments to the regulation are aimed at providing greater clarity to the roles and responsibilities of the ATC personnel, as well as the student's sending high school, when a student suspension occurs.

(c) How the amendment conforms to the content of the authorizing statute: KRS 156.802(3) gives the Kentucky Department of Education (KDE) the responsibility for all administrative functions in relation to the management, control and operation of state-operated secondary area vocational education

and technology centers.

(d) How the amendment will assist in the effective administration of the statutes: Pursuant to KRS 156.852, the Kentucky Board of Education (KBE) is vested with the authority to carry out the purposes of career and technical education programs and is given all necessary power and authority in promulgating administrative regulations and carrying out the provisions of the acts relating thereto. Such requirements are necessary in order to carry out the work of the area technology centers.

(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: area technology centers and public school districts.

(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: The amendments will impact area technology centers and the Kentucky Department of Education by providing the administrative procedures and guidance necessary to ensure consistent application of the suspension protocols within the 53 state-operated area technology centers.

(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: Area technology centers will be required to implement the procedures outlined in the administrative regulation when suspending a student from the center. School districts will be required to report the behavior incident within the student information database system.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No cost involved in complying with this administrative regulation and its new amendments.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): These amendments will increase the efficiency among the area technology centers and ensure consistent protocols, and that accurate documentation and data is being collected in relation to student suspensions from these state-operated schools.

(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 regulation.

(b) On a continuing basis: Minimal staff time at the Kentucky Department of Education will be required to implement this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary for the implementation and enforcement of this regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish fees or directly or indirectly increase any fees.

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

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? Area technology centers (ATCs) and the Kentucky Department of Education.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.802(3) gives the Kentucky Department of Education (KDE) the responsibility for all administrative functions of the state in relation to the management, control and operation of state-operated secondary area vocational education and

technology centers.

(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 regulation does not create revenue or expenditures for the entities involved.

(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? Minimal staff time at the Kentucky Department of Education will be required to implement the regulation.

(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 the regulation in subsequent years.

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

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Provider Integrity

(Amended After Comments)

907 KAR 5:005. Health Insurance Premium Payment (HIPP) Program.

RELATES TO: 42 C.F.R. 400.203, 430.10, 26 U.S.C. 4980B, 5000(b)(1), 29 U.S.C. 1161-1169, 42 U.S.C. 1396e(a)-(e)

STATUTORY AUTHORITY: KRS 194A.010(1), 194A.030(2), 194A.050(1), 205.520(3), 205.560(2), 42 U.S.C. 1396e(a)-(e)

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. 42 U.S.C. 1396e(a) through (e) authorizes states to establish a health insurance premium payment, or HIPP, program to provide health insurance coverage outside of Medicaid to Medicaid enrollees, and any family member of Medicaid enrollees, if the department determines that HIPP program participation would be cost effective for the department. This administrative regulation establishes the Kentucky integrated health insurance premium payment program requirements as authorized by 42 U.S.C. 1396e(a) through (e).

Section 1. Definitions.

(1) "Buying in" means purchasing benefits from Medicare on behalf of an individual.

(2) "Department" means the Department for Medicaid Services or its designee.

(3) "Federal financial participation" is defined in 42 C.F.R. 400.203.

(4) "Group health insurance plan" means any plan, including a self-insured plan, of, or contributed to by, an employer to provide health care directly or otherwise to the employer's employees, former employees, or the families of the employees or former employees, if the plan:

(a) Meets the criteria established in 26 U.S.C. 5000(b)(1); and

(b) Includes continuation coverage pursuant to 26 U.S.C. 4980B or 29 U.S.C. 1161 to 1169.

(5) "Income" means:

- (a) Wages, salary, or compensation for labor or services;
- (b) Money received from a statutory benefit including Social Security, Veteran's Administration pension, black lung benefit, or railroad retirement benefit; or
- (c) Money received from any pension plan, rental property, or an investment including interest or dividends.

(6) "Income deduction" means a deduction from an individual's income for the purpose of obtaining or trying to obtain Medicaid eligibility.

(7) "Kentucky integrated health insurance premium payment program participant" or "KI-HIPP program participant" means an individual receiving health insurance benefits in accordance with this administrative regulation.

(8) "Medicaid" means the Kentucky Medicaid program.

(9) "Medicaid enrollee" means an individual eligible for and participating in Medicaid pursuant to 907 KAR 1:005, 907 KAR 20:010, 907 KAR 20:020, and 907 KAR 20:025.

(10) "Spend-down program" means a program by which an individual becomes eligible for Medicaid benefits:

(a) By spending down income in excess of the Medicaid income threshold; and

(b) In accordance with 907 KAR 20:020.

(11) "State plan" is defined in 42 C.F.R. 430.10.

(12) "Wrap-around coverage" means coverage of a benefit not covered by an individual's group health insurance plan.

Section 2. KI-HIPP Program Eligibility and Enrollment.

(1) If a Medicaid enrollee, or a person acting on the Medicaid enrollee's behalf, ~~elects to participate, or attempt to participate, in the KI-HIPP program, the enrollee or person acting on the Medicaid enrollee's behalf~~ shall cooperate in providing information to the department necessary for the department to establish availability and cost effectiveness of a group health insurance plan by:

(a) Completing the Kentucky Health Insurance Premium Payment Program Application; and

(b) Submitting the Kentucky Health Insurance Premium Payment Program Application to the individual's local Department for Community Based Services office, the office administering the Kentucky integrated health insurance premium payment program, or on-line via the Kentucky Online Gateway self-service portal.

(2) A Medicaid enrollee or beneficiary may[shall] participate in the KI-HIPP program if the department determines in accordance with this administrative regulation that the Medicaid enrollee or beneficiary's participation in the KI-HIPP program would be cost-effective.

(3) If a Medicaid enrollee, KI-HIPP program applicant, participant, parent, guardian, or caretaker fails to provide information to the department, within thirty (30) days of the department's request, necessary to determine availability and cost effectiveness of a group health insurance plan, the department shall:

~~(a) not enroll the applicant in the KI-HIPP program unless good cause for failure to cooperate is demonstrated to the department within thirty (30) days of the department's denial; and~~

~~(b) Terminate the individual from the Medicaid program pursuant to 907 KAR 20:060.~~

(4) Good cause for failure to cooperate shall exist if:

(a) There was a serious illness or death of the applicant, participant, parent, guardian, or caretaker or of a member of the applicant's, participant's, parent's, guardian's, or caretaker's immediate family;

(b) There was a fire, tornado, flood, or similar family emergency or household disaster affecting the applicant, participant, parent, guardian, or caretaker or member of his or her immediate family;

(c) The applicant, participant, parent, guardian, or caretaker demonstrates that a good cause beyond that individual's control has occurred; or

(d) There was a failure to receive the department's request for information or notification for a reason not attributable to the applicant, participant, parent, guardian, or caretaker. The lack of a

forwarding address shall be attributable to the applicant, participant, parent, guardian, or caretaker.

(5) For a Medicaid enrollee who is a KI-HIPP program participant:

(a) The department shall pay all group health insurance plan premiums and deductibles, coinsurance and other cost-sharing obligations for items and services otherwise covered under Medicaid, up to the Medicaid allowed amount, minus any Medicaid cost-sharing that would normally be paid, including the cost-sharing required under ~~[895 KAR 1:010, 1:015, and]~~ 907 KAR 1:604, as applicable; and

(b)1. The individual's group health insurance plan shall be the primary payer; and

2. The department shall be the payer of last resort.

(6) For a KI-HIPP program participating family member who is not a Medicaid enrollee:

(a) The department shall pay a KI-HIPP program premium; and

(b) The department shall not pay a deductible, coinsurance or other cost-sharing obligation.

(7) If an individual who was a Medicaid enrollee at the time the department initiated a KI-HIPP program cost effectiveness review for the individual loses Medicaid eligibility by the time the cost effectiveness review has been conducted, the department shall not enroll the individual or any family member into the KI-HIPP program.

Section 3. Wrap-around Coverage.

(1) If a service to which a health insurance premium payment program participant would be entitled via Medicaid is not provided by the individual's group health insurance plan, the department shall reimburse for the service.

(2) For a service referenced in subsection (1) of this section, the department shall reimburse:

(a) The provider of the service; and

(b) In accordance with the department's administrative regulation governing reimbursement for the given service. For example, a wrap-around dental service shall be reimbursed in accordance with 907 KAR 1:626.

Section 4. Cost Effectiveness.

(1) Enrollment in a group health insurance plan shall be considered cost effective if the cost of paying the premiums, coinsurance, deductibles and other cost-sharing obligations, and additional administrative costs is estimated to be less than the amount paid for an equivalent set of Medicaid services.

(2) When determining cost effectiveness of a group health insurance plan, the department shall consider the following information:

(a) The cost of:

1. The insurance premium,
2. The coinsurance,
3. Medicaid's anticipated expenses for the:

- a. KI-HIPP program participant;
- b. KI-HIPP program participant's household; or
- c. KI-HIPP program participant's subdivision of a household,

and

4. The deductible;

(b) The scope of services covered under the insurance plan, including exclusions for pre-existing conditions, exclusions to enrollment, and lifetime maximum benefits imposed;

(c) The average anticipated Medicaid utilization:

1. By age, sex, and coverage group for persons covered under the insurance plan; and

2. Using a statewide average for the geographic component; and

(d) Annual administrative expenditures of an amount determined by the department per Medicaid participant covered under the group health insurance plan.

~~(3)(a) An eligible recipient shall be provided the opportunity to:~~

1. Ask the employer to complete a Loss of Medicaid or KI-HIPP Eligibility as a Qualifying Event to End Coverage form;

2. Submit the completed form to the department; and

3. Retain a copy of the completed form.

(b) If the recipient loses Medicaid or KI-HIPP eligibility, and no longer wishes to participate in the employer sponsored insurance plan, the recipient may use the completed form to end coverage in the employer sponsored insurance plan by providing written notice to the employer.

(c) The department shall inform KI-HIPP applicants of the potential financial risks of participation if loss of Medicaid or KI-HIPP eligibility is not treated as a qualifying event to end coverage by the employer of the recipient.

(4) An employer may complete and submit an Employer Certification that Loss of Medicaid or KI-HIPP Eligibility is a Qualifying Event to End Coverage form to the Department for Medicaid Services for all employees or future employees.

Section 5. Cost Effectiveness Review.

(1) The department shall complete a cost effectiveness review at least annually for an employer-related group health insurance plan or a non-employer-related group health insurance plan.

(2) The department shall perform a cost effectiveness re-determination if:

(a) A predetermined premium rate, deductible, or coinsurance increases;

(b) Any of the individuals covered under the group health insurance plan lose full Medicaid eligibility; or

(c) There is a:

1. Change in Medicaid eligibility;

2. Loss of employment if the insurance is through an employer; or

3. Decrease in the services covered under the policy.

(3)(a) A health insurance premium payment program participant who is a Medicaid enrollee, or a person on that individual's behalf, shall report all changes concerning health insurance coverage to the Third Party Liability Branch office within the Department for Medicaid Services that administers the Kentucky Integrated Health Insurance Premium Payment program, or to the participant's local Department for Community Based Services (DCBS), Division of Family Support, within thirty (30) days of the change.

(b) Except as allowed in subsection (4) of this section, if a Medicaid enrollee who is a health insurance premium payment program participant fails to comply with paragraph (a) of this subsection, the department shall:

4.] disenroll the KI-HIPP program participating Medicaid enrollee, and any family member enrolled in the KI-HIPP program directly through the individual, if applicable, from the KI-HIPP program[]; and

2. Terminate the KI-HIPP program participating enrollee, and any family member enrolled in the KI-HIPP program directly through the individual from the Medicaid program unless the family member qualifies for Medicaid eligibility independently of the KI-HIPP participating enrollee].

(4) The department shall not disenroll [or terminate] an individual, or any family member enrolled in the KI-HIPP program directly through the individual, from KI-HIPP program participation if the individual demonstrates to the department, within thirty (30) days of notice of KI-HIPP program disenrollment, good cause for failing to comply with subsection (3) of this section.

(5) Good cause for failing to comply with subsection (3) of this section shall exist if:

(a) There was a serious illness or death of the individual, parent, guardian, or caretaker or a member of the individual's, parent's guardian's, or caretaker's immediate family;

(b) There was a fire, tornado, flood, or similar family emergency or household disaster affecting the applicant, participant, parent, guardian, or caretaker or member of his or her immediate family;

(c) The individual, parent, guardian, or caretaker demonstrates that a good cause beyond that individual's control has occurred; or

(d) There was a failure to receive the department's request for information or notification for a reason not attributable to the individual, parent, guardian, or caretaker. The lack of a forwarding address shall be attributable to the individual, parent, guardian, or

caretaker.

Section 6. **Provider Participation. A Medicaid enrolled provider shall not refuse to accept a new patient who is a KI-HIPP participating Medicaid member if the provider is:**

(1) Accepting any new:

(a) Medicaid patients; or

(b) Patients who have coverage under the group health insurance plan that meets criteria for KI-HIPP participation;

(2) Enrolled with the department;

(3) Listed on the most recent version of the Medicaid Provider Directory; and

(4) A participating provider within the group health insurance plan determined to meet criteria for KI-HIPP participation[Kentucky HEALTH participation in KI-HIPP.

~~(1) A Kentucky HEALTH member who has access to employer-sponsored health insurance through an employer shall be eligible for mandatory enrollment within KI-HIPP as follows:~~

~~(a) After concurrently or consecutively completing:~~

~~1. Twelve (12) months of Kentucky HEALTH enrollment; and~~

~~2. Twelve (12) months of employment with access to compatible employer-sponsored health insurance;~~

~~(b) If the employer-sponsored health insurance is compatible with the KI-HIPP program; and~~

~~(c) If the employer-sponsored health insurance is cost-effective for the entire household.~~

~~(2) A Kentucky HEALTH member who is not currently required to participate in KI-HIPP pursuant to subsection (1) of this section may elect to participate in KI-HIPP and submit documentation for an eligibility determination as provided in Section 2 of this administrative regulation.~~

~~(3)(a) A Kentucky HEALTH member may elect to participate in KI-HIPP as an employee if the beneficiary's employer-sponsored insurance program is determined to be cost-effective for the employee, but not for the entire household; or~~

~~(b) A Kentucky HEALTH member may elect to participate in KI-HIPP as a cost-effective subdivision of the beneficiary's household if the employee participates in KI-HIPP but the entire household is determined to not be cost-effective.~~

~~(4) A Kentucky HEALTH beneficiary participating in the KI-HIPP program shall:~~

~~(a) Receive a MyRewards Account pursuant to 895 KAR 1:030;~~

~~(b) Accrue dollars in a MyRewards account by completing any applicable activities pursuant to 895 KAR 1:030;~~

~~(c) Receive an exemption from the PATH requirement established in 895 KAR 1:020;~~

~~(d) Receive wraparound services as provided pursuant to 895 KAR 1:010 depending on the beneficiary's benefits under the beneficiary's employer-sponsored insurance program; and~~

~~(e) Comply with any cost-sharing requirement established pursuant to KAR Title 895 or 907 KAR 1:604].~~

Section 7. Coverage of Non-Medicaid Family Members.

(1) If determined to be cost effective, the department shall enroll a family member who is not a Medicaid enrollee into the KI-HIPP program if the family member has group health insurance plan coverage through which the department can obtain health insurance coverage for a Medicaid-enrollee in the family.

(2) The needs of a family member who is not a Medicaid enrollee shall not be taken into consideration when determining cost effectiveness of a group health insurance plan.

(3) The department shall:

(a) Pay a KI-HIPP program premium on behalf of a KI-HIPP program participating family member who is not a Medicaid enrollee; and

(b) Not pay a deductible, coinsurance, or other cost-sharing obligation on behalf of a KI-HIPP program participating family member who is not a Medicaid enrollee.

Section 8. Exceptions. The department shall not pay a premium:

(1) For a group health insurance plan if the plan is designed to provide coverage for a period of time less than the standard one-year coverage period;

(2) For a group health insurance plan if the plan is a school plan offered on the basis of attendance or enrollment at the school;

(3) If the premium is used to meet a spend-down obligation and all persons in the household are eligible or potentially eligible only under the spend-down program pursuant to 907 KAR 20:020. If any household member is eligible for full Medicaid benefits, the premium shall:

(a) Be paid if it is determined to be cost effective when considering only the household members receiving full Medicaid coverage; and

(b) Not be allowed as a deduction to meet the spend-down obligation for those household members participating in the spend-down program.

(4) For a group health insurance plan if the plan is an indemnity policy which supplements the policy holder's income or pays only a predetermined amount for services covered under the policy.

Section 9. Duplicate Policies.

(1) If more than one (1) group health insurance plan or policy is available, the department shall pay only for the most cost-effective plan except as allowed in subsection (2) of this section.

(2) If the department is buying in to the cost of Medicare Part A or Part B for an eligible Medicare beneficiary, the cost of premiums for a Medicare supplemental insurance policy shall also be paid if the department determines that it is likely to be cost effective to do so.

Section 10. Discontinuance of Premium Payments.

(1) If all Medicaid-enrollee household members covered under a group health insurance plan lose Medicaid eligibility, the department shall discontinue KI-HIPP program payments as of the month of Medicaid ineligibility.

(2) If one (1) or more, but not all, of a household's Medicaid-enrollee members covered under a group health insurance plan lose Medicaid eligibility, the department shall re-determine cost effectiveness of the group health insurance plan in accordance with Section 5(2) of this administrative regulation.

Section 11. Kentucky Integrated Health Insurance Premium Payment Program Payment Effective Date.

(1)(a) KI-HIPP program payments for cost-effective group health insurance plans shall begin with the month the health insurance premium payment program application is received by the department, or the effective date of Medicaid eligibility, whichever is later.

(b) If an individual is not currently enrolled in a cost effective group health insurance plan, premium payments shall begin in the month in which the first premium payment is due after enrollment occurs.

(2) The department shall not make a payment for a premium which is used as an income deduction when determining individual eligibility for Medicaid.

Section 12. Premium Refunds. The department shall be entitled to any premium refund due to:

(1) Overpayment of a premium; or

(2) Payment for an inactive policy for any time period for which the department paid the premium.

Section 13. Notice. The department shall inform a Kentucky integrated health insurance premium payment program:

(1) Applicant, in writing, of the department's initial decision regarding cost effectiveness of a group health insurance plan and KI-HIPP program payment; or

(2) Participating household, in writing:

(a) If KI-HIPP program payments are being discontinued due to Medicaid eligibility being lost by all individuals covered under the

group health insurance plan;

(b) If the group health insurance plan is no longer available to the family; or

(c) Of a decision to discontinue KI-HIPP program payment due to the department's determination that the policy is no longer cost effective.

Section 14. Federal Financial Participation.

(1) The Kentucky integrated health insurance premium program shall be contingent upon the receipt of federal financial participation for the program.

(2) If federal financial participation is not provided to the department for the Kentucky integrated health insurance premium program, the program shall cease to exist.

(3) If the Centers for Medicare and Medicaid Services (CMS) disapproves a provision stated in an amendment to the state plan, which is also stated in this administrative regulation, the provision shall be null and void.

Section 15. Incorporation by Reference.

(1) **The following material is incorporated by reference:**

(a) "Kentucky Health Insurance Premium Payment Program Application", KIHIPP-100, April 2019;

(b) **"Loss of Medicaid or KI-HIPP Eligibility as a Qualifying Event to End Coverage", KIHIPP-024, January 2020; and**

(c) **"Employer Certification that Loss of Medicaid or KI-HIPP Eligibility is a Qualifying Event to End Coverage", KIHIPP-025, January 2020[edition, is incorporated by reference].**

(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., or from the department's Web site at <https://chfs.ky.gov/agencies/dms/Pages/regsmaterials.aspx> [<http://www.chfs.ky.gov/dms/incorporated.htm>].

LISA LEE, Commissioner

ERIC FRIEDLANDER, Acting Secretary

APPROVED BY AGENCY: February 13, 2020

FILED WITH LRC: February 14, 2020 at 10 a.m.

CONTACT PERSON: Donna Little, Deputy Executive Director, 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Jonathan Scott, (502) 564-4321, ext. 2015, jonathant.scott@ky.gov; and Donna Little

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the Department for Medicaid Services' (DMS's) Kentucky integrated health insurance premium payment (KI-HIPP) program provisions. The KI-HIPP program is a program by which DMS purchases health insurance coverage for an individual by paying the individual's (and family members if applicable) health insurance premiums, deductibles and coinsurance if doing so would be cost effective to DMS. To qualify for the KI-HIPP program, an individual (or at least one individual in the case of a family enrolling in the KI-HIPP program) must be Medicaid eligible; however, the actual benefits are provided by the individual's group health insurance carrier.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide cost-effective medical benefits to Medicaid beneficiaries; thus, prudently utilizing DMS's resources.

(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 providing cost-effective medical benefits to Medicaid individuals.

(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 providing cost-effective medical benefits to Medicaid beneficiaries.

(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 change this administrative regulation by removing a requirement that individuals be terminated from Medicaid coverage if they are eligible for participation in the KI-HIPP program but do not participate. DMS currently does not terminate individuals for failure to participate with Employer Sponsored Insurance (ESI), and is amending this regulation text to conform.

The Amended After Comments version of this administrative regulation establishes two forms for an eligible recipient to request an employer to complete that will allow the recipient to leave the employer sponsored insurance program if the recipient loses Medicaid eligibility. The department is also establishing a new Section 6 that will govern provider participation and requires providers to not refuse to accept a new KI-HIPP participating patient under certain circumstances. The department is also amending Section 2 of the administrative regulation to more clearly state that the program is voluntary. Finally, the department is removing a section relating to premium assistance and the Kentucky HEALTH program to reflect the repeal of Title 895 KAR and correcting a Web site address.

(b) The necessity of the amendment to this administrative regulation: The amendments are necessary to reflect the current operation of the KI-HIPP program, and to remove reference to the nonfunctioning Kentucky HEALTH program.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by providing cost-effective medical benefits to Medicaid beneficiaries.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by providing cost-effective medical benefits to Medicaid beneficiaries, and to remove reference to a nonfunctioning program.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Medicaid beneficiaries, MCOs, providers, and employers who employ Medicaid beneficiaries.

(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: Potential KI-HIPP program enrollees will need to provide all required information, including their health insurance carrier's information, to DMS.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). No cost is imposed on the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Medicaid beneficiaries who have access to private health insurance via their employers will still receive the full benefits provided through the Medicaid program as well as payment of the premiums for the health insurance through the Medicaid program.

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

(a) Initially: The Department for Medicaid Services (DMS) estimates savings of \$350 per KI-HIPP participant per month. The Department is reviewing the actuarial analysis to determine the veracity of this figure. Any actuarial savings can only be determined on a case-by-case basis.

(b) On a continuing basis: The Department for Medicaid Services (DMS) estimates savings of \$350 per KI-HIPP participant per month. The Department is reviewing the actuarial analysis to determine the veracity of this figure. Any actuarial savings can only

be determined on a case-by-case basis.

(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 the Social Security Act, Title XIX, and matching funds from state 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 are necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? Tiering is applied as children are exempt from Medicaid disenrollment pursuant to 42 U.S.C. 1396e(b)(2).

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 will be affected by this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 205.520(3), 205.560(2), 194A.030(2), 194A.050(1), 194A.010(1), and 42 U.S.C. 1396e(a) through (e).

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 Department for Medicaid Services projects no revenue to be generated by the 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? The Department for Medicaid Services projects no revenue to be generated by the administrative regulation.

(c) How much will it cost to administer this program for the first year? The Department for Medicaid Services anticipates no additional costs in the administration of this program in the first year. The Department for Medicaid Services estimates savings of three-hundred and fifty dollars (\$350) per KI-HIPP participant per month. The Department is reviewing the actuarial analysis to determine the veracity of this figure. Any actuarial savings can only be determined on a case-by-case basis. This analysis does not take into account any potential impact on increased costs for local governments and employer groups that may see increased costs related to employee covered premium assistance.

(d) How much will it cost to administer this program for subsequent years? The Department for Medicaid Services anticipates no additional costs in the administration of this program in subsequent years. The Department for Medicaid Services estimates savings of \$350 per KI-HIPP participant per month. The Department is reviewing the actuarial analysis to determine the veracity of this figure. Any actuarial savings can only be determined on a case-by-case basis.

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

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Education Professional Standards Board
(Amendment)

16 KAR 5:020. Standards for admission to educator preparation.

RELATES TO: KRS 161.020, 161.028, 161.030, 161.048

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.028(1)(b) requires that the Education Professional Standards Board (EPSB) promulgate administrative regulations setting standards for educator preparation programs. KRS 161.030(1) requires that the EPSB[board] promulgate administrative regulations establishing requirements for issuance of a certificate authorized under KRS 161.010 to 161.126. This administrative regulation establishes the standards for admission to an educator preparation program that is required for certification.

Section 1. Selection and Admission to Educator Preparation Programs. (1) Each accredited provider of an approved program of educator preparation shall adhere to minimum standards for admission to its certification educator preparation programs, including those programs established pursuant to KRS 161.048, in accordance with this section.

(2) Admission to an approved undergraduate initial certification education preparation program, including those programs established pursuant to KRS 161.048(2), 161.048(3), 161.048(6), and 161.048(8), shall require the following:

(a) 1. A cumulative grade point average of 2.75 on a 4.0 scale; or

2. A grade point average of 3.00 on a 4.0 scale on the last thirty (30) hours of credit completed, in accordance with the following:

a. Grade point average (GPA) shall be calculated by beginning with the most recent course completed and proceeding backward for two (2) semesters in the order the grades fall on the transcript to accumulate the last thirty (30) hours completed; and

b. If it is necessary to go back further than two (2) semesters then the courses in the third semester included in the calculation shall be chosen based on the highest grades earned during that third semester; and

(b) Successful completion of the following pre-professional skills assessments of basic knowledge administered by the Educational Testing Service with the corresponding minimum score:

1. "Praxis Core Academic Skills for Educators (CASE): Reading (5713)" – 156 ["Praxis Core Academic Skills for Educators (CASE): Reading (5712)" – 156];

2. "Praxis Core Academic Skills for Educators (CASE): Writing (5723)" – 162 ["Praxis Core Academic Skills for Educators (CASE): Writing (5722)" – 162]; and

3. "Praxis Core Academic Skills for Educators (CASE): Mathematics (5733)" – 150 ["Praxis Core Academic Skills for Educators (CASE): Mathematics (5732)" – 150].

(3) Admission to an approved graduate level initial certification educator preparation program shall require the following:

(a) 1. A bachelor's degree or advanced degree awarded by a regionally accredited college or university with a cumulative grade point average of 2.75 on a 4.0 scale; or

2. A grade point average of 3.00 on a 4.0 scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework; and

(b) 1. Successful completion of the pre-professional skills assessments in subsection (2)(b) of this section; or

2. Successful completion of the Graduate Record Exam (GRE) administered by the Education Testing Service with the following corresponding scores on the corresponding sections:

a. Verbal reasoning – 150;

b. Quantitative Reasoning – 143; and

c. Analytical Writing – 4.0.

(4) Admission to an advanced certification educator

preparation program shall require the following:

(a) 1. A statement of eligibility or an initial certificate earned by completion of an approved program through an approved educator preparation provider in Kentucky; or

2. For out-of-state applicants, a statement of eligibility or an initial certificate issued by EPSB and earned by completion of a program through an approved educator preparation provider; and

(b) 1. A cumulative grade point average of 2.75 on a 4.0 scale; or

2. A grade point average of 3.00 on a 4.0 scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework; and

(c) 1. Completion of requirements for the administrative certificate as established in Title 16, Chapter 3; or

2. Completion of requirements for the certificate as established in 16 KAR 2:060, 16 KAR 2:070, and 16 KAR 2:090.

(5) Each accredited provider of an approved program of educator preparation shall have a formal application procedure for admission that shall include the following:

(a) Documentation that the applicant demonstrates the following:

1. Critical thinking;

2. Communication;

3. Creativity; and

4. Collaboration;

(b) Evidence that the applicant has reviewed the Professional Code of Ethics for Kentucky School Certified Personnel established in 16 KAR 1:020; and

(c) A method to allow the applicant to demonstrate that the applicant understands professional dispositions expected of professional educators.

(6) The educator preparation program shall not enroll undergraduate students in any educator preparation program courses restricted to admitted candidates.

(7) The educator preparation provider shall maintain electronic records that document that all students meet the requirements established in this section.

Section 2. Selection and Admission to an Approved Educator Preparation Program for Occupation-Based Career and Technical Education. (1) Admission to an approved program of preparation for occupation-based career and technical education that results in certification pursuant to 16 KAR 2:020 shall require:

(a) A minimum of a high school diploma or equivalency exam;

(b) Four (4) years of successful and appropriate occupational experience in the area to be taught, which shall include:

1. At least two (2) years of occupational experience completed within the last five (5) years. A maximum of one (1) year of the required work experience may be satisfied by completion of an approved program of preparation for the occupation to be taught; and

2. The occupational experience confirmed by the Kentucky Department of Education, Office of Career and Technical Education;

(c) The assessment provisions established in 16 KAR 6:020; and

(d) An offer of employment from a state or local technology center, or a school district.

(2) Each provider of an approved occupation-based educator preparation program shall have a formal application procedure for admission that shall include the following:

(a) Evidence that the applicant has reviewed the Professional Code of Ethics for Kentucky School Certified Personnel established in 16 KAR 1:020; and

(b) A method to allow the applicant to demonstrate that the applicant understands professional dispositions expected of professional educators.

(3) The educator preparation provider shall not enroll undergraduate students in any educator preparation program courses restricted to admitted candidates.

(4) The educator preparation provider shall maintain electronic records that document that all students meet the requirements

established in this section.

(5) A provider of approved educator preparation programs shall provide notice to the EPSB which candidates it has admitted to an approved program of educator preparation within six (6) months of the candidate's admission.

(6) Failure of an approved educator preparation provider to provide EPSB with notice of each candidate it admitted to an approved program of preparation in accordance with this section may result in action against the provider's accreditation status.

Section 3. Assessment Recency. A passing score on an assessment established at the time of admission shall be valid for the purpose of applying for admission for five (5) years from the assessment administration date.

Section 4. Annual Report. (1) Each educator preparation provider shall submit an electronic report annually to the EPSB that includes the following program data on each candidate admitted to educator preparation programs:

- (a) EPSB Person Identifier;
- (b) Student School Identification number;
- (c) Social Security number;
- (d) Full name;
- (e) Birth date;
- (f) Reported ethnicity;
- (g) Reported gender;
- (h) Email address;
- (i) Present home mailing address;
- (j) Permanent home mailing address;
- (k) Phone number;
- (l) Admission date;
- (m) Total number of credit hours prior to admission to the provider's educator preparation program;
- (n) Total number of credit hours in educator preparation courses completed prior to admission to the provider's educator preparation program;
- (o) Grade point average at admission;
- (p) Current program enrollment status;
- (q) Program completion date;
- (r) Grade point average at program completion;
- (s) Academic major at program completion; and
- (t) Academic minor or minors at program completion, if applicable.

(2) The report shall be submitted in the following manner:

(a) The provider shall electronically submit all data identified in subsection (1) to the EPSB; and

(b) By September 15 of each year, each institution shall provide written confirmation by electronic mail to the EPSB that all required information has been entered.

(3) The preparation program shall exit any candidate who has not been enrolled in at least one (1) course required for program completion within the last twelve (12) months.

(4) Failure to submit the annual report in accordance with this section may result in action against the program's accreditation status.

DONNA HEDGEPATH, Board Chair

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 13, 2020

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on April 22, 2020, at 10:00 a.m. in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2020. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Todd Allen, Interim 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: Todd Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the standards for admission to an educator preparation program that is required for certification.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide notice to educator preparation programs and applicants of the minimum standards applicants must attain prior to admission to educator preparations programs.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.028(1) authorizes the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate and to set standards for, evaluate, and approve college, university, and school district programs for the preparation of teachers and other professional school personnel.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets the standards for admission to an educator preparation 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: This amendment replaces outgoing assessments and adopts corresponding passing scores for the following newly developed tests: Praxis Core Academic Skills for Educators: Reading (5713); Praxis Core Academic Skills for Educators: Writing (5723); and, Praxis Core Academic Skills for Educators: Mathematics (5733).

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to ensure that all certified teachers in Kentucky are proficient in reading, writing, and mathematics and that they possess the necessary skills to increase student achievement. The test previously listed in the regulation will be discontinued in Fall 2020, and therefore, must be replaced with the new assessments.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 161.028(1) authorizes the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate and to set standards for, evaluate, and approve college, university, and school district programs for the preparation of teachers and other professional school personnel.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will ensure that all candidates in educator preparation programs in Kentucky possess the necessary skills to become effective educators.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 30 educator preparation program providers, any providers seeking future approval for an educator preparation program, and any applicant seeking admission to an educator preparation 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: The approved educator preparation programs, and any programs seeking future approval will have to adjust their admission standards to ensure that they meet the standards required by this amendment. Further, applicants will have to meet the minimum standards delineated in the amendment prior to admission to an educator preparation program.

(b) In complying with this administrative regulation or amendment,

how much will it cost each of the entities identified in question (3): The applicant will have to bear the cost of the admission test unless it is provided by the institution. The fee is established by the test provider. There is no fee established by the Education Professional Standards Board.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The educator preparation programs will benefit from having candidates proficient in the skills necessary to be an educator. Additionally, potential candidates will benefit from a selection process that will ensure they meet a minimum level of competency for the education profession prior to engaging in coursework.

(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: None

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State General 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: No increase in fees or funding will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: Certification fees are established by 16 KAR 4:040. No additional fees are established by this regulation.

(9) TIERING: Is tiering applied? Tiering is not applicable to the requirements of this regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Education Professional Standards Board, public colleges and universities and 172 public school districts.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.028, KRS 161.030

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There will be no additional revenues created by this amendment.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? There will be no additional revenues created by this amendment.

(c) How much will it cost to administer this program for the first year? There are no costs associated with this amendment.

(d) How much will it cost to administer this program for subsequent years? There are no costs associated with the amendment.

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: This is not a fee generating or a cost incurring program but, rather, establishes the standards for admission to an educator preparation program.

BOARDS AND COMMISSIONS Kentucky Board of Cosmetology (Amendment)

201 KAR 12:100. Infection control, health and safety[Sanitation standards].

RELATES TO: KRS 317A.130 STATUTORY AUTHORITY: KRS 317A.060

NECESSITY, FUNCTION, AND CONFORMITY: KRS 317A.060 authorizes the Kentucky Board of Cosmetology to regulate the practice of cosmetology, nail technology, and esthetics in Kentucky and establish standards for the course and conduct of school owners, instructors, apprentice instructors, licensed cosmetologists, nail technicians, beauty salons, nail salons, cosmetology schools, and estheticians to protect the health and safety of the public. This administrative regulation establishes infection control, health and safety [sanitation] standards for all licensed facilities.

Section 1. Health and Public Safety[General Sanitation]. The entire licensed facility, including all equipment, employees, and implements contained in the facility, shall be continually maintained in a safe manner that reduces the risk of injury or illness for both the consumer and the licensee[sanitary manner].

Section 2. Definitions.

(1) Clean: Removal of surface and/or visible debris by using soap, detergent or chemical "cleaner", followed by a clean water rinse. Prepares non-porous items for disinfection by removing debris, product residues, organic matter and oils that may interfere with disinfection chemicals. Reduces the number and slows the growth of pathogens on both porous and non-porous surfaces. Cleaning does not make multi-use items safe for use.

(2) Contact time: The amount of wet contact time required for a disinfectant to be effective against the pathogens on the label. Clean items or surfaces must remain completely immersed or visibly wet (sprays, wipes) for full contact time to be effective.

(3) Disinfect: The process of making a non-porous item safe for use. Requires the use of a chemical intended to kill or denature a bacteria, virus or fungus. Items to be disinfected must be cleaned prior to disinfection. Proper disinfection requires adherence to manufacturers label with regard to concentration and contact time. UV light is not acceptable for disinfection.

(4) Disinfectant: An approved disinfectant shall be:

(a) Environmental Protection Agency (EPA) registered bactericidal, virucidal and fungicidal disinfectant that is approved for use in the salon or spa environment and used in accordance with the instruction label for dilution ratio and contact time; or

(b) EPA-registered Sodium Hypochlorite 5.25 percent or higher (household chlorine bleach) product used in accordance with the instructions for disinfection and dilution on the label. Bleach shall be active (not expired) with a manufacture date of less than six (6) months prior to use.

(5) Non-Porous: Material that has no pores and does not allow for liquids to be absorbed or pass through. Common non-porous materials include glass, metal and plastic.

(6) Porous: A material that has minute spaces or holes through which liquid or air may pass. Permeable, penetrable, and cellular

(7) Sterilize: The eradication of all microbial life through the use of heat, pressure, steam or chemical sterilants. Autoclaves used to sterilize must be spore tested through an independent lab every 30 days to ensure functionality. Lab results must be kept onsite for 12 months.[Methods of Sanitizing.

(1) All implements used on the public shall be sanitized. Each method of sanitation shall be bacteriologically effective.

(2) A commercially prepared sanitizing agent or disinfectant shall be used in accordance with the manufacturer's instructions. An approved sanitizing agent or disinfectant shall be:

(a) Environmental Protection Agency (EPA) registered bactericidal, virucidal and fungicidal disinfectant that is approved for use in hospital settings and used in accordance with the instruction label for dilution ratio and contact time; or

(b) EPA-registered Sodium Hypochlorite 5.25 percent or higher (household bleach) product used in accordance with the instructions for disinfection and dilution on the label. Bleach shall be active (not expired) with a manufacture date of less than six (6) months prior to use.]

Section 3. Cleaning and Disinfecting.

(1) All non-porous implements used on the public shall be cleaned and disinfected before each use including, but not limited to combs, brushes, shears, hair clips, hair rollers, pushers, nippers, and plastic or metal spatulas.

(2) Disinfectants shall be used in accordance with the manufacturer's instructions.

(3) Each non-porous implement used in a licensed facility shall first be thoroughly cleaned prior to disinfection with warm soapy water or a chemical cleaner. Non-porous surfaces, such as workstations and nail tables, shall be cleaned with a wipe or spray as defined above prior to each service, then:

(4) Implements shall be rinsed and dried with a single use paper towel or air dried, then;

(5) Implements shall then be disinfected by completely immersing in an appropriate disinfectant for the full contact time listed on the manufacturer's label. Where appropriate, disinfecting wipes and sprays may also be used, then;

(6) When full contact time has been met, implements shall be removed, rinsed and dried with a single use paper towel or air dried.

(7) Disinfected implements shall be stored in a clean, covered container or drawer labeled as "disinfected" or "ready to use". Dirty items shall be kept in a covered container, labeled "dirty" until they are properly disinfected. Once an item has been placed in the "dirty" container, it may not be removed until cleaning & disinfecting process has been started.

Section 4. Chemical Safety. All chemicals used in a licensed facility shall be:

(1) Transported and stored in accordance with the manufacturer's label;

(2) Stored in original containers in [locked] cabinets that may be locked, that are not in public spaces or bathrooms;

(3) Mixed and applied to individuals [as] specifically as instructed by the manufacturer's label, including patch tests; [and]

(4) Discarded according to the manufacturer's label and, if applicable, local, state, and federal rules; and

(5) All chemicals that are concentrates mixed into a container or distributed into a secondary container, must be labeled to indicate the contents. All poisonous substances must be clearly labeled as such.

Section 5. Disinfectant. [4. Disinfection of Implements and Spills; Blood and Body Fluids.

(1) Each implement and surface used in a licensed facility shall first be thoroughly cleaned prior to disinfection.]

(1)[(a)] Disinfectants shall be prepared fresh daily and any [each] time the solution becomes diluted or soiled.

(2)[(b)] Contact time. To disinfect [clean] a non-porous surface, it shall be left wet or completely immersed for the full contact time [ten (10) minutes or longer as] required by the manufacturer for disinfecting against HIV, HBV, and all other viruses, bacteria, and fungi. If no contact time is indicated for disinfecting, the product is not an EPA registered disinfectant.]

(c) Any nonporous surface that comes in contact with blood or body fluids shall first be cleaned with warm soapy, detergent water, and then an appropriate disinfectant shall be used.

(2) All used implements shall first be cleaned of visible dirt, debris, or bodily fluids with warm soapy, detergent water and then disinfected by completely immersing in an appropriate disinfectant.

(a) All implements that come into contact with intact skin, blood, or bodily fluids shall be thoroughly cleaned before immersion in an appropriate disinfectant.

(b) For personal protection against blood-borne pathogens, cleanup shall be done wearing protective gloves and gowns. Eye protection shall be used for large spills.]

(3) A container other than the original manufacturer's container

used for immersing or application of appropriate disinfectant shall be properly labeled as to contents, [percentage solution, and date mixed.

(4) Cleanup items from minor cuts or items containing blood or other bodily fluids shall be double bagged or placed in biohazard containers. A licensee shall consult with the local health department for directions about disposal of biohazard containers.

(5) Styptics to arrest bleeding shall be used only in liquid or powder form and shall be applied by clean gauze, cotton, or any other sanitary item.]

(4)[(6)] All Food and Drug Administration (FDA) designated "medical devices" shall only be disinfected by appropriate EPA-approved disinfectants in accordance with the manufacturer's instructions. [

(7) All esthetics facilities shall employ a sharp's disposal container as needed for disposal of hazardous materials.]

Section 6. Towel Warmers. [Disinfection Procedures.]

(1) [Shampoo bowls. All shampoo bowls or similar items shall be sanitized after each use.

(2)] Towel warmers shall be disinfected daily using disinfecting [sanitizing] wipes or a spray and left open to allow the warmer to dry completely.

(2)[(3)] Towels used in a towel warmer both wet and dry shall be washed daily, regardless of used or not, and replaced at the opening of each day.

Section 7. Nail and Pedicure Stations. [

(4) Electrical equipment that provides circulating, whirlpool, or vacuum effects including a microdermabrasion or facial machine and a]

(1) Pedicure stations [station] shall be cleaned and disinfected after each use by: [removing all movable parts by:]

(a) Removing all removable parts;

(b) Empty bowl and scrub with detergent and scrub brush;

(c) Rinse bowl and fill with clean water;

(d) Add appropriate disinfectant as defined above in proper concentration for size of bowl; and

(e) If bowl has any circulation or whirlpool effect, allow disinfectant to circulate for full contact time as listed on the manufacturer's label. If there is no circulation or whirlpool effect, allow disinfectant to stand in bowl for full contact time as listed on the manufacturers label.

(2) Surfaces of nail stations shall be disinfected between clients.

(3) Nail clients shall be offered hand sanitizer prior to a service.

(4) A nail drill or body treatment equipment shall be:

(a) Cleaned and disinfected after each use by removing all removable parts; and

(b) Following the specific disinfection instructions recommended by the manufacturer.

(5) Drill bits shall be soaked in acetone to remove product, scrubbed, and soaked in disinfectant for full contact time after each use.]

1. Filling, circulating, cleaning, and disinfecting with the use of hospital-grade disinfectant; or

2. The ten (10) percent bleach solution that is circulated through the machine for the minimum time recommended by the manufacturer; and

(b) Rinsing and air drying, or wiping dry with a clean cloth or paper towel.

(3) A nail drill or body treatment equipment shall be:

(a) Cleaned and disinfected after each use by removing all movable parts; and

(b) 1. Flushed, cleaned, and disinfected bi-weekly with the use of hospital-grade disinfectant; or

2. The ten (10) percent bleach solution circulated through the machine for the minimum time recommended by the manufacturer.]

Section 8. Electrical Implements.

(1)[(6)] Heated electrical equipment, such as a thermal iron [shall be sanitized] are disinfected by the heat source. Unheated

parts of heated electrical equipment shall be cleaned and disinfected according to the manufacturer's recommendations.

(2)(7) All other electrical equipment, including clippers and attachments, shall be cleaned and disinfected after each use by:

(a) Removing hair and all foreign matter from the equipment; and

(b) Completely saturating the clipper blade and attachment with an EPA-registered high level disinfectant solution, spray, or foam used according to the manufacturer's instructions.

(8) All nonporous items to be used on multiple clients shall be cleaned and disinfected after use.

(9) Drill bits shall be soaked in acetone to remove product, scrubbed, and soaked in disinfectant for full contact time.

(10) All nonelectrical items required to be cleaned and disinfected after each use including, combs, brushes, shears, hair clips, hair rollers, pushers, nippers, and plastic or metal spatulas shall be cleaned and disinfected. All multi-use items shall be stored in clean, covered container marked "disinfected" or "ready to use".

Section 9. Waxing Services.

(1) Waxing services may only be performed on intact skin.

(2) Wax applicator sticks may only be used for a single dip into the wax and then must be immediately discarded.

(3) If the wax pot becomes contaminated or debris is visible it shall be completely cleaned and disinfected through the following steps:

(11) Wax pots shall be completely cleaned and disinfected when the wax is contaminated or debris is visible through the following steps:

(a) Wax shall be emptied and disposed of properly;

(b) Pots shall be washed with detergent and rinsed;

(c) All pot surfaces shall be wiped or sprayed with EPA-registered disinfectant following manufacturer's guidelines for contact time;

(d) Pots shall be air dried or wiped dry with a clean paper towel; and

(e) New wax shall always be used and pots shall remain covered at all times. [and]

(4)(f) Paraffin wax shall be portioned out to prevent contamination between clients and disposed of immediately.

Section 10. General Cleaning and Disinfection.

(1)(42) Any item that may not be cleaned and disinfected is considered single use and shall be disposed of after each use. This includes, but is not limited to, nail files or emery boards made of any material except metal or glass, all cotton, buffing blocks, pumice stones, wooden cuticle pushers, slipper shoes, toe separators, wooden spatulas, neck strips, and paper coverings.

(2) All shampoo bowls or similar items shall be cleaned after each use and disinfected at the end of each day.

(3) All nonporous items to be used on multiple clients shall be cleaned and disinfected after use.

Section 6. Proper Protection of Neck.

(1) A shampoo apron, hair cloth, or similar article shall not be placed directly against the neck of the patron, and shall be kept from direct contact with the patron by means of a paper neck band or clean towel.

(2) A neck band of paper shall not be used more than once.

(3) A towel or cloth shall not be used more than once without proper laundering.]

Section 11. Removal of Product from Multi-Use Containers. [7. Use of Creams.]

(1) All products [A cream or other semi-solid substance shall be] removed from a multi-use [its] container such as a tub or tube, shall be done in a manner that prevents contamination of the remaining product within the container [with a clean, sanitized spatula.]

(2) Products such as pomades, waxes and gels shall be removed with either a single use spatula that is disposed of immediately after a single use or a disinfected multi use spatula. Fingers may not be used to remove product.

(3) Powders and lotions shall be dispensed from a shaker or pump ensuring that the licensee's or client's hands never touch the dispensing portions of the container. [A spatula made of a washable nonabsorbent material shall be sanitized before re-use.]

Section 12[8]. Special Solution Containers. Single use product containers shall be used whenever possible to prevent the contamination of unused solution. All leftover product shall be disposed of, not reused.]

Section 9. Use of Powder. Powder shall be dispensed from a shaker or similar receptacle and shall be applied with a disposable puff, or cotton pledget, or other disposable applicator.]

Section 13[40]. Walls and Floors. Walls, floors, and fixtures shall be kept in a safe manner[sanitary and clean] at all times. If any condition potentially places the consumer or the licensee at risk of harm, it shall be remedied immediately.

Section 14[44]. Trash Containers and Debris.

(1) All trash containers shall have solid sides and a liner shall be used. [a lid or cover, and a liner shall always be used. Lids shall close completely.]

(2) All hair and debris shall be swept up immediately following each client and placed in the closed trash container.

Section 15[42]. Proper Laundering Methods.

(1) All cloth towels, robes, and similar items shall be laundered in a washing machine with laundry detergent [and chlorine bleach] used according to the manufacturer's directions. [for sanitation purposes.]

(2) Laundry may be done through a commercial laundry service.

(3) A closed, dustproof cabinet shall be provided for clean towels and linen, and a closed, side vented hamper or receptacle shall be provided for all soiled towels and linens.

Section 16 [43.] Personal Hygiene.

(1) Every person licensed or permitted by the board shall thoroughly cleanse his or her hands with soap and water or an equally effective [alcohol-based] hand sanitizer [of at least seventy (70) percent alcohol] immediately before serving each patron.

(2) Hand sanitizer shall be made available for use by patrons at each nail station in the licensed facility.

(3) A cosmetology instrument or implement shall not be carried or stored in a pocket, belt, apron, or smock.

Section 17. Blood Exposure.

(1) If a licensee or client are injured during the service and blood is present, service must be stopped immediately.

(2) If possible area should be washed under clean running water at a sink.

(3) If the injury is on the client, licensee should don gloves and clean area, then apply antibacterial ointment and offer a bandage to the client. Licensee should then remove gloves, wash their own hands and re-apply gloves for duration of the service.

(4) If injury is on licensee, gloves should be donned and any blood on workstation or client should be cleaned. Licensee should then remove gloves, wash the area and apply antibiotic cream and a bandage to the area. They should then re-apply gloves, properly disinfect work surface and implements prior to starting the service again.

(5) When service is complete, all disposable items shall be immediately thrown away and all non-porous items thoroughly cleaned and disinfected.

(6) Styptics to arrest bleeding shall be used only in liquid or powder form and shall be applied using new gauze, or cotton.

Section 18. Communicable Disease.

(1) Licensee's shall not perform any service if they have been diagnosed with a communicable disease until cleared by a medical professional for return to work.

(2) Any licensee with a respiratory illness, regardless of if they have been diagnosed, should consider the use of a facemask to

protect clients from the possibility of transmission.

(3) Licensee's shall not perform a service on a client who has visible swelling, eruption, redness, bruising on skin or rash in an area where a service is to be performed.

(4) Clients with a physician's note indicating they are not contagious, such as psoriasis or other non-communicable skin disorders, are an exception to this rule.

Section 19. Eyelash Services.

(1) Eyelash stands, holders, or pallets including tiles or stones, and trays must be cleaned and disinfected before use with each client.

(2) Eyelash extensions must be stored in a clean, closed container or in closed, original packaging. Eyelash extensions that are removed from the container or original packaging for a client's eyelash service and not used must be disposed of and must not be used for another client.

(3) When removing eyelashes from the container or package to portion out eyelashes for a service, a practitioner must use disinfected scissors, blade, or other tool to snip a portion of a strip, or disinfected tweezers to portion out the lashes for each service.

(4) Any cutting implement used to cut the lashes in to sections, to render lash strips a one-time use, must be disinfected and stored in covered containers.

(5) Tape used for taping back eye lid skin or lashes cannot be de-tacked on skin. De-tacking shall only be done on a clean towel.

(6) Any nozzle or dropper used for rinsing or flushing the eye during the service cannot come in direct contact with the eye or skin.

(7) Only medical grade adhesives intended for use on the human body may be used.

Section 20. Esthetics.

(1) All esthetics facilities shall have a sharp's disposal container available for disposal of sharp items, such as lancets.

(2) A microdermabrasion or facial machine shall be cleaned and disinfected after each use by removing all movable parts and:

(a) Filling, circulating, cleaning, and disinfecting with the use of hospital grade disinfectant or a ten (10) percent bleach solution that is circulated through the machine for the minimum time recommended by the manufacturer; and

(b) Rinsing and air drying, or wiping dry with a clean cloth or paper towel.

Section 21[44]. Prohibited Items. The following sanitation methods and cosmetology practices shall be prohibited:

(1) Methyl Methacrylate acid (MMA);

(2) Isobornyl Methacrylate (IBMA);

(3) Blades for cutting the skin including but not limited to credo blades, rasps, and graters for callous removal;

(4) UV light boxes or "Sterilizers";

(5) Roll on wax;

(6) Waxing of nasal hair;

(7) Any product banned by the FDA; and

(8) Use of any live animal [Live fish, leeches, snails and other living creatures for use] in any cosmetic service.

MARGARET MEREDITH, Board Chair

APPROVED BY AGENCY: February 13, 2020

FILED WITH LRC: February 14, 2020 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2020, at 9:30 a.m., at Kentucky Board of Hairdressers and Cosmetologists. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on April 30, 2020. 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: Julie M. Campbell, Board Administrator, 111 St. James Ct. Ste A. Frankfort, Kentucky 40601, (502) 564-4262, julie.campbell@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie M. Campbell, Board Administrator

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for infection control, health and safety standards for all practitioners in salons and cosmetology schools to protect the health and welfare of the public throughout the Commonwealth.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to impose infection control, health and safety standards in all salon and school facilities throughout the Commonwealth to protect patrons from disease and contamination.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation is being amended to update and address areas of concern surrounding new bacteria and pathogens that can transmit and cause disease through transference in a salon or school setting and expand definitions and encompass new practices.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation outlines and defines standards as required by KRS 317A.130 to protect the health and safety of the public in the Commonwealth by the Kentucky Board of Cosmetology.

(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: Current regulations addressing infection control, health and safety standards were deficient in some areas and lacked clarity in others detail to address current industry standards. This amendment will attend to the deficiencies in the previous regulation.

(b) The necessity of the amendment to this administrative regulation: This amendment is needed to clarify and define all infection control, health and safety standards into a clearer format and attend to the deficiencies in the previous regulations.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment provides updated guidelines for infection control, health and safety standards based on the statutory requirements in KRS 317A.130.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide a consistent infection control, health and safety standards to allow public protection and less variability in inspections.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are 62 licensed cosmetology schools, approximately 10,000 students, approximately 35,000 additional licensees, and nearly 6,000 salons affected by this amendment.

(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 updates the current processes, definitions, and intent of existing administrative regulations governing infection control, health and safety standards.

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

(c) As a result of compliance, what benefits will accrue to the

entities identified in question (3): There will be a higher rate of compliance with the law with the clarity provided in this amendment..

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

(a) Initially: No additional funds are necessary initially to implement this amendment.

(b) On a continuing basis: No additional funds are necessary on an ongoing basis to implement this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current funding will not change.

(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 changes or increases in fees will be needed.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are created or increased directly or indirectly by this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied as the requirements of this amendment apply equally to all licensees.

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 Hairdressers and Cosmetologists.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 317A.050 and KRS 317A.060.

(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? No additional funds will be raised.

(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 additional funds will be raised.

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

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

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

Revenues (+/-): Not applicable.

Expenditures (+/-): Not applicable.

Other Explanation: Not applicable.

DEPARTMENT OF AGRICULTURE Office of the Consumer and Environmental Protection (Amendment)

302 KAR 50:020. Policies and procedures for hemp growers.

RELATES TO: KRS Chapter 217B, 260.850-260.869[—7 U.S.C. 5940, 21 U.S.C. Chapter 9]

STATUTORY AUTHORITY: KRS 260.862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.862(1)(a) authorizes the department to promulgate administrative regulations for a Hemp Licensing Program in the Commonwealth of Kentucky. KRS 260.862(1)(c) authorizes the department to license persons who wish to participate in a Hemp Licensing Program by cultivating, handling, processing, or marketing

hemp. This administrative regulation establishes procedures and requirements for licensing persons who wish to grow or cultivate hemp as a participant in the department's Hemp Licensing Program.

Section 1. Definitions.

(1) "Agent" means a person who is employed by or working under contract for a license holder, and who does not have any ownership interest in the hemp.

(2) "Applicant" means a person, or a person who is authorized to sign for a business entity, who submits an application to participate in the Hemp Licensing Program.

(3) "Broker" means to engage or participate in the marketing of hemp by acting as an intermediary or negotiator between prospective buyers and sellers.

(4) "Cannabis" means the plant that, depending on its THC concentration level, is defined as either "hemp" or "marijuana." Cannabis is a genus of flowering plants in the family Cannabaceae of which Cannabis sativa is a species, and Cannabis indica and Cannabis ruderalis are subspecies thereof. Cannabis includes all parts of the plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts; and does not include a "publicly marketable hemp product," as defined by this administrative regulation.

(5) "CBD" means cannabidiol.

(6) "Commissioner" is defined by KRS 260.850(1).

(7) "Commonwealth" means the Commonwealth of Kentucky.

(8) "Conviction" means an adjudication or finding of guilt; it also includes a plea of guilty or nolo contendere. If a conviction is subsequently overturned on appeal, pardoned, or expunged, then it is not considered a conviction.

(9) "Corrective action plan" is a document set forth by the Department for a licensee to correct a negligent violation of, or non-compliance with, KRS 260.850-260.869 or an administrative regulation promulgated under the authority of those statutes.

(10) "Culpable mental state greater than negligence" means to act intentionally, knowingly, willfully, or with criminal negligence.

(11) "Decarboxylation" means the completion of the chemical reaction that converts the THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid.

(12) "delta-9-THC" means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis). For compliance purposes, all delta-9-THC concentrations must be measured post- decarboxylation (result commonly referred to as total THC).

(13) "Department" or "KDA" is defined by KRS 260.850(3).

(14) "Geospatial location" means a location designated through a GPS or other global system of navigational satellites used to determine the precise ground position of a place or object.

(15) "GPS" means Global Positioning System.

(16) "Handling" is defined by KRS 260.850(4).

(17) "Hemp" or "industrial hemp" is defined by KRS 260.850(5).

(18) "Hemp Grower License" means a document issued by the department authorizing the person to grow, handle, market, and store hemp in the Commonwealth under the terms established in the document, KRS 260.850 through 260.863, and this administrative regulation.

(19) "Hemp Processor/Handler License" means a document issued by the department authorizing the person to process, handle, market, and store hemp in the Commonwealth under the terms established in the document, KRS 260.850 through 260.869, and 302 KAR 50:030.

(20) "Hemp product" or "industrial hemp product" is defined by KRS 260.850(6).

(21) "Key participant" means a person who has a direct or indirect financial interest in the entity producing hemp, such as an owner or a partner in a partnership. "Key participants" include, without limitation, an entity's chief executive officer, chief operating officer, and chief financial officer." "Key participants" do not include farm managers, field managers, or shift managers.

(22) "Law enforcement agency" means the Kentucky State

Police, DEA, or other federal, state, or local law enforcement agency or drug suppression unit.

(23) "Licensed grower" means a person authorized in the Commonwealth by the department to grow, handle, store, and market hemp under the terms established in a hemp grower license, KRS 260.850 through 260.859, and this administrative regulation.

(24) "Licensed processor" means a person in the Commonwealth authorized by the department to process, handle, store, and market hemp under the terms established in a hemp processor/handler license KRS 260.850 through 260.859, and 302 KAR 50:030.

(25) "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.

(26) "Lot" means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout.

(27) "Negligence" means failure to exercise the level of care that a reasonably prudent person would exercise in complying with an administrative regulation, rule, or instruction.

(28) "Nonviable seed" means a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.

(29) "Person" means an individual or business entity.

(30) "Pesticide" means any substance or mixture of substances intended to:

(a) Prevent, destroy, control, repel, attract, or mitigate any pest;

(b) Be used as a plant regulator, defoliant, or desiccant; or

(c) Be used as a spray adjuvant, once they have been mixed with a U.S. Environmental Protection Agency registered product.

(31) "Post-harvest sample" means a sample taken from the harvested hemp from a particular lot's harvest in accordance with the procedures as established in 302 KAR 50:055. The entire lot's harvest is in the same form (for example, intact-plant, flowers, ground materials, etc.), homogenous, and not mixed with non-hemp materials or hemp from another lot.

(32) "Pre-harvest sample" means a composite, representative portion from living plants in a hemp lot collected in accordance with the procedures as established in 302 KAR 50:055.

(33) "Prohibited variety" means a variety or strain of cannabis excluded from the Hemp Licensing Program.

(34) "Processing" is defined by KRS 260.850(9).

(35) "Program" means the department's Hemp Licensing Program.

(36) "Propagule" means a plant or plant part that can be utilized to grow a new plant.

(37) "Publicly marketable hemp product" means a hemp product that meets one (1) or more of the following descriptions:

(a) The product:

1. does not include any living hemp plants, viable seeds, leaf materials, floral materials, or delta-9-THC content above zero and three-tenths (0.3) percent; and

2. does include, without limitation, the following products: bare stalks, bast fiber, hurd fiber, nonviable roots, nonviable seeds, seed oils, and plant extracts (excluding products containing delta-9-THC above zero and three-tenths (0.3) percent);

(b) The product is CBD that was derived from hemp, as defined by this administrative regulation; or

(c) The product is CBD that is approved as a prescription medication by the United States Food and Drug Administration.

(38) "Secondary pre-harvest sample" means a pre-harvest sample that is taken:

(a) In a given plot after the first pre-harvest sample is taken; and

(b) On a different day than the initial pre-harvest sample.

(39) "Signing authority" means an officer or agent of the organization with written authorization to commit the legal entity to a binding agreement.

(40) "Strain" means a group of hemp with presumed common ancestry and identified physiological distinctions. A strain does not

meet the uniformity, stability or distinction requirements to be considered a variety.

(41) "UK DRS" means the Division of Regulatory Services at the University of Kentucky College of Agriculture, Food, and Environment.

(42) "University" means an accredited institution of higher learning located in the Commonwealth.

(43) "Variety" means a subdivision of a species that is:

(a) Uniform, in the sense that the variations in essential and distinctive characteristics are describable;

(b) Stable, in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties; and

(c) Distinct, in the sense that the variety can be differentiated by one (1) or more identifiable morphological, physiological, other characteristics from all other publically known varieties, or other characteristics from all other publicly known varieties.

(44) "Variety of concern" means any variety of hemp that tests above 0.3000 percent delta-9-THC in one (1) or more pre-harvest samples. A hemp variety designated as a "variety of concern" could be subject to restrictions and additional testing.

(45) "Volunteer cannabis plant" means any cannabis plant that:

(a) Grows of its own accord from seeds or roots in the years following an intentionally planted cannabis crop; and

(b) Is not intentionally planted.

Section 2. Grower License Application.

(1) Any person who wishes to grow hemp at any location in the Commonwealth shall submit to the department a completed Hemp Grower License Application, or annual license renewal, incorporated by reference as part of the Grower Licensing Application Packet in 302 KAR 50:080.

(2) Existing grower license holders shall annually complete the department's requirements for license renewal by March 15.

(3) A person who does not hold a license from the department shall not:

(a) grow, cultivate, handle, or process; or

(b) broker, store, or market hemp or other cannabis that does not fall within the definition of a "publicly marketable hemp product" at any location within the Commonwealth.

(4) A person under the age of eighteen (18) years of age shall not apply for or hold a grower license.

(5) Completed Hemp Grower License Applications must be received by the department by the end of the application period established in the application.

(6) Completed Hemp Grower License Application forms shall be delivered to KDA Hemp Licensing Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(7) The department shall deny any Hemp Grower License Application that fails to meet the deadline established in the application.

(8) Each applicant shall pay a grower application fee in the amount established in 302 KAR 50:060.

(9) Application fees shall not cover or include the cost of the criminal background checks required by KRS 260.862(2)(d) and Section 3 of this administrative regulation. Applicants and license holders shall pay criminal background check fees in the manner directed by the department.

(10) The department shall deny any Hemp Grower License Application that is received without the application fee established in 302 KAR 50:060.

(11) With the Hemp Grower License Application form the applicant shall submit, at a minimum:

(a) If the applicant is an individual, the individual's full name, residential address, telephone number, and email address (if available);

(b) If the applicant is a business entity, the following information:

(i) the entity's name, Employer Identification Number, business location address in Kentucky, and principal business location;

(ii) for the individual who will have signing authority on the entity's behalf, his or her full name, title within the entity, business

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address, telephone number, and email address (if available); and

(iii) for each key participant, his or her full name, title within the entity, business address, telephone number, and email address (if available);

(c) The proposed acreage or greenhouse or indoor square footage to be planted;

(d) Street address; location ID; and GPS coordinates for each field, greenhouse, building, or site where hemp will be grown, handled, or stored;

(e) Maps depicting each site where hemp will be grown, handled, or stored, with appropriate designations for entrances, field boundaries, and Location IDs corresponding to the GPS coordinates; and

(f) Agreement to all terms and conditions established in the hemp grower application.

(12) Any Grower License Application that is missing required information shall be subject to denial.

(13) The terms and conditions established in the hemp grower application shall include, at a minimum, the following requirements for licensed growers:

(a) Acknowledge that licensed growers shall comply with all administrative regulations in 302 KAR 50;

(b) Agree to pay a licensing fee in the amount established in 302 KAR 50:060;

(c) Acknowledge that licensed growers shall comply with instructions from representatives of the department and law enforcement agencies;

(d) Consent to entry onto, and inspection of, all premises where hemp or other cannabis plants or materials are located, or licensed to be located, by representatives of the Department and law enforcement agencies, with or without cause, with or without advance notice;

(e) Consent to forfeiture and destruction, without compensation, of:

1. Material found to have a measured delta-9-THC content in excess of zero and three-tenths (0.3) percent on a dry weight basis;

2. Plants located in an area that is not licensed by the department; and

3. Plants not accounted for in required reporting to the department;

(f) Agree to apply for licensing of all growing, handling, and storage locations, including GPS coordinates, and receive department approval for those locations prior to having hemp on those premises;

(g) Acknowledge that licensed growers shall submit a Site Modification Request Form, the appropriate fees based on the requested changes, and obtain prior written approval from a representative of the department before implementing any change to the licensed sites stated in the hemp grower license, and that growing site changes shall be subject to a site modification surcharge in the amount established in 302 KAR 50:060 for a new set of GPS coordinates;

(h) Acknowledge that anyone applying pesticides to hemp shall hold a pesticide license and apply pesticides in accordance with Section 18 of this administrative regulation;

(i) Acknowledge that the risk of financial or other loss shall be borne solely by the licensed grower;

(j) Acknowledge that licensed growers shall comply with restrictions established by the department limiting the movement of hemp plants and plant parts;

(k) Agree that any time hemp is in transit, a copy of the hemp grower license shall be available for inspection upon the request of a representative of the department or a law enforcement agency;

(l) Agree that, upon request from a representative of the department or a law enforcement agency, a licensed grower shall immediately produce a copy of his or her hemp grower license for inspection;

(m) Agree to submit Planting Reports, Harvest/Destruction Reports, and other reports required by the department to which the grower has agreed, on or before the deadlines established in this administrative regulation;

(n) Agree to scout and monitor unlicensed fields for volunteer

cannabis plants and to destroy those volunteer cannabis plants for three (3) years past the last date of planting reported to the department;

(o) Agree not to employ or rent land to cultivate hemp from any person who was terminated or denied admission to the Hemp Licensing Program for one (1) or both of the following reasons:

1. Failure to obtain an acceptable criminal background check;

or

2. Failure to comply with an order from a representative of the department;

(p) Agree to abide by all land use restrictions for licensed growers set forth in Section 5 of these regulations.

Section 3. Criminal Background Check.

(1) Each licensed grower or applicant, or key participant within an entity that is a grower or applicant, shall undergo and pay for an annual criminal background check as required by KRS 260.862(2)(d).

(2) A licensed grower or applicant, or key participant within an entity that is a grower or applicant, shall, following completion of the background check, ensure delivery of the report to the department with the licensing application or renewal.

(3) The department shall not accept a report from a criminal background check that occurred more than 60 days prior to the date of the application.

(4) Failure to submit the background check with the application shall be grounds for license denial.

(5) Substitution of a signing authority shall require approval from the department and the submission of a current criminal background check on the substitute signing authority.

Section 4. Application for Hemp Grower License; Criteria and Procedure for Evaluation.

(1) The department shall apply the criteria established in paragraphs (a) through (l) of this subsection in evaluating an application for the grower license.

(a) In accordance with Section 2 of this administrative regulation, the applicant shall submit a complete application with all required components and attachments.

(b) For an applicant who has been a Hemp Licensing Program participant previously, the applicant shall comply with the responsibility to submit:

1. Field Planting Report and Greenhouse/Indoor Planting Report, incorporated by reference in 302 KAR 50:080;

2. Harvest/Destruction Report, incorporated by reference in 302 KAR 50:080;

3. Any other reports deemed necessary by the department to which the applicant has agreed.

(c) The applicant's growing sites, handling sites and storage sites shall be located in the Commonwealth of Kentucky.

(d) The applicant's primary residence shall be located in Commonwealth of Kentucky or within 50 miles of at least one of the applicant's Kentucky growing sites.

(e) The applicant shall affirm that the applicant resides at the primary residence listed on the Grower License Application form from May 1 to September 30.

(f) The criminal background check report indicates that, within ten (10) years from the date when the background check was issued, the applicant shall not have:

1. A felony conviction; or

2. A drug-related misdemeanor conviction or violation;

(g) No person who has been convicted of any felony or any drug-related misdemeanor or violation in the previous ten (10) years from the date of application shall be eligible to obtain a license; provided, however, that

(i) a person who was growing hemp lawfully with a license, registration, or authorization under a pilot program authorized by Section 7606 of the Agricultural Act of 2014 (7 U.S.C. 5940) shall be eligible to obtain a license; and

(ii) a person who was lawfully growing hemp under the 2014 Farm Bill before December 20, 2018 and was convicted prior to December 20, 2018 shall be eligible to obtain a license.

(h) In the past, including those times when the applicant was

not a participant in the department's Hemp Licensing Program, the applicant shall have demonstrated a willingness to comply with the department's rules, instructions from department staff, and instructions from representatives of Kentucky State Police and other law enforcement agencies.

(i) The applicant shall not be delinquent in making any required reports or payments to the department in connection with the applicant's participation in the Hemp Licensing Program or other programs within the department.

(j) The applicant shall not have any unpaid fees, fines or civil penalties owed to the department.

(k) The applicant shall not have and shall not make any false statements or representations to a representative of the department or a law enforcement agency. Any person who materially falsifies any information contained in an application shall be ineligible to obtain a license from the department.

(l) The applicant's proposed growing sites shall comply with the land use restrictions set forth in Section 5 of this administrative regulation. Denial of all proposed growing sites shall constitute grounds for denial of the application.

(2) The department shall conditionally approve an application for a hemp grower license if the application satisfies the criteria established in this administrative regulation.

(3) The department shall notify applicants by letter or email whether the application has been denied or conditionally approved. A person shall not be a participant in the Hemp Licensing Program until the applicant has received a hemp grower license from the department.

(4) Conditionally approved applicants shall complete a mandatory orientation session at a location designated by the department, and pay licensing fees prior to receiving a hemp grower license.

(5) The department shall not allow any person to complete orientation in lieu of the applicant.

Section 5. Land Use Restrictions for Licensed Growers.

(1) A licensed grower shall not plant or grow any cannabis that is not hemp.

(2) A licensed grower shall not plant or grow hemp or other cannabis on any site not licensed.

(3) A licensed grower shall not grow hemp or other cannabis in or adjacent to any structure that is used for residential purposes.

(4) A licensed grower shall not handle or store leaf or floral material from hemp or other cannabis in or adjacent to any structure that is used for residential purposes.

(5) Hemp shall be physically segregated from other crops unless prior approval is obtained in writing from the department.

(6) A licensed grower shall plant a minimum of 1,000 plants in each growing site unless prior approval is received in writing from the department.

(7) A licensed grower shall plant a minimum of one quarter (0.25) acre in each outdoor growing site unless prior approval is received in writing from the department.

(8) Except as provided in subsection 5(9) of this administrative regulation, a licensed grower shall not grow hemp or other cannabis in any outdoor field that is located within 1,000 feet of a school or a public recreational area.

(9) Notwithstanding the prohibition in subsection 5(8) of this administrative regulation, hemp may be grown within 1,000 feet of a school, provided that:

(a) the applicant has been designated by a school district superintendent,

(b) the applicant is a vocational agriculture instructor, agriculture teacher, or other qualified person who is employed by a school district; and

(c) the school district's board has voted to approve the applicant's proposal.

(10) An applicant or licensed grower shall not include any property on his or her application or Site Modification Request, incorporated by reference in 302 KAR 50:080, to grow, cultivate, or store hemp that is not owned or completely controlled by the applicant or licensed grower, as evidenced by a written lease or other document that shall be provided to the department upon

request.

(11) A licensed grower shall not grow, handle, or store hemp or other cannabis on property owned by, leased from, or previously submitted in a license application by any person who is ineligible or was terminated, or denied admission to the Hemp Licensing Program for one (1) or both of the following reasons:

(a) Failure to obtain an acceptable criminal background check; or

(b) Failure to comply with an order from a representative of the department.

(12) Licensed growers with plots of one (1) acre or less are required to post signage at the plot location. The signage shall include the following information:

(a) The statement, "Kentucky Department of Agriculture Hemp Licensing Program";

(b) License holder's name;

(c) License holder's license number; and

(d) The department's telephone number.

Section 6. Administrative Appeal from Denial of Application.

(1) An applicant wishing to appeal the department's denial or partial denial of an application shall submit a written request for a hearing postmarked within fifteen (15) days of the date of the department's notification letter or email.

(2) An appealing applicant shall mail a hearing request letter to KDA Hemp Licensing Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(3) Appeals shall be heard by a three (3) person administrative panel whose members shall be designated by the commissioner. The panel shall include at least one (1) person who is a department employee and at least one (1) person who is not a department employee and not involved or invested in any hemp projects in Kentucky.

(4) The members of the administrative panel shall not be required to accept or consider information or documents that were not compliant with application deadlines established in this administrative regulation.

(5) The members of the administrative panel shall apply the same standards established in this administrative regulation to determine if the department's action in denying the application was arbitrary or capricious.

(6) Hearings on appeals shall be open to the public and occur at a time and date and location designated by the commissioner.

(7) An appealing applicant shall appear in person at the assigned hearing time. Failure to appear on time shall constitute grounds for dismissal of the appeal.

(8) The three (3) members of the administrative panel shall rule on the appeal by a majority vote.

Section 7. Hemp Grower Licenses.

(1) An applicant shall not be a participant in the Hemp Licensing Program until the department has issued a hemp grower license following the applicant's completion of the department's mandatory orientation session and payment of licensing fees.

(2) The grower license application shall establish the terms and conditions governing participation in the Hemp Licensing Program.

(3) Failure to agree or comply with terms and conditions established in the hemp grower license application or this administrative regulation shall constitute grounds for appropriate departmental action, up to and including termination of the grower license and expulsion from the Hemp Licensing Program.

(4) A Hemp Grower License will remain in force as long as the license holder meets annual renewal requirements by March 15 of each year.

(5) A Hemp Grower License may be terminated by the license holder or the department upon thirty (30) days prior written notice.

(6) A Hemp Grower License authorizes the license holder to grow hemp; handle his or her own hemp, including such activities as drying, grinding, separating foliage from stem, storing and packaging; and market his or her own hemp. A Hemp Grower License does not authorize the grower to process hemp, handle other person's hemp, or market another person's hemp.

(7) The department shall issue grower's license numbers in

accordance with this format: "21 0001" through "21 9999."

Section 8. Licensing Fees; Secondary Pre-Harvest Sample Fees.

(1) Licensing fee.

(a) The conditionally approved applicant or license holder shall pay a licensing fee prior to the issuance of a new license or an annual license renewal.

(b) The licensing fee for each growing address shall be in the amount established in 302 KAR 50:060.

(2) Secondary Pre-Harvest Sample fee.

(a) If a licensed grower fails to complete the harvest within fifteen (15) days after the department collects the pre-harvest sample, the licensed grower shall submit a new Harvest/Destruction Report and may be required to pay a secondary pre-harvest sample fee.

(b) If four (4) or more samples are taken from the same address, then the licensed grower shall be required to pay a secondary pre-harvest sample fee for each sample taken from that address in excess of three (3).

(c) The secondary Pre-Harvest sample fee shall be paid to the department within fifteen (15) days of invoice by the department. The secondary pre-harvest sample fee shall be as established in 302 KAR 50:060.

(d) If the licensed grower fails to pay the secondary pre-harvest sample fee within fifteen (15) days of invoice, the lack of payment shall be considered a violation of the hemp grower license.

(e) The licensed grower shall not harvest the remaining crop until the department collects a secondary pre-harvest sample if one is required as established in paragraph (a) or (b) of this subsection.

Section 9. Site Modifications and Site Modification Surcharge Fees.

(1) A licensed grower who elects to grow hemp in a new growing location or store or handle at a site other than the sites specified by the GPS coordinates listed on the hemp grower license, shall submit a Site Modification Request Form, incorporated by reference in 302 KAR 50:080, and obtain written approval from a representative of the department, prior to planting or storing at the proposed location.

(2) Any request for a new growing location shall comply with the land use restrictions established in Section 5 of this administrative regulation.

(4) The department shall charge a site modification surcharge fee for each new Location ID, (specifically, a GPS coordinate for each new individual field or greenhouse or indoor structure) where hemp will be grown. The amount of the site modification surcharge fee shall be as established in 302 KAR 50:060.

(5) The department shall not approve a site modification request for a new growing location until the department has received the site modification surcharge fee.

(6) The department shall not assess a site modification surcharge for changes to storage-only locations.

Section 10. Seed and Propagule Acquisition

(1) A license holder intending to acquire seeds or propagules first shall determine whether or not the variety or strain intended for purchase is listed on the department's current Summary of Varieties List.

(a) If the variety or strain is listed on the Summary of Varieties List, no pre-approval from the department is required.

(b) If the variety or strain is not listed on the Summary of Varieties List, the license holder shall submit a New Hemp Variety or Strain Request Form along with a certificate of analysis for that strain or variety, showing that mature plants grown from that seed variety or strain have a floral material delta-9-THC (must be measured post-decarboxylation, also referred to as total THC) content of not more than 0.300% on a dry weight basis from an independent third-party laboratory.

(2) A license holder who develops a new hemp variety or strain shall submit the New Hemp Variety or Strain Request form, prior to its use in crop production.

(3) The department shall not approve a New Hemp Variety or Strain Request unless the licensed grower affirms in writing that

the requested seed acquisition plan does not infringe on the intellectual property rights of any person and that the seed or propagule source is a current legal hemp operation.

(4) The department shall not approve a New Hemp Variety or Strain Request if a representative of the department has information supporting a belief that the variety or strain will produce plants with delta-9-THC (must be measured post-decarboxylation, also referred to as total THC) content of more than 0.300% on a dry weight basis.

(5) A license holder shall not buy, sell, possess, or transfer seeds or propagules of any variety or strain designated as a Prohibited Variety on the department's published Summary of Varieties list.

(6) Upon request from a representative of the department, a licensed grower or licensed processor shall provide a distribution list showing locations where and to whom the hemp seeds were distributed.

(7) Any person engaging in the distribution of hemp seeds shall adhere to the applicable Kentucky seed laws (KRS 250.010 to KRS 250.990) and administrative regulations (12 KAR 1:116 to 12 KAR 1:175).

(8) Any person who intends to move transplants or other living plants to a location outside Kentucky must obtain a Class A Nursery License from the Kentucky Office of the State Entomologist.

Section 11. Seeds of Wild, Landrace, or Unknown Origin.

(1) A person shall not acquire or grow hemp or cannabis seeds or propagules of wild, landrace, or unknown origin without first obtaining written approval from a representative of the department.

(2) The department shall not permit hemp or cannabis seeds or propagules of wild, landrace, or unknown origin to be planted, cultivated, or replicated by any person without the department first arranging for replication and THC testing of mature plants grown from the seeds or propagules by the department or its designee.

(3) Any licensed grower or licensed processor found to have saved seed, propagules, or cuttings, or cultivated seeds, propagules, or cuttings from a cannabis plant of wild, landrace, or unknown origin, without advance written permission from the department shall be subject to suspension or revocation of his or her license and forfeiture without compensation of his or her materials.

Section 12. Planting Reports for Outdoor Plantings.

(1) A licensed grower shall submit to the department a complete and current Field Planting Report, within fifteen (15) days after every planting, including complete replanting, of seeds or propagules in an outdoor location.

(2) Each Field Planting Report shall identify the:

(a) Correct variety or strain name;

(b) Field location ID as listed on the hemp grower's license; and

(c) Primary intended use of the harvest.

(3) A licensed grower who does not plant hemp in an approved outdoor site listed in the hemp grower license shall submit a Field Planting Report, on or before July 31, stating that hemp has not been planted and will not be planted at that site.

Section 13. Planting Reports for Indoor Plantings.

(1) A licensed grower shall submit to the department a complete and current Greenhouse/Indoor Planting Report within fifteen (15) days after establishing plants at an indoor location.

(2) Each Greenhouse/Indoor Planting Report shall identify the:

(a) Correct variety or strain name;

(b) Greenhouse or indoor growing location ID as listed in the hemp grower license; and

(c) Primary intended use of the harvest or of the hemp plants.

(3) In addition to the initial Greenhouse/Indoor Planting Report, a licensed grower with an approved greenhouse or indoor growing site shall submit quarterly reports for each location ID to the department. Greenhouse/Indoor Planting Reports shall be due no later than March 31, June 30, September 30, and December 31.

Section 14. Planting Reports to USDA's Farm Service Agency.

(1) In addition to the other reports required by this administrative regulation, a licensed grower shall report hemp crop acreage to USDA's Farm Service Agency including, at a minimum, the following information:

(a) Street address and, to the extent practicable, geospatial location for each lot or greenhouse where hemp will be produced.

(b) Acreage (or square footage, in the case of a greenhouse or other indoor growing facility) dedicated to the growing of each variety or strain of hemp; and

(c) The grower's name and license number.

(2) The department shall collect and retain, 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 15. Site Access for Representatives of the Department and Law Enforcement Agencies.

(1) The department shall provide information about approved growing, handling, and storage site locations to representatives of the Kentucky State Police, USDA, DEA, and other law enforcement agencies whose representatives request licensed site information, including GPS coordinates.

(2) Licensed growers shall have no reasonable expectation of privacy with respect to premises where hemp or other cannabis seeds, plants, or materials are located, and any premises listed in the hemp grower license.

(3) A licensed grower, whether present or not, shall permit a representative of the department or a law enforcement agency to enter into premises where hemp or other cannabis seeds, plants, or materials are located, and any premises listed in the hemp grower's license, with or without cause and with or without advanced notice.

Section 16. Pesticide Use.

(1) A licensed grower who uses a pesticide on hemp shall first be certified to apply pesticides by the department pursuant to KRS Chapter 217B.

(2) A licensed grower who is certified to apply pesticides by the department pursuant to KRS Chapter 217B shall not use, or be eligible to use, a Category 10 license to apply pesticides to hemp in violation of the product label.

(3) A licensed grower shall not use any pesticide in violation of the product label.

(4) A licensed grower who uses a pesticide on a site where hemp will be planted shall comply with the longest of any planting restriction interval on the product label prior to planting the hemp.

(5) The department may perform pesticide testing on a random basis or if representatives of the department have reason to believe that a pesticide may have been applied to hemp in violation of the product label.

(6) Hemp seeds, plants, and materials bearing pesticide residue in violation of the label shall be subject to forfeiture or destruction without compensation.

(7) The department shall publish a guidance document titled "Kentucky Hemp and Pesticides" on its website to provide guidance about pesticide use on hemp.

Section 17. Responsibility of a Licensed Grower Regarding Harvest of Hemp Plots.

(1) The department may inspect a Licensed Grower's premises, or collect samples of any hemp or other cannabis material, at any time.

(2) The grower shall not harvest hemp plants from a lot without the department first collecting samples from that lot.

(3) Fifteen (15) days prior to the anticipated harvest of hemp plants, the grower shall submit to the department a completed and current "Harvest/Destruction Report" form identifying the intended date of harvest (or date of destruction, in the case of a failed crop).

(4) The department's receipt of a Harvest/Destruction Report shall trigger a sample collection by a representative of the department in accordance with the procedures set forth in 302 KAR 50:055.

(5) During the department's scheduled sample collection, the

grower or an authorized representative of the grower shall be present at the growing site.

(6) Representatives of the department shall be provided with complete and unrestricted access to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants; and all locations listed in the hemp grower's license.

(7) The licensed grower shall harvest the crop not more than fifteen (15) days following the date of sample collection by the department, unless specifically authorized in writing by the department.

(8) If the licensed grower fails to complete a harvest within fifteen (15) days following the date of sample collection, then the licensed grower shall submit a new Harvest/Destruction report and may be required to pay a secondary pre-harvest sample fee in the amount established in 302 KAR 50:060.

(9) Floral materials shall not be moved outside the Commonwealth, nor moved beyond a processor, nor commingled, nor extracted, until the department releases the material in writing.

(10) Harvested materials from one lot shall not be commingled with other harvested lots without prior written permission from the department.

(11) A licensed grower who fails to submit a Harvest/Destruction Report shall be subject to revocation of his or her license.

(12) A licensed grower who proceeds to harvest a crop without first obtaining authorization from the department shall be subject to revocation of his or her license.

Section 18. Collection of Samples; THC Testing; Post-Testing Actions.

(1) The department shall collect hemp samples for THC testing in accordance with the procedures set forth in 302 KAR 50:055.

(2) UK DRS shall receive, prepare, and release hemp samples in accordance with the procedures set forth in 302 KAR 50:055.

(3) UK DRS shall measure delta-9-THC concentration of each hemp sample (post-decarboxylation, often referred to as total THC) in accordance with the procedures set forth in 302 KAR 50:055.

(4) The department shall undertake post-testing actions in accordance with the procedures established in 302 KAR 50:055.

(5) All samples shall become the property of the department and shall not be returnable. Compensation shall not be owed by the department.

(6) If UK DRS is not able to provide THC testing services required by the department, the department may identify and contract with a third party lab to perform THC testing services.

(7) The department may collect samples of hemp or other cannabis material at any time.

Section 19. Restrictions on Sale or Transfer.

(1) A licensed grower shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person in the Commonwealth who does not hold a license issued by the department.

(2) A licensed grower shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person outside the Commonwealth who is not authorized to possess such materials under the laws of that jurisdiction.

(3) The department shall permit the sale or transfer of stripped stalks, fiber, dried roots, nonviable seeds, seed oils, floral and plant extracts (excluding THC in excess of zero and three-tenths (0.3) percent) and other marketable hemp products to members of the general public, both within and outside the Commonwealth, if the marketable hemp product's decarboxylated delta-9-THC level is not more than zero and three-tenths (0.3) percent.

(4) A licensed grower selling or transferring, or permitting the sale or transfer, of floral or plant extracts (including CBD), shall retain testing data or results for at least three (3) years demonstrating that the extract's delta-9-THC level is not more than zero and three-tenths (0.3) percent.

(5) A licensed grower shall not sell or transfer floral extracts

containing a decarboxylated delta-9 THC concentration in excess of zero and three-tenths (0.3) percent.

(6) Licensed growers shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9, and all other applicable local, state, and federal laws and regulations relating to product development, product manufacturing, consumer safety, and public health.

(7) A licensed grower shall not knowingly permit hemp to be sold to or used by any person in the Commonwealth, who is involved in the manufacture of an item named on the prohibited products list established in 302 KAR 50:070.

(8) A person shall not ship or transport, or allow to be shipped or transported, any hemp product with a decarboxylated delta-9-THC concentration in excess of zero and three-tenths (0.3) percent.

Section 20. Other Prohibited Activities.

(1) A licensed grower shall not allow another person, other than an agent of the licensed grower, to grow, handle, or store hemp under their license in lieu of obtaining a separate hemp grower license.

(2) A license holder shall not make, manufacture or distribute in the Commonwealth any of the prohibited products listed in 302 KAR 50:070.

Section 21. Information Submitted to the Department Subject to Open Records Act.

(1) Except as established in subsection (2) of this section, information and documents generated or obtained by the department shall be subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.870 through 61.884.

(2) Personally identifiable information including physical address, mailing address, driver's license numbers, background checks, GPS coordinates, telephone numbers, and email addresses, shall be shielded from disclosure to the maximum extent permitted by law; provided, however, the department shall provide this information to law enforcement agencies and other regulatory agencies upon request.

Section 22. Consequences for Negligent Violations.

(1) If the department determines that a grower committed a negligent violation of any provision within KRS Chapter 260.850 to 260.869, or any administrative regulation promulgated under the authority of those statutes, then the department shall devise and implement a corrective action plan for the grower.

(2) Corrective action plans will remain in place for at least two (2) years and include, at a minimum, the following:

(a) The date by which the grower shall correct each negligent violation;

(b) Steps to correct each negligent violation;

(c) A description of the procedures to demonstrate compliance; and

(d) Inspections or other measures to ensure compliance.

(3) A grower who commits a negligent violation shall not, as a result of that violation, be subject to any criminal enforcement action by any government.

(4) If a subsequent violation occurs while a corrective action plan is in place, a new corrective action plan must be submitted with a heightened level of quality control, staff training, and quantifiable action measures.

Section 23. Violations Requiring Temporary License Suspension Procedures.

(1) The department shall notify a licensed grower in writing that the Hemp Grower License has been temporarily suspended if a representative of the department receives information supporting an allegation that a licensed grower has:

(a) plead guilty to, or is convicted of, any felony or drug-related misdemeanor or violation, in accordance with KRS 260.864.

(b) Engaged in conduct violating a provision of KRS 260.850 through 260.869, 302 KAR Chapter 50, or the hemp grower license with a culpable mental state greater than negligence;

(c) Made a false statement to a representative of the

department or a law enforcement agency with a culpable mental state greater than negligence;

(d) Been found to be growing or in possession of cannabis with a measured delta-9-THC concentration above 0.3 percent with a culpable mental state greater than negligence; or

(e) Failed to comply with an order from a representative of the department or a law enforcement agency with a culpable mental state greater than negligence.

(2) The department shall schedule a license revocation hearing for a date as soon as practicable after the notification of temporary suspension, but in any event not later than sixty (60) days following the notification of temporary suspension.

(3) A person whose Hemp Grower License has been temporarily suspended shall not harvest, process, or remove cannabis from the premises where hemp or other cannabis was located at the time when the department issued its notice of temporary suspension, except as authorized in writing by a representative of the department.

(4) As soon as possible after the notification of temporary suspension, a representative of the department shall inspect the licensed grower's premises and perform an inventory of all cannabis, hemp, and hemp products that are in the licensed grower's possession.

Section 24. License Revocation Hearings and Consequences of Revocation.

(1) The department shall notify a person whose Hemp Grower License has been temporarily suspended of the date when the person's license revocation hearing will occur at a time and place designated by the commissioner.

(2) License revocation hearings shall be adjudicated by a three (3) person administrative panel in accordance with KRS 260.864.

(3) License revocation hearings shall be open to the public.

(4) A person whose Hemp Grower License has been temporarily suspended shall appear in person at the assigned hearing time. Failure to appear on time shall constitute a waiver of the person's right to present information and arguments against revoking the hemp grower license.

(5) A representative of the department shall be allowed an opportunity to present information and arguments for revoking the hemp grower license.

(6) A person whose hemp grower license has been temporarily suspended shall be allowed an opportunity to present information and arguments against revoking the hemp grower license.

(7) The three (3) members of the administrative panel shall rule on the question of revocation by a majority vote.

(8) If a majority of the three (3) members of the administrative panel find that it is more likely than not that a licensed grower has committed any of the acts listed in Section 23(1) of this administrative regulation, then the hemp grower license shall be revoked effective immediately.

(9) If a majority of the members of the administrative panel vote against revoking the hemp grower license, the department shall lift the temporary suspension within twenty-four (24) hours of the vote.

(10) If a majority of the members of the administrative panel vote in favor of revoking the hemp grower license, then a representative of the department or a law enforcement agency shall have authority to destroy or confiscate all cannabis, hemp, and hemp products that are in the person's possession.

(11) A person whose property is destroyed or confiscated by a representative of the department or a law enforcement agency shall be owed no compensation or indemnity for the value of the cannabis, hemp, or hemp products that were destroyed or confiscated.

(12) The department shall immediately report any person whose license has been revoked on the grounds that he or she violated a provision of KRS 260.850 through 260.869, 302 KAR Chapter 50, or violated the grower license with a culpable mental state greater than negligence, to an appropriate law enforcement agency.

(13) A person whose grower license has been revoked shall not be eligible for licensure for a period of five (5) years from the

date of the most recent violation.

Section 25. Monetary Civil Penalties.

(1) If a representative of the department receives information supporting a finding that it is more likely than not that a person has engaged in conduct violating a provision of KRS 260.850 through 260.869, 302 KAR Chapter 50, or the hemp grower license application, then the department shall assess a monetary civil penalty not to exceed \$2,500 per violation.

(2) A person wishing to appeal the department's assessment of a monetary civil penalty shall submit a written request for a hearing within fifteen (15) days of the notification date.

(3) A person wishing to appeal the department's assessment of a monetary civil penalty shall mail a hearing request letter to KDA Hemp Licensing Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(4) Appeals shall be heard by a three (3) person administrative panel whose members shall be designated by the commissioner. The administrative panel shall include at least one (1) person who is a department employee and at least one (1) person who is not a department employee and not involved or invested in any Kentucky hemp projects.

(5) The members of the administrative panel shall determine if the department's action in assessing the monetary civil penalty was arbitrary or capricious.

(6) Hearings on the appeal shall be open to the public and occur at a time, date, and location designated by the commissioner.

(7) An appealing person shall appear in person at the assigned hearing time. Failure to appear on time shall constitute grounds for dismissal of the appeal.

(8) An appealing person shall be allowed an opportunity to present arguments for reversing the assessed monetary civil penalty.

(9) A representative of the department shall be allowed an opportunity to present arguments for affirming the assessed monetary civil penalty.

(10) The three (3) members of the administrative panel shall rule on the appeal by a majority vote.

(11) A majority of the three (3) members of the administrative panel may affirm the assessed monetary civil penalty, affirm and increase or decrease the assessed monetary civil penalty, or reverse the assessed monetary civil penalty.

(12) The department shall have the authority to pursue unpaid monetary civil penalties by filing a civil cause of action in the Franklin Circuit Court.

Section 26. Licensing for Representatives of Universities and Colleges.

(1) Except as provided in this Section of this administrative regulation, faculty members, administrators, and staff members of an institution of higher education shall be subject to each of the sections of this administrative regulation.

(2) No institution of higher education shall permit or authorize its faculty, administration, or staff members, or any sponsored student, to be in possession of, or conduct academic research involving, living hemp plants, and harvested hemp without first completing and submitting a Grower License Application.

(3) An authorized faculty, administrator, or staff member of an eligible institution of higher education who wishes to be in possession of, or conduct an academic research project involving, living hemp plants, and harvested hemp shall complete and submit a Grower License Application.

(4) No institution of higher education shall permit or authorize its faculty, administration, or staff members, or any sponsored student, to be in possession of, or conduct academic research involving, leaf material, or floral material from hemp without first completing and submitting a Processor/Handler License Application.

(5) An authorized faculty, administrator, or staff member of an eligible institution of higher education who wishes to be in possession of, or conduct an academic research project involving,

leaf material or floral material from hemp shall complete and submit a Processor/Handler License Application.

(6) The department shall accept applications from an authorized faculty, administrator, or staff member of an eligible institution of higher education at any time of the year.

(7) The department shall not collect fees for licenses issued to a faculty member, administrator, or staff member of an institution of higher education if the project is for research only (that is, not intended for commerce).

(8) Sampling and testing of hemp grown under the authority of this section shall be conducted by the department if the harvested material is intended for commerce.

(9) As used in this section, "eligible institution of higher education" means an institution of higher education that is:

(a) Is accredited by, and in good standing with, a regional or national higher education accreditation agency;

(b) Confers academic degrees at the associate, bachelor, master, or doctoral level; and

(c) Has a principal campus or office that is located at a site within the Commonwealth of Kentucky.

Section 27. Record keeping requirements; three year retention period.

(1) For at least three years, license holders shall maintain and make available for inspection by the department during reasonable business hours:

(a) Records regarding acquisition of hemp plants;

(b) Records regarding production and handling of hemp plants;

(c) Records regarding storage of hemp plants; and

(d) Records regarding disposal of all cannabis plants that do not meet the definition of hemp.

(2) The department shall have access to any premises where hemp plants may be held during reasonable business hours.

(3) All reports and records required to be submitted to the department as part of participation in the program in this part which include confidential data or business information, including but not limited to information constituting a trade secret or disclosing a trade position, financial condition, or business operations of the particular licensee or their customers, shall be received by, and at all times kept in the custody and control of, one or more employees of the department or their representatives. Confidential data or business information may be shared with applicable federal, state, or local law enforcement agencies or their designees in compliance with applicable law. [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 establishes procedures and requirements for licensing persons who wish to grow or cultivate industrial hemp as a participant in the department's industrial hemp research pilot program.]

Section 1. Definitions.

(1) "Applicant" means a person, or a person who is authorized to sign for a business entity, who submits an application to participate in the industrial hemp pilot program.

(2) "Brokering" means engaging or participating in the marketing of hemp by acting as an intermediary or negotiator between prospective buyers and sellers.

(3) "Cannabis":

(a) Means all parts of the cannabis plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts; and

(b) Does not mean "publicly marketable hemp product", as defined by this administrative regulation.

(4) "CBD" means cannabidiol.

(5) "Certified seed" means seed for which a certificate or any other instrument has been issued by an agency authorized under the laws of a state, territory, or possession to officially certify seed and that has standards and procedures approved by the United

States Secretary of Agriculture to assure the genetic purity and identity of the seed certified.

(6) "Commissioner" is defined by KRS 260.850(1).

(7) "Commonwealth" means the Commonwealth of Kentucky.

(8) "DEA" means the United States Drug Enforcement Administration.

(9) "Decarboxylated" means the completion of the chemical reaction that converts THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid.

(10) "delta-9-THC" means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis).

(11) "Department" or "KDA" is defined by KRS 260.850(3).

(12) "Grower licensing agreement" means a document executed by a person and the department authorizing the person to grow, handle, and store hemp at one (1) or more specified locations in the Commonwealth under the terms established in the document, KRS 260.850 through 260.863, and this administrative regulation.

(13) "GPS" means Global Positioning System.

(14) "Handling" is defined by KRS 260.850(4).

(15) "Hemp" or "industrial hemp" is defined by KRS 260.850(5).

(16) "Hemp product" or "industrial hemp product" is defined by KRS 260.850(6).

(17) "Law enforcement agency" means the Kentucky State Police, DEA, or other federal, state, or local law enforcement agency or drug suppression unit.

(18) "Licensed grower" means a person authorized in the Commonwealth by the department to grow, handle, store, and market hemp under the terms established in a grower licensing agreement, KRS 260.850 through 260.859, and this administrative regulation.

(19) "Licensed processor" means a person in the Commonwealth authorized by the department to process, handle, store, and market hemp under the terms established in a processor licensing agreement, KRS 260.850 through 260.859, and 302 KAR 50:030.

(20) "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.

(21) "Nonviable seed" means a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.

(22) "Person" means an individual or business entity.

(23) "Pesticide" means any substance or mixture of substances intended to:

(a) Prevent, destroy, control, repel, attract, or mitigate any pest;

(b) Be used as a plant regulator, defoliant, or desiccant; or

(c) Be used as a spray adjuvant, once they have been mixed with a U.S. Environmental Protection Agency registered product.

(24) "Plot" means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout the area.

(25) "ppm" means parts per million.

(26) "Post-harvest sample" means a sample taken from the harvested hemp from a particular plot's harvest in accordance with the procedures as established in 302 KAR 50:050. The entire plot's harvest is in the same form (for example, intact plant, flowers, ground materials, etc.), homogenous, and not mixed with nonhemp materials or hemp from another plot.

(27) "Pre-harvest sample" means a composite, representative portion from plants in a hemp plot collected in accordance with the procedures as established in 302 KAR 50:050.

(28) "Prohibited variety" means a variety or strain of cannabis excluded from the department's program.

(29) "Processing" is defined by KRS 260.850(9).

(30) "Processor licensing agreement" means a document executed by a person and the department authorizing the person to process, handle, and store hemp at one (1) or more specified

locations in the Commonwealth under the terms established in the document, KRS 260.850 through 260.869, and 302 KAR 50:030.

(31) "Program" means the department's Industrial Hemp Research Pilot Program.

(32) "Propagule" means a plant or plant part that can be utilized to grow a new plant.

(33) "Publicly marketable hemp product" means a hemp product that meets one (1) or more of the following descriptions:

(a) 1. The product does not include any living hemp plants, viable seeds, leaf materials, floral materials, or delta-9-THC content above zero and three tenths (0.3) percent; and

2. Does include, without limitation, the following products: bare stalks, bast fiber, hurd fiber, nonviable roots, nonviable seeds, seed oils, and plant extracts (excluding products containing delta-9-THC above zero and three tenths (0.3) percent);

(b) The product is CBD that was derived from hemp, as defined by this administrative regulation; or

(c) The product is CBD that is approved as a prescription medication by the United States Food and Drug Administration.

(34) "Secondary pre-harvest sample" means a pre-harvest sample that is taken:

(a) In a given plot after the first pre-harvest sample is taken; and

(b) On a different day than the initial pre-harvest sample.

(35) "Seed source" means the origin of the seed or propagules as determined by the department.

(36) "Signing authority" means an officer or agent of the organization with written authorization to commit the legal entity to a binding agreement.

(37) "UK DRS" means the Division of Regulatory Services at the University of Kentucky College of Agriculture, Food, and Environment.

(38) "University" means an accredited institution of higher learning located in the Commonwealth.

(39) "Variety" means a subdivision of a species that is:

(a) Uniform, in the sense that the variations in essential and distinctive characteristics are describable;

(b) Stable, in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties; and

(c) Distinct, in the sense that the variety can be differentiated by one (1) or more identifiable morphological, physiological, other characteristics from all other publicly known varieties, or other characteristics from all other publicly known varieties.

(40) "Variety of concern" means any variety of hemp in the department's program that tests above 3,000 ppm or 0.3000 percent delta-9-THC in one (1) or more pre-harvest samples. A hemp variety designated as a "variety of concern" could be subject to restrictions and additional testing.

(41) "Volunteer cannabis plant" means any cannabis plant that:

(a) Grows of its own accord from seeds or roots in the years following an intentionally planted cannabis crop; and

(b) Is not intentionally planted.

Section 2. Grower License Application.

(1) Any person who wishes to grow hemp at any location in the Commonwealth shall submit to the department annually a completed Grower License Application, incorporated by reference as part of the Grower Licensing Application Packet in 302 KAR 50:080.

(2) A person who does not hold a license from the department shall not:

(a) Grow, cultivate, handle, or process; or

(b) broker, store, or market hemp or other cannabis that does not fall within the definition of a "publicly marketable hemp product" at any location within the Commonwealth.

(3) A person under the age of eighteen (18) years of age shall not apply for or hold a grower license.

(4)(a) Completed Grower License Application forms shall be postmarked or received by the department by the end of the application period established in the application.

(b) Completed Grower License Application forms shall be

delivered to KDA Industrial Hemp Research Pilot Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(c) The department shall deny any Grower License Application that fails to meet the deadline established in the application.

(5) Each applicant shall pay a grower application fee in the amount established in 302 KAR 50:060.

(6) Application fees shall not cover or include the cost of the criminal background checks required by KRS 260.862(2)(d) and Section 3 of this administrative regulation. Applicants and license holders shall pay criminal background check fees directly to the Kentucky State Police or other law enforcement agency designated by the department.

(7) The department shall deny any Grower License Application that is received without the application fee established in 302 KAR 50:060.

(8) With the Grower License Application form the applicant shall submit, at a minimum:

(a) Full name, Kentucky residential address, telephone number, and email address, if an email address is available;

(b) If the applicant represents a business entity, the full name of the business, the principal Kentucky business location address, the full name of the applicant who will have signing authority on behalf of the entity, title, and email address if an email address is available, of the person;

(c) Research plan, including the proposed acreage or greenhouse or indoor square footage to be planted;

(d) A statement of previous farming experience;

(e) Planned source of seeds or propagules;

(f) Street address, location ID, and GPS coordinates for each field, greenhouse, building, or site where hemp will be grown, handled, or stored;

(g) Maps depicting each site where hemp will be grown, handled, or stored, with appropriate designations for entrances, field boundaries, and specific locations corresponding to the GPS coordinates; and

(h) Marketing plan summary.

(9) Any Grower License Application that is missing required information shall be subject to denial.

Section 3. Criminal Background Check.

(1) Each licensed grower or applicant shall undergo and pay for an annual criminal background check as required by KRS 260.862(2)(d).

(2) A licensed grower or applicant shall, following completion of the background check, ensure delivery of the report to the department not more than fourteen (14) days after the application deadline.

(3) The department shall not accept a report from a criminal background check that occurred prior to October 1 of the application year.

(4) Failure to submit the background check by the deadline stated in subsection (2) of this section shall be grounds for license denial.

(5) Substitution of a signing authority shall require approval from the department and the submission of a current criminal background check on the signing authority.

Section 4. Application for Grower Licensing Agreement; Criteria and Procedure for Evaluation. (1) The department shall apply the criteria established in paragraphs (a) through (m) of this subsection in evaluating an application for the grower license.

(a) In accordance with Section 2 of this administrative regulation, the applicant shall submit a complete application with all required components and attachments.

(b) For an applicant who has been a program participant previously, the applicant shall comply with the responsibility to submit:

1. Field Planting Report and Greenhouse/Indoor Planting Report, incorporated by reference in 302 KAR 50:080;

2. Harvest/Destruction Report, incorporated by reference in 302 KAR 50:080;

3. Production reports, incorporated by reference in 302 KAR 50:080; and

4. Any other reports deemed necessary by the department to which the applicant has agreed.

(c) The applicant shall demonstrate farming experience by:

1. Filing an IRS Schedule F federal tax form at least once in the past three (3) years;

2. Providing the applicant's farm serial number (FSN) issued by the USDA Farm Service Agency;

3. Attesting to at least one (1) year of full-time farm work; or

4. Holding a bachelor's degree in agriculture from an accredited university.

(d) The applicant's growing sites, handling sites, storage sites, and primary residence shall be located in the Commonwealth of Kentucky.

(e) The applicant shall affirm that the applicant resides in Kentucky at the primary residence listed on the Grower License Application form from May 1 to September 30.

(f) The criminal background check report indicates that, within ten (10) years from the date when the background check was issued, the applicant shall not have:

1. A felony conviction; or

2. A drug-related misdemeanor conviction or violation.

(g) The research plan shall be compliant with state and federal law.

(h) The applicant shall have a seed or propagule acquisition plan.

(i) The applicant shall have a marketing plan that is compliant with state and federal law.

(j) In the past, including those times when the applicant was not a participant in the department's program, the applicant shall have demonstrated a willingness to comply with the department's rules, instructions from department staff, and instructions from representatives of Kentucky State Police and other law enforcement agencies.

(k) The applicant shall not be delinquent in making any required reports or payments to the department in connection with the applicant's participation in the program or other programs within the department.

(l) The applicant shall not have any unpaid fines or civil penalties owed to the department.

(m) The applicant shall not have and shall not make any false statements or representations to a representative of the department or a law enforcement agency.

(2) The department shall conditionally approve an application for a grower licensing agreement if the application satisfies the criteria established in this administrative regulation.

(3) The department may approve an applicant to grow an acreage or square footage that is equal to, greater than, or less than the acreage or square footage stated in the application.

(4) The department shall notify applicants by letter or email whether the application has been denied or conditionally approved. A person shall not be a participant in the department's program until the applicant and the department have executed a grower licensing agreement following the applicant's attendance at the department's mandatory orientation session as required by Section 8 of this administrative regulation.

Section 5. Land Use Restrictions for Licensed Growers.

(1) A licensed grower shall not plant or grow any cannabis that is not hemp.

(2) A licensed grower shall not plant or grow hemp or other cannabis on any site not listed in the grower licensing agreement.

(3) A licensed grower shall not grow hemp or other cannabis in or adjacent to any structure that is used for residential purposes.

(4) A licensed grower shall not handle or store leaf or floral material from hemp or other cannabis in or adjacent to any structure that is used for residential purposes.

(5) Hemp shall be physically segregated from other crops unless prior approval is obtained in writing from the department.

(6) A licensed grower shall not plant hemp or other cannabis plants in an outdoor growing location of less than one-quarter acre and 1,000 plants unless prior approval is received in writing from the department.

(7) A licensed grower shall not grow hemp or other cannabis in

any outdoor field or site that is located within 1,000 feet of a school or a public recreational area.

(8) An applicant or licensed grower shall not include any property on his or her application or Site Modification Request, incorporated by reference in 302 KAR 50:080, to grow or cultivate hemp that is not owned or completely controlled by the applicant or licensed grower.

(9) A licensed grower shall not grow, handle, or store hemp or other cannabis on property owned by, leased from, or previously submitted in a license application by any person who is ineligible or was terminated, or denied admission to the program for one (1) or both of the following reasons:

(a) Failure to obtain an acceptable criminal background check; or

(b) Failure to comply with an order from a representative of the department.

(10) Licensed growers with plots of one (1) acre or less are required to post signage at the plot location. The signage shall include the following information:

(a) The statement, "Kentucky Department of Agriculture Industrial Hemp Research Pilot Program";

(b) License holder's name;

(c) License holder's license number; and

(d) The department's telephone number.

Section 6. Administrative Appeal from Denial of Application.

(1) An applicant wishing to appeal the department's denial or partial denial of an application shall submit a written request for a hearing postmarked within fifteen (15) days of the date of the department's notification letter or email.

(2) An appealing applicant shall mail a hearing request letter to KDA Industrial Hemp Research Pilot Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(3) Appeals shall be heard by a three (3) person administrative panel whose members shall be designated by the commissioner. The panel shall include at least one (1) person who is a department employee and at least one (1) person who is not a department employee and not involved or invested in any hemp research projects in Kentucky.

(4) The members of the administrative panel shall not be required to accept or consider information or documents that were not compliant with application deadlines established in this administrative regulation.

(5) The members of the administrative panel shall apply the same standards established in this administrative regulation to determine if the department's action in denying the application was arbitrary or capricious.

(6) Hearings on appeals shall be open to the public and occur at a time and date and location designated by the commissioner.

(7) An appealing applicant shall appear in person at the assigned hearing time. Failure to appear on time shall constitute grounds for dismissal of the appeal.

(8) The three (3) members of the administrative panel shall rule on the appeal by a majority vote.

Section 7. Grower Licensing Agreements.

(1) An applicant shall not be a participant in the department's program until the conditionally approved applicant and the department have executed a grower licensing agreement following the applicant's attendance at the department's mandatory orientation session.

(2) The grower licensing agreement shall establish the terms and conditions governing participation in the department's program.

(3) The terms and conditions established in the grower licensing agreement shall include, at a minimum, the following requirements for licensed growers:

(a) Acknowledge that licensed growers shall act as agents of the department and shall comply with instructions from representatives of the department and law enforcement agencies;

(b) Agree to pay a licensing fee in the amount established in 302 KAR 50:060;

(c) Consent to entry onto, and inspection of, all premises

where hemp or other cannabis plants or materials are located, or licensed to be located, by representatives of the Department and law enforcement agencies, with or without cause, with or without advance notice;

(d) Consent to forfeiture and destruction, without compensation, of:

1. Material found to have a measured delta-9-THC content in excess of zero and three-tenths (0.3) percent on a dry weight basis;

2. Plants located in an area that is not licensed by the department; and

3. Plants not accounted for in required reporting to the department;

(e) Agree to apply for registration of all growing, handling, and storage locations, including GPS coordinates, and receive department approval for those locations prior to having hemp on those premises;

(f) Acknowledge that licensed growers shall submit a Site Modification Request Form, the appropriate fees based on the requested changes, and obtain prior written approval from a representative of the department before implementing any change to the licensed sites stated in the grower licensing agreement, and that growing site changes shall be subject to a site modification surcharge in the amount established in 302 KAR 50:060 for a new set of GPS coordinates;

(g) Acknowledge that hemp shall not be grown, handled, or stored in any location other than the location listed in the grower licensing agreement;

(h) Agree not to interplant hemp with any other crop without express written permission from the department;

(i) Acknowledge that anyone applying pesticides to hemp shall hold a pesticide license and apply pesticides in accordance with Section 18 of this administrative regulation;

(j) Acknowledge that licensed growers shall comply with restrictions established by the department limiting the movement of hemp plants and plant parts;

(k) Acknowledge that the risk of financial or other loss shall be borne solely by the licensed grower;

(l) Agree that any time hemp is in transit, a copy of the grower licensing agreement shall be available for inspection upon the request of a representative of the department or a law enforcement agency;

(m) Agree that, upon request from a representative of the department or a law enforcement agency, a licensed grower shall immediately produce a copy of his or her grower licensing agreement for inspection;

(n) Agree to submit Planting Reports, Harvest/Destruction Reports, and Production Reports, and other reports required by the department to which the grower has agreed, on or before the deadlines established in this administrative regulation;

(o) Agree to scout and monitor unregistered fields for volunteer cannabis plants and to destroy those volunteer cannabis plants for three (3) years past the last date of planting reported to the department;

(p) Agree not to employ or rent land to cultivate hemp from any person who was terminated or denied admission to the program for one (1) or both of the following reasons:

1. Failure to obtain an acceptable criminal background check; or

2. Failure to comply with an order from a representative of the department;

(q) Agree that land used for the cultivation or storage of hemp shall not be owned by or leased from any person who was terminated, or denied admission to the program for one (1) or both of the following reasons:

1. Failure to obtain an acceptable criminal background check; or

2. Failure to comply with an order from a representative of the department;

(r) Agree to notify the department of any interaction with law enforcement immediately by phone and follow-up in writing within three (3) calendar days of the occurrence; and

(s) Agree to notify the department of any theft of cannabis

materials, whether growing or not.

(4) Failure to agree or comply with terms and conditions established in the grower licensing agreement or this administrative regulation shall constitute grounds for appropriate departmental action, up to and including termination of the grower licensing agreement and expulsion from the department's program.

(5) A person who has been expelled from the program shall not be eligible to reapply to the program for a period of five (5) years from the date of expulsion.

(6) Failure to agree and sign the grower licensing agreement shall terminate conditional approval and a licensing agreement shall not be executed.

Section 8. Mandatory Orientation Session.

(1) Conditionally approved applicants shall attend a mandatory orientation session at a location designated by the department.

(2) The department shall require in-person attendance.

(a) The department shall not permit any person to attend a mandatory orientation session telephonically or by video.

(b) The department shall not allow any person to attend in lieu of the conditionally approved applicant.

Section 9. Licensing Fees; Participation Fee; Secondary Pre-Harvest Sample Fee, Post-Harvest Retest Fee.

(1) Participation fee.

(a) The licensed grower shall pay a participation fee.

(b) The participation fee for each growing address shall be in the amount established in 302 KAR 50:060.

(c) Participation fees shall be paid in full prior to the execution of the grower licensing agreement with a check or money order payable to the Kentucky State Treasurer.

(2) Secondary Pre-Harvest Sample fee.

(a) If a licensed grower fails to complete the harvest within fifteen (15) days after the department collects the pre-harvest sample, the licensed grower shall submit a new Harvest/Destruction Report and may be required to pay a secondary pre-harvest sample fee.

(b) If three (3) or more harvests are taken from the same plot, the licensed grower may be required to pay a secondary pre-harvest sample fee.

(c) The secondary pre-harvest sample fee shall be paid to the department with a check or money order payable to the Kentucky State Treasurer within fifteen (15) days of invoice by the department. The secondary pre-harvest sample fee shall be as established in 302 KAR 50:060.

(d) If the licensed grower fails to pay the secondary pre-harvest sample fee within fifteen (15) days of invoice, the lack of payment shall be considered a violation of the grower licensing agreement.

(e) The licensed grower shall not harvest the remaining crop until the department collects a secondary pre-harvest sample if one is required as established in paragraph (a) or (b) of this subsection.

(3) Post-harvest retest fee.

(a) The department shall order post-harvest THC testing of a plot if the results of an initial THC test on the pre-harvest sample indicate a delta-9 THC concentration in the pre-harvest sample in excess of what is permitted by the department, pursuant to 302 KAR 50:050.

(b) A licensed grower shall pay the post-harvest retest fee if post-harvest testing is ordered by a representative of the department.

(c) The post-harvest retest fee shall be as established in 302 KAR 50:060.

(d) The fee shall be paid prior to the department collecting the post-harvest sample.

(e) If a licensed grower fails to request a retest or to pay a post-harvest retest fee within fifteen (15) days of notification of pre-harvest results on a floral material harvest from the department, then the pre-harvest sample or secondary pre-harvest test result shall stand, and the department shall destroy or seize, without compensation, all hemp or other cannabis from the plot.

Section 10. Site Modifications and Site Modification Surcharge Fees.

(1) A licensed grower who elects to grow hemp in a new growing location or store or handle at a site other than the sites specified by the GPS coordinates listed in the grower licensing agreement shall submit a Site Modification Request Form, incorporated by reference in 302 KAR 50:080, and obtain written approval from a representative of the department, prior to planting or storing at the proposed location.

(2) Any request for a new growing location shall comply with the land use restrictions established in Section 5 of this administrative regulation.

(3) The land or growing structure being requested shall not be owned by or leased from any person who was terminated, or denied admission to the program for one (1) or both of the following reasons:

(a) Failure to obtain an acceptable criminal background check; or

(b) Failure to comply with an order from a representative of the department.

(4) The department shall charge a site modification surcharge fee for each new growing location, be it an individual field or greenhouse or indoor structure, where hemp will be planted. The amount of the site modification surcharge fee shall be as established in 302 KAR 50:060.

(5) The department shall not approve a site modification request for a new growing location until the department has received the site modification surcharge fee. Surcharge fees shall be submitted to the department with a check or money order payable to the Kentucky State Treasurer.

(6) The department shall not assess a site modification surcharge for changes to storage-only locations.

Section 11. Seed Acquisition From a Source Within the Commonwealth.

(1) A department pre-approval shall not be required for a transfer of hemp seed or propagules of any variety listed on the department's published summary of varieties list, excluding prohibited varieties, between Kentucky licensed growers and licensed processors or handlers within the Commonwealth of Kentucky.

(2) A licensed grower or licensed processor or handler shall not buy, sell, possess, or transfer seeds or propagules to or from any person in the Commonwealth without first verifying that the person is licensed by the department.

(3) A licensed grower or licensed processor or handler shall obtain written approval from the department to change the name of any variety in the department's program.

(4) A licensed grower shall provide the name of his or her seed or propagule source on the Field Planting Report form or Greenhouse Planting Report form.

(5) Upon request from a representative of the department, a licensed grower or licensed processor or handler shall provide a distribution list showing locations where and to whom hemp seeds or propagules were distributed.

Section 12. Seed Acquisition from a Source in a U.S. Territory, Tribal Land, or State other than the Commonwealth of Kentucky.

(1) A person shall not acquire seeds or propagules from a source in a U.S. territory, tribal land, or state other than the Commonwealth of Kentucky without first:

(a) Submitting a complete Domestic Seed/Propagule Request form, incorporated by reference in 302 KAR 50:080, and all required attachments; and

(b) Obtaining written approval of the Domestic Seed/Propagule Request from a representative of the department.

(2) The department shall not approve a Domestic Seed/Propagule Request unless the licensed grower affirms in writing that the requested seed acquisition plan shall not infringe on the intellectual property rights of any person.

(3) A person submitting a Domestic Seed/Propagule Request form shall submit to the department documentation showing that mature plants grown from that seed variety or strain have a floral material delta-9 THC content of not more than 3,000 ppm on a dry weight basis from an independent third-party laboratory.

(4) A person submitting a Domestic Seed/Propagule Request form shall submit to the department documentation verifying the seed or propagule source as a current legal hemp operation in the state of origin.

(5) A person acquiring seeds or propagules from a source outside the Commonwealth shall arrange for the seeds or propagules to arrive at the department's facility at 105 Corporate Drive, Frankfort, Kentucky 40601, for inventory and distribution.

(6) Upon request from a representative of the department, a licensed grower or licensed processor shall provide a distribution list showing locations where and to whom the hemp seeds were distributed following inventory at the department's facility.

Section 13. Seed Acquisition from a Source Outside the United States.

(1) A person seeking to obtain seeds from an international source shall submit a complete International Seed Request form, incorporated by reference in 302 KAR 50:080, to the department.

(a) If approved, the department shall request the DEA Permit to Import under the department's DEA registration.

(b) A person shall not acquire seeds from a source outside the United States unless the department first obtains a Permit to Import from the DEA.

(2) A person shall not acquire propagules other than seeds from outside the United States.

(3) The department shall not approve an International Seed Request form for any purpose other than seeds for planting in Kentucky. All licensed growers intending to plant the requested seed shall be listed on the request form.

(4) The department shall not approve an International Seed Request form unless the licensed grower affirms in writing that the licensed grower's planned activities shall not infringe on the intellectual property rights of any person.

(5) A person submitting an International Seed Request form shall submit to the department documentation showing that mature plants grown from that seed variety have a floral material delta-9-THC content of not more than 3,000 ppm on a dry weight basis.

(6) A person acquiring seeds or propagules from a source outside the United States shall arrange for the seeds or propagules to arrive at the department's facility at 105 Corporate Drive, Frankfort, Kentucky 40601, for inventory and distribution.

(7) Upon request from a representative of the department, a licensed grower shall provide a distribution list showing locations where and to whom the imported hemp seeds were distributed following inventory at the department's facility.

Section 14. Seeds of Wild, Landrace, or Unknown-Origin.

(1) A person shall not acquire or grow hemp or cannabis seeds or propagules of wild, landrace, or unknown origin without first obtaining written approval from a representative of the department.

(2) The department shall not permit hemp or cannabis seeds or propagules of wild, landrace, or unknown origin to be planted, cultivated, or replicated by any person without the department first arranging for replication and THC testing of mature plants grown from the seeds or propagules by the department or its designee.

(3) Any licensed grower or licensed processor found to have saved seed, propagules, or cuttings, or cultivated seeds, propagules, or cuttings from a cannabis plant of wild, landrace, or unknown origin, without advance written permission from the department shall be subject to suspension or revocation of his or her license and forfeiture without compensation of his or her materials.

Section 15. Planting Reports for Outdoor Plantings.

(1) A licensed grower shall submit to the department a complete and current Field Planting Report, within fifteen (15) days after every planting, including replanting, of seeds or propagules in an outdoor location.

(2) Each Field Planting Report shall identify the:

(a) Correct variety name as designated upon approval of the acquisition request or as approved by the department;

(b) Field location ID as listed in the grower licensing agreement; and

(c) Primary intended use of the harvest for each planting.

(3) A licensed grower who does not plant hemp in an approved outdoor site listed in the grower license agreement shall submit a Field Planting Report, on or before July 31, stating that hemp has not and shall not be planted at that site.

Section 16. Planting Reports for Indoor Plantings.

(1) A licensed grower shall submit to the department a complete and current Greenhouse/Indoor Planting Report within fifteen (15) days after establishing plants at an indoor location.

(2) Each Greenhouse/Indoor Planting Report shall identify the:

(a) Correct hemp variety name as designated in the Domestic Seed/Propagule Request form or International Seed Request form and approved by the department;

(b) Greenhouse or indoor growing location ID as listed in the grower licensing agreement; and

(c) Primary intended use for the harvest of each planting.

(3) In addition to the initial Greenhouse/Indoor Planting Report, a licensed grower with an approved greenhouse or indoor growing site shall submit quarterly reports for each location ID to the department. Greenhouse/Indoor Planting Reports shall be due no later than March 31, June 30, September 30, and December 31.

Section 17. Site Access for Representatives of the Department and Law Enforcement Agencies. (1) The department shall provide information about approved growing, handling, and storage site locations to representatives of the Kentucky State Police, DEA, and other law enforcement agencies whose representatives request registered site information, including GPS coordinates.

(2) Licensed growers shall have no reasonable expectation of privacy with respect to premises where hemp or other cannabis seeds, plants, or materials are located, and any premises listed in the grower licensing agreement.

(3) A licensed grower, whether present or not, shall permit a representative of the department or a law enforcement agency to enter into premises where hemp or other cannabis seeds, plants, or materials are located and any premises listed in the grower licensing agreement with or without cause and with or without advanced notice.

Section 18. Pesticide Use.

(1) A licensed grower who uses a pesticide on hemp shall be certified to apply pesticides by the department pursuant to KRS Chapter 217B.

(2) A licensed grower who is certified to apply pesticides by the department pursuant to KRS Chapter 217B shall not use, or be eligible to use, a Category 10 license to apply pesticides to hemp in violation of the product label.

(3) A licensed grower shall not use any pesticide in violation of the product label.

(4) A licensed grower who uses a pesticide on a site where hemp will be planted shall comply with the longest of any planting restriction interval on the product label prior to planting the hemp.

(5) The department may perform pesticide testing on a random basis or if representatives of the Department have reason to believe that a pesticide may have been applied to hemp in violation of the product label.

(6) Hemp seeds, plants, and materials bearing pesticide residue in violation of the label shall be subject to forfeiture or destruction without compensation.

Section 19. Responsibility of a Licensed Grower Prior to Harvest of Hemp Plots.

(1) The department may collect samples of any cannabis material prior to harvest at any time.

(2) A licensed grower shall submit a complete and current Harvest/Destruction Report form to the department at least fifteen (15) days prior to the intended harvest date or intended destruction of a failed crop.

(3) The department's receipt of a Harvest/Destruction Report shall trigger a sample collection by the department.

(4) During the department's scheduled sample collection, the grower or an authorized representative shall be present at the

growing site.

(5) Representatives of the department shall be provided with complete and unrestricted access to all hemp and other cannabis plants, whether growing or harvested, and all land, buildings, and other structures used for the cultivation, handling, and storage of all hemp and other cannabis plants; and all locations listed in the grower licensing agreement.

(6) The licensed grower shall harvest the crop not more than fifteen (15) days following the date of sample collection by the department, unless specifically authorized in writing by the department.

(7) If the licensed grower fails to complete harvest within fifteen (15) days, the department may order a secondary pre-harvest sample of the plot, and the licensed grower shall be assessed a secondary pre-harvest sample fee per plot in the amount established in 302 KAR 50:060 prior to the department collecting the sample.

(8) Harvested materials from varieties of concern shall not be commingled with other harvests without prior written permission from the department.

(9) Floral materials harvested for phytocannabinoid extraction shall not be moved outside the Commonwealth or beyond a processor, nor commingled, nor extracted, until the department releases the material in writing.

(10) A licensed grower who fails to submit a Harvest/Destruction Report or who does submit a Harvest/Destruction Report and proceeds to harvest a crop prior to a sample being collected by the department shall be subject to revocation of his or her license.

Section 20. Collection of Samples; THC Testing; Post-Testing Actions.

(1) The hemp to be selected for sampling shall be determined by a representative of the department.

(2) The department shall collect and retain samples from each plot in accordance with the procedures established in 302 KAR 50:050, Section 2.

(3) UK DRS shall receive, prepare, and release hemp samples in accordance with the procedures established in 302 KAR 50:050, Section 3.

(4) UK DRS shall measure THC concentration of each hemp sample in accordance with the procedures established in 302 KAR 50:050, Section 4.

(5) The department shall undertake post-testing actions in accordance with the procedures established in 302 KAR 50:050, Section 5.

(6) All samples shall become the property of the department and shall not be returnable. Compensation shall not be owed by the department.

(7) If UK DRS is not able to provide THC testing services required by the department, the department may identify and contract with a third party lab to perform THC testing services.

Section 21. Restrictions on Sale or Transfer.

(1) A licensed grower shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person in the Commonwealth who does not hold a license issued by the department.

(2) A licensed grower shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person outside the Commonwealth (but within the United States) who is not authorized by a university or state department of agriculture under the authority of 7 U.S.C. 5940 and the laws of that state. The licensed grower shall ensure that the sale or transfer is lawful in other states.

(3) The department shall permit the sale or transfer of stripped stalks, fiber, dried roots, nonviable seeds, seed oils, floral and plant extracts (excluding THC in excess of zero and three-tenths (0.3) percent, and other marketable hemp products to members of the general public, both within and outside the Commonwealth, if the marketable hemp product's delta-9-THC level is not more than zero and three-tenths (0.3) percent.

(4) A licensed grower selling or transferring, or permitting the

sale or transfer, of floral or plant extracts (including CBD), shall retain testing data or results for at least three (3) years demonstrating that the extract's delta-9-THC level is not more than zero and three-tenths (0.3) percent.

(5) A licensed grower may transfer up to one (1) pound of hemp per transfer to testing laboratories, both within and outside the Commonwealth, for the purpose of measuring THC, CBD, or other phytocannabinoid profile levels. The licensed grower shall ensure compliance with laws in other states.

(6) Licensed growers shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9, and all other applicable local, state, and federal laws and regulations relating to product development, product manufacturing, consumer safety, and public health.

(7) A licensed grower shall not knowingly permit hemp to be sold to or used by any person involved in the manufacture of an item named on the prohibited products list established in 302 KAR 50:070.

Section 22. Other Prohibited Activities.

(1) A licensed grower shall not plant or grow hemp on any site not listed in the grower licensing agreement.

(2) A licensed grower shall not transport live hemp plants, viable seeds, leaf materials, or floral materials to unapproved locations including trade shows, county fairs, educational or other events, or any other address not listed on the licensed grower's current grower licensing agreement or within another research program.

(3) A licensed grower shall not allow unsupervised public access to hemp plots, including activities such as a hemp maze.

(4) A person shall not ship or transport, or allow to be shipped or transported, live hemp plants, cuttings for planting, or viable seeds from a variety that is currently designated by the department as a prohibited variety or variety of concern to any location outside the Commonwealth of Kentucky.

(5) A person shall not ship or transport, or allow to be shipped or transported, any hemp product with a delta-9-THC concentration in excess of zero and three-tenths (0.3) percent.

Section 23. Other Required Reports.

(1) A licensed grower shall submit a completed Production Report Form annually.

(2) A licensed grower's failure to submit an accurate and complete report that is required by the department before the deadline established by the department shall constitute grounds for the department to terminate the grower licensing agreement and deny future applications for licensure.

Section 24. Information Submitted to the Department Subject to Open Records Act.

(1) Except as established in subsection (2) of this section, information and documents generated or obtained by the department in connection with the program shall be subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.870 through 61.884.

(2) Personally identifiable information including physical address, mailing address, driver's license numbers, background checks, GPS coordinates, telephone, and email addresses shall be shielded by the department to the maximum extent permitted by law.

Section 25. Immediate License Suspension.

(1) The department shall immediately suspend a license, without an opportunity for a hearing, if the licensed person pleads guilty to, or is convicted of, any felony or drug-related misdemeanor or violation in accordance with KRS 260.864.

(2) The department shall immediately suspend a license, without an opportunity for a hearing, if the licensed person or his or her agent admits to having:

(a) Violated any provision of KRS 260.850 through 260.869 or an administrative regulation promulgated under the authority of KRS 260.850 through 260.869;

(b) Made any false statement to the department or its

representative; or

(c) Failed to comply with any instruction or order from the department, a representative of the department, of Kentucky State Police, or any law enforcement officer.

Section 26. Temporary License Suspension Procedures.

(1) The department shall notify a licensed grower in writing that the grower licensing agreement has been temporarily suspended if a representative of the department receives information supporting an allegation that a licensed grower has:

(a) Engaged in conduct violating a provision of this administrative regulation, KRS 260.850 through 260.869, or the grower licensing agreement;

(b) Made a false statement to a representative of the department or a law enforcement agency;

(c) Been found to be growing or in possession of cannabis with a measured delta-9-THC concentration at or above 30,000 ppm; or

(d) Failed to comply with an order from a representative of the department or a law enforcement agency.

(2) A person whose grower licensing agreement has been temporarily suspended shall not harvest, process, or remove cannabis from the premises where hemp or other cannabis was located at the time when the department issued its notice of temporary suspension, except as authorized in writing by a representative of the department.

(3) As soon as possible after the notification of temporary suspension, a representative of the department shall inspect the licensed grower's premises and perform an inventory of all cannabis, hemp, and hemp products that are in the licensed grower's possession.

(4) The department shall schedule a license revocation hearing for a date as soon as practicable after the notification of temporary suspension, but in any event not later than sixty (60) days following the notification of temporary suspension.

Section 27. License Revocation Hearings and Consequences of Revocation.

(1) The department shall notify a person whose grower licensing agreement has been temporarily suspended of the date when the person's license revocation hearing will occur at a time and place designated by the commissioner.

(2) License revocation hearings shall be adjudicated by a three (3) person administrative panel in accordance with KRS 260.864.

(3) License revocation hearings shall be open to the public.

(4) A person whose grower licensing agreement has been temporarily suspended shall appear in person at the assigned hearing time. Failure to appear on time shall constitute a waiver of the person's right to present information and arguments against revoking the grower licensing agreement.

(5) A representative of the department shall be allowed an opportunity to present information and arguments for revoking the grower licensing agreement.

(6) A person whose grower licensing agreement has been temporarily suspended shall be allowed an opportunity to present information and arguments against revoking the grower licensing agreement.

(7) The three (3) members of the administrative panel shall rule on the question of revocation by a majority vote.

(8) If a majority of the three (3) members of the administrative panel find that it is more likely than not that a licensed grower has committed any of the acts listed in Section 26(1) of this administrative regulation or violated any provision of the grower licensing agreement, then the grower licensing agreement shall be revoked effective immediately.

(9) If a majority of the members of the administrative panel vote against revoking the grower licensing agreement, the department shall lift the temporary suspension within twenty-four (24) hours of the vote.

(10) If a majority of the members of the administrative panel vote in favor of revoking the grower licensing agreement, then a representative of the department or a law enforcement agency shall destroy or confiscate all cannabis, hemp, and hemp products that are in the person's possession.

(11) A person whose property is destroyed or confiscated by a representative of the department or a law enforcement agency shall be owed no compensation or indemnity for the value of the cannabis, hemp, or hemp products that were destroyed or confiscated.

(12) A person whose grower licensing agreement has been revoked shall be barred from participation in the program in any capacity for a minimum period of five (5) years.

Section 28. Monetary Civil Penalties.

(1) If the department receives information supporting a finding that it is more likely than not that a person has engaged in conduct violating a provision of this administrative regulation, KRS 260.850 through 260.869, or the grower licensing agreement, then the department shall assess a monetary civil penalty not to exceed \$2,500 per violation.

(2) A person wishing to appeal the department's assessment of a monetary civil penalty shall submit a written request for a hearing within fifteen (15) days of the notification date.

(3) A person wishing to appeal the department's assessment of a monetary civil penalty shall mail a hearing request letter to KDA Industrial Hemp Research Pilot Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(4) Appeals shall be heard by a three (3) person administrative panel whose members shall be designated by the commissioner. The administrative panel shall include at least one (1) person who is a department employee and at least one (1) person who is not a department employee and not involved or invested in any Kentucky hemp projects.

(5) The members of the administrative panel shall determine if the department's action in assessing the monetary civil penalty was arbitrary or capricious.

(6) Hearings on the appeal shall be open to the public and occur at a time, date, and location designated by the commissioner.

(7) An appealing person shall appear in person at the assigned hearing time. Failure to appear on time shall constitute grounds for dismissal of the appeal.

(8) An appealing person shall be allowed an opportunity to present arguments for reversing the assessed monetary civil penalty.

(9) A representative of the department shall be allowed an opportunity to present arguments for affirming the assessed monetary civil penalty.

(10) The three (3) members of the administrative panel shall rule on the appeal by a majority vote.

(11) A majority of the three (3) members of the administrative panel may affirm the assessed monetary civil penalty, affirm and increase or decrease the assessed monetary civil penalty, or reverse the assessed monetary civil penalty.

(12) The department shall have the authority to pursue unpaid monetary civil penalties by filing a civil cause of action in the Franklin Circuit Court.]

RYAN F. QUARLES, Commissioner

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 13, 2020 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2020 at 11:00 a.m., at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2020. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky

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Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, fax (502) 564-2133, email clint.quarles@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes rules for growing hemp in Kentucky.

(b) The necessity of this administrative regulation: This regulation establishes rules for growing hemp that are necessary for Kentucky hemp products to be generally seen as allowable for trade.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 260.862 commands the KDA to establish administrative regulations for hemp.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by making hemp growing rules very clear in Kentucky.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment updates the existing regulation to adopt programmatic changes that the Department has decided will be necessary in advance the 2020 growing season.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure that the administrative regulations accurately reflect the Hemp Licensing Program's current structure and rules.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the intent of the General Assembly for the Department to promulgate administrative regulations for the Hemp Licensing Program.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will enable the Department to carry out the General Assembly's mandate to administer the Hemp Licensing Program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Department of Agriculture, 978 growers, 17 Universities and 200 processors.

(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: Entities will be required to follow the instructions in the filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Likely no modification of current actions would be needed, so little to no costs would be incurred.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease on behalf of the KDA and clear guidance for entities.

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

(a) Initially: Expenses for the entire hemp program for 2019 were approximately \$1,156,000.

(b) On a continuing basis: Market forces will determine participation levels for 2020 and beyond. Ongoing costs will be a function of grower numbers and location modifications.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The hemp program is funded by the fees set for in 302 KAR 50:060.

(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 increases in funding are required currently.

(8) State whether or not this administrative regulation

established any fees or directly or indirectly increased any fees: This filing does not contain fees. The hemp program is funded by the fees set for in 302 KAR 50:060.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Department of Agriculture, and any agency that might concern hemp shall be affected 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 260.682

(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? Income for the entire hemp program for 2019 was approximately \$1,575,000.

(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? Even with a fixed fee structure, revenue is almost entirely determined by participation. Market forces will dictate revenue to a point the KDA cannot guess with any certainty.

(c) How much will it cost to administer this program for the first year? Expenses for the entire hemp program for 2019 were approximately \$1,156,000.

(d) How much will it cost to administer this program for subsequent years? The KDA expects this spending trendline to continue for the hemp program as a whole, but based on producer participation.

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

Revenues (+/-): \$1,575,000

Expenditures (+/-): \$1,156,000.

Other Explanation:

DEPARTMENT OF AGRICULTURE Office of the Consumer and Environmental Protection (Amendment)

302 KAR 50:030. Policies and procedures for hemp processors and handlers.

RELATES TO: KRS 260.850-260.869[, 7 U.S.C. 5940, 21 U.S.C. Chapter 9]

STATUTORY AUTHORITY: KRS 260.862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.862(1)(a) authorizes the department to promulgate administrative regulations for a Hemp Licensing Program in the Commonwealth of Kentucky. KRS 260.862(1)(c) authorizes the department to license persons who wish to participate in a Hemp Licensing Program by cultivating, handling, processing, or marketing hemp. This administrative regulation establishes procedures and requirements for licensing persons who wish to process or handle hemp as a participant in the department's Hemp Licensing Program.

Section 1. Definitions.

(1) "Agent" means a person who is employed by or working under contract for a license holder, and who does not have any ownership interest in the hemp.

(2) "Applicant" means a person, or a person who is authorized to sign for a business entity, who submits an application to participate in the Hemp Licensing Program.

(3) "Brokering" means engaging or participating in the marketing of industrial hemp by acting as an intermediary or negotiator between prospective buyers and sellers.

(4) "Cannabis" means the plant that, depending on its THC concentration level, is defined as either "hemp" or "marijuana." Cannabis is a genus of flowering plants in the family Cannabaceae of which Cannabis sativa is a species, and Cannabis indica and Cannabis ruderalis are subspecies thereof. Cannabis includes all parts of the plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts; and does not include a "publicly marketable hemp product," as defined by this administrative regulation.

(5) "CBD" means cannabidiol.

(6) "Commissioner" is defined by KRS 260.850(1).

(7) "Commonwealth" means the Commonwealth of Kentucky.

(8) "Conviction" means an adjudication or finding of guilt; it also includes a plea of guilty or nolo contendere. If a conviction is subsequently overturned on appeal, pardoned, or expunged, then it is not considered a conviction.

(9) "Corrective action plan" is a document set forth by the Department for a licensee to correct a negligent violation of, or non-compliance with, KRS 260.850-260.869 or an administrative regulation promulgated under the authority of those statutes.

(10) "Culpable mental state greater than negligence" means to act intentionally, knowingly, willfully, or with criminal negligence.

(11) "Decarboxylation" means the completion of the chemical reaction that converts delta-9 THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid.

(12) "delta-9-THC" means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis). For compliance purposes, all delta-9-THC concentrations must be measured post-decarboxylation (result commonly referred to as total THC).

(13) "Department" or "KDA" is defined by KRS 260.850.

(14) "GPS" means Global Positioning System.

(15) "Handling" is defined by KRS 260.850.

(16) "Hemp" or "industrial hemp" is defined by KRS 260.850.(16) "Hemp Grower License" means a document issued by the department authorizing the person to grow, handle, and store hemp in the Commonwealth under the terms established in the document, KRS 260.850 through 260.863, and this administrative regulation.

(17) "Hemp Processor/Handler License" means a document issued by the department authorizing the person to process, handle, market, and store hemp in the Commonwealth under the terms established in the document, KRS 260.850 through 260.869, and 302 KAR 50:030.

(18) "Hemp product" or "industrial hemp product" is defined by KRS 260.850.

(19) "Law enforcement agency" means the Kentucky State Police, DEA, or other federal, state, or local law enforcement agency, or drug suppression unit.

(20) "Licensed grower" means a person authorized in the commonwealth by the department to grow, handle, store, and market hemp under the terms established in a hemp grower license, KRS 260.850 through 260.859, and 302 KAR 50:020.

(21) "Licensed processor" means a person in the Commonwealth authorized by the department to process, handle, store, and market hemp under the terms established in a hemp processor/handler license, KRS 260.850 through 260.859, and this administrative regulation.

(22) "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.

(23) "Negligence" means failure to exercise the level of care that a reasonably prudent person would exercise in complying with an administrative regulation, rule, or instruction.

(24) "Nonviable seed" means a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.

(25) "Person" means an individual or business entity.

(26) "Prohibited variety" means a variety or strain of cannabis excluded from the Hemp Licensing Program.

(27) "Processing" is defined by KRS 260.850.

(28) "Program" means the department's Hemp Licensing Program.

(29) "Propagate" means a plant or plant part that can be utilized to grow a new plant.

(30) "Publicly marketable hemp product" means a hemp product that meets one (1) or more of the following descriptions:

(a) The product

(i) does not include any living hemp plants, viable seeds, leaf materials, floral materials, or delta-9-THC content above zero and three-tenths (0.3) percent; and

(ii) does include, without limitation, the following products: bare stalks, bast fiber, hurd fiber, nonviable roots, nonviable seeds, seed oils, and plant extracts (excluding products containing delta-9 THC above zero and three-tenths (0.3) percent);

(b) The product is CBD that was derived from hemp, as defined by this administrative regulation; or

(c) The product is CBD that is approved as a prescription medication by the United States Food and Drug Administration.

(31) "Signing authority" means an officer or agent of the organization with written authorization to commit the legal entity to a binding agreement.

(32) "Strain" means a group of hemp with presumed common ancestry and identified physiological distinctions. A strain does not meet the uniformity, stability or distinction requirements to be considered a variety.

(33) "UK DRS" means the Division of Regulatory Services at the University of Kentucky College of Agriculture, Food, and Environment.

(34) "Variety" means a subdivision of a species that is:

(a) Uniform, in the sense that the variations in essential and distinctive characteristics are describable;

(b) Stable, in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties; and

(c) Distinct, in the sense that the variety can be differentiated by one (1) or more identifiable morphological, physiological, other characteristics from all other publically known varieties, or other characteristics from all other publicly known varieties.

(35) "Variety of concern" means any variety of hemp that tests above 0.3000 percent delta-9-THC in one (1) or more pre-harvest samples. A hemp variety designated as a "variety of concern" could be subject to restrictions and additional testing.

Section 2. Processor or Handler License Application.

(1) Any person who wishes to engage in the processing, handling, brokering, or marketing of hemp that does not fall within the definition of a "publicly marketable hemp product" at any location in the Commonwealth shall submit to the department a complete Processor/Handler License Application, or annual license renewal, incorporated by reference as part of the Processor/Handler License Application Packet in 302 KAR 50:080.

(2) Existing processor or handler license holders shall complete the department's requirements for license renewal by December 31.

(3) Any person who does not hold a grower license from the department shall not:

Grow, cultivate or handle living hemp plants or other cannabis.

(4) Any person who does not hold a processor/handler license from the department shall not process, handle, broker or market hemp or other cannabis that does not fall within the definition of a "publicly marketable hemp product" at any location within the commonwealth.

(5) A person under the age of eighteen (18) years of age shall not apply for or hold a processor or handler license.

(6) Application deadlines.

(a) Completed Processor/Handler License Application forms shall be postmarked or received by the department by the end of the application period established in the application.

(b) Completed Processor/Handler License Application forms shall be delivered to KDA Hemp Licensing Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(c) The department shall deny any Processor/Handler License Application that is not received by the deadline established in the application.

(7) The department shall require each applicant to pay a processor or handler application fee in the amount established in 302 KAR 50:060.

(8) Application fees shall not cover or include the cost of the criminal background checks required by KRS 260.862(2)(d) and Section 3 of this administrative regulation. Applicants and license holders shall pay criminal background check fees directly to the Kentucky State Police or other law enforcement agency designated in the manner directed by the department.

(9) The department shall deny any Processor/Handler License Application that is received without the application fee established in 302 KAR 50:060.

(10) With the Hemp Processor/Handler License Application form the applicant shall submit, at a minimum:

(a) If the applicant is an individual, the individual's full name, residential address, telephone number, and email address (if available); or

(b) If the applicant is a business entity, the following information:

(i) the entity's name, Employer Identification Number, business location address in Kentucky, and principal business location; and

(ii) for the individual who will have signing authority on the entity's behalf, his or her full name, title within the entity, business address, telephone number, and email address (if available).

(c) Complete and accurate responses to each request for information on the application form;

(d) Maps and the street address, location ID, and GPS coordinates for each building or site where hemp will be processed, handled, or stored.

(11) Any Processor/Handler License Application that is missing required information shall be subject to denial.

Section 3. Criminal Background Check.

(1) Each licensed processor/handler or applicant shall undergo and pay for an annual criminal background check.

(2) Each person who is required to undergo an annual criminal background check as required by KRS 260.862(2)(d) shall following completion of the background check, ensure delivery of the report to the department with the application or renewal.

(3) The department shall not accept a report from a criminal background check that occurred more than 60 days prior to the date of the application.

(4) Failure to submit the background check with the application shall be grounds for license denial.

(5) Substitution of a signing authority shall require approval from the department and the submission of a current criminal background check on the substitute signing authority.

Section 4. Application for Processor or Handler Licensing: Criteria and Procedure for Evaluation.

(1) The department shall apply the criteria established in paragraphs (a) through (l) of this subsection in evaluating applications for a processor/handler license:

(a) In accordance with Section 2 of this administrative regulation, the applicant shall submit a complete application with all required components and attachments.

(b) An applicant who has been a program participant previously, the applicant shall comply with the responsibility to submit any reports required by 302 KAR Chapter 50.

(c) All involved business entities shall be registered and in good standing with the Kentucky Secretary of State.

(d) The applicant's processing sites, handling sites, and storage sites, shall be located in the Commonwealth of Kentucky.

(e) The criminal background check report indicates that, within ten (10) years from the date when the background check was issued, the applicant shall not have:

1. A felony conviction; or

2. A drug-related misdemeanor conviction or violation.

(f) The applicant's planned activities shall remain compliant with state law and KDA policy.

(g) The applicant shall have adequate facilities, or plans to acquire adequate facilities sufficiently soon enough, to complete the planned activities.

(h) In the past, including those times when the applicant was not a participant in the Hemp Licensing Program, the applicant shall have demonstrated a willingness to comply with the department's rules, instructions from department staff, and instructions from representatives of Kentucky State Police and other law enforcement agencies.

(i) The applicant shall not be delinquent in making any required reports or payments to the department in connection with the applicant's participation in the Hemp Licensing Program or other programs within the department.

(j) The applicant shall not have any unpaid fees, fines or civil penalties owed to the department.

(k) The applicant shall not have made and shall not make any false statements or representations to a representative of the department or a law enforcement agency.

(l) The applicant's proposed sites shall comply with the land use restrictions set forth in Section 5 of this administrative regulation. Denial of all proposed processing and handling sites shall constitute grounds for denial of the application.

(2) The department shall conditionally approve an application for a processor/handler license if the application satisfies the criteria established in this administrative regulation.

(3) The department shall notify applicants by letter or email whether the application has been denied or conditionally approved. A person shall not be a participant in the Hemp Licensing Program until the applicant has received a hemp processor/handler license from the department.

(4) Applicants shall complete a mandatory orientation session at a location designated by the department, and pay licensing fees prior to receiving a processor/handler license.

(5) The department shall not allow any person to complete orientation in lieu of the applicant.

Section 5. Land Use Restrictions for Licensed Processors or Handlers.

(1) A licensed processor or handler shall not process or store leaf or floral material from hemp or other cannabis in or adjacent to any structure that is used for residential purposes.

(2) A licensed processor or handler shall not apply to process, handle, or store hemp on any property that is not owned or completely controlled by the applicant or licensed processor.

(3) A licensed processor or handler shall not process, handle, or store hemp on property owned by, leased from, or previously submitted in an application by any person who is ineligible or was terminated or denied admission to the Hemp Licensing Program for one (1) or both of the following reasons:

(a) Failure to obtain an acceptable criminal background check,

or

(b) Failure to comply with an order from a representative of the department.

Section 6. Administrative Appeal from Denial of Application.

(1) An applicant wishing to appeal the department's denial or partial denial of an application shall submit a written request for a hearing postmarked within fifteen (15) days of the date of the department's notification letter or email.

(2) An appealing applicant shall mail a hearing request letter to KDA Hemp Licensing Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(3) Appeals shall be heard by a three (3) person administrative panel whose members shall be designated by the commissioner. The panel shall include at least one (1) person who is a department employee and at least one (1) person who is not a department employee and not involved or invested in any hemp projects in Kentucky.

(4) The members of the administrative panel shall not be required to accept or consider information or documents that were

not compliant with application deadlines established in this administrative regulation.

(5) The members of the administrative panel shall apply the same standards set forth in this regulation to determine if the department's action in denying the application was arbitrary or capricious.

(6) Hearings on appeals shall be open to the public and occur at a time and date and location designated by the commissioner.

(7) An appealing applicant shall appear in person at the assigned hearing time. Failure to appear on time shall constitute grounds for dismissal of the appeal.

(9) The three (3) members of the administrative panel shall rule on the appeal by a majority vote.

Section 7. Hemp Processor or Handler Licenses.

(1) An applicant shall not be a participant in the Hemp Licensing Program until the department has issued a processor/handler license following the applicant's completion of the department's mandatory orientation session and payment of licensing fees.

(2) The processor/handler license application shall establish the terms and conditions governing participation in the Hemp Licensing Program.

(3) Failure to agree or comply with terms and conditions established in the processor/handler license application or this administrative regulation shall constitute grounds for appropriate departmental action, up to and including termination of the license and expulsion from the Hemp Licensing Program.

(4) Annual renewal of a processor/handler license shall require the license holder to:

(a) Submit to the department an annual criminal background check for the signing authority of record;

(b) Complete a mandatory, annual program orientation session hosted by the department;

(c) Pay annual fees in the amount established in 302 KAR 50:060;

(d) Update all licensed addresses, location IDs, and GPS coordinates with the department; and

(e) Agree to comply with the policies set forth in 302 KAR Chapter 50.

(5) A processor/handler license will remain in force as long as the license holder meets the annual renewal requirements by December 31 of each year.

(6) A processor/handler license may be terminated by the license holder or the department upon thirty (30) days prior written notice.

(7) The department shall issue processor/handler's license numbers in accordance with this format: "P 0001" through "P 9999."

Section 8. Processor or Handler Licensing Fee.

(1) The licensing fee for processing harvested hemp fiber shall be the amount established in 302 KAR 50:060.

(2) The licensing fee for processing harvested hemp grain shall be the amount established in 302 KAR 50:060.

(3) The licensing fee for processing hemp floral material (for example, CBD extraction) shall be the amount established in 302 KAR 50:060.

(4) A licensed processor or handler that processes more than one (1) harvest component (for example, fiber, grain, and floral material) shall pay the licensing fee that is required for each harvested component that is applicable.

(5) A handler that does not engage in processing (for example, a seed cleaner, laboratory or dryer) shall be subject to a licensing fee in the amount established in 302 KAR 50:060.

(6) The licensed processor or handler fee shall be paid annually in full prior to the issuance or renewal of the processor/handler license.

Section 9. Seed and Propagule Acquisition.

(1) A license holder intending to acquire seeds or propagules first shall determine whether or not the variety or strain intended for purchase is listed on the department's current Summary of

Varieties List.

(a) If the variety or strain is listed on the Summary of Varieties List, no pre-approval from the department is required.

(b) If the variety or strain is not listed on the Summary of Varieties List, the license holder shall submit a *New Hemp Variety or Strain Request* Form along with a certificate of analysis for that strain or variety, showing that mature plants grown from that seed variety or strain have a floral material delta-9-THC (must be measured post-decarboxylation, also referred to as total THC) content of not more than 0.300% on a dry weight basis from an independent third-party laboratory.

(2) A license holder who develops a new hemp variety or strain shall submit the *New Hemp Variety or Strain Request* form, prior to its use in crop production.

(3) The department shall not approve a *New Hemp Variety or Strain Request* unless the licensed grower affirms in writing that the requested seed acquisition plan shall not infringe on the intellectual property rights of any person, and the seed or propagule source is a current legal hemp operation.

(4) The department shall not approve a *New Hemp Variety or Strain Request* if a representative of the department has information supporting a belief that the variety or strain will produce plants with delta-9-THC (must be measured post-decarboxylation, also referred to as total THC) content of more than 0.300% on a dry weight basis.

(5) A license holder shall not buy, sell, possess, or transfer seeds or propagules of any variety or strain designated as a prohibited variety on the department's published summary of varieties list.

(6) Upon request from a representative of the department, a licensed grower or licensed processor shall provide a distribution list showing locations where and to whom the hemp seeds were distributed.

(7) Any person engaging in the distribution of hemp seeds shall adhere to all applicable Kentucky seed laws (KRS 250.010 to KRS 250.990) and regulations (12 KAR 1:116 to 12 KAR 1:175).

(8) Any person who intends to move transplants or other living plants to a location outside Kentucky must obtain a Class A Nursery License from the Kentucky Office of the State Entomologist.

Section 10. Seeds of Wild, Landrace, or Unknown Origin.

(1) A person shall not acquire or grow hemp or cannabis seeds or propagules of wild, landrace, or unknown origin without first obtaining written approval from a representative of the department.

(2) The department shall not permit hemp or cannabis seeds or propagules of wild, landrace, or unknown origin to be planted, cultivated, or replicated by any person without the department first arranging for replication and THC testing of mature plants grown from the seeds or propagules by the department or its designee.

(3) Any licensed grower or licensed processor or handler found to have saved seed, propagules, or cuttings, or cultivated seeds, propagules, or cuttings from a cannabis plant of wild, landrace, or unknown origin, without permission from the department shall be subject to suspension or revocation of their license and forfeiture without compensation of their materials.

Section 11. Site Access for Representatives of the Department and Law Enforcement Agencies.

(1) The department shall provide information about approved growing, handling, processing, and storage site locations to representatives of the Kentucky State Police, DEA, and other law enforcement agencies whose representatives request licensed site location information, including GPS coordinates.

(2) Licensed processors or handlers shall have no reasonable expectation of privacy with respect to premises where hemp or other cannabis seeds, plants, or materials are located and any premises listed in the processor or handler license.

(3) A licensed processor or handler, whether present or not, shall permit a representative of the department or a law enforcement agency to enter into premises where hemp or other cannabis seeds, plants, or materials are located and any premises listed in the processor or handler license, with or without cause.

and with or without advance notice.

Section 12. Collection and Retention of Cannabis Samples.

(1) The department shall have the authority to collect, test, and retain samples of hemp or other cannabis, and substances derived from hemp or cannabis in the possession of a licensed processor or handler.

(2) All samples collected by the department shall become the property of the department and shall be nonreturnable. Compensation shall not be owed by the department.

(3) The material to be collected for sampling shall be determined by the department inspector.

Section 13. Restrictions on Sale or Transfer.

(1) A licensed processor or handler shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person in the Commonwealth who does not hold a license issued by the department.

(2) A licensed processor or handler shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person outside the Commonwealth who is not authorized to possess such materials under the laws of that jurisdiction.

(3) The department shall permit the sale or transfer of stripped stalks, fiber, dried roots, nonviable seeds, seed oils, cannabinoid extracts (excluding THC in excess of zero and three-tenths (0.3) percent), and other marketable hemp products to members of the general public, both within and outside the Commonwealth, if the marketable hemp product's decarboxylated delta-9-THC level is not more than zero and three-tenths (0.3) percent.

(4) A licensed processor or handler selling or transferring, or permitting the sale or transfer, of floral or plant extracts (including CBD), shall conduct and retain testing data reflecting the decarboxylated delta-9 THC level for at least three (3) years.

(5) A licensed processor or handler shall not sell or transfer floral extracts containing a decarboxylated delta-9 THC concentration in excess of zero and three-tenths (0.3) percent.

(6) A licensed processor or handler shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9, and all other applicable local, state, and federal laws and regulations relating to product development, product manufacturing, consumer safety, and public health.

(7) Any person making human-consumable products, or substances that will be used to make human-consumable products, shall be Good Manufacturing Practices-compliant and permitted by the Department of Public Health within the Cabinet for Health and Family Services.

(8) Any person packaging a product prior to sale shall comply with the Uniform Packaging and Labeling Regulations as prescribed in 302 KAR 75:130.

(9) A licensed processor or handler shall not knowingly permit hemp to be sold to or used by any person in the Commonwealth who is involved in the manufacture of an item named on the prohibited products list established in 302 KAR 50:070.

(10) A person shall not ship or transport, or allow to be shipped or transported, any hemp product with a decarboxylated delta-9-THC concentration in excess of zero and three-tenths (0.3) percent.

Section 14. Other Requirements.

(1) A licensed processor or handler shall not process or store hemp on any site not listed in the processor/handler license.

(2) A person shall not ship or transport, or allow to be shipped or transported, any hemp substance with a delta-9-THC concentration in excess of zero and three-tenths (0.3) percent.

(3) A license holder shall not make, manufacture or distribute any of the prohibited products listed in 302 KAR 50:070.

(4) A person shall not possess living hemp or other cannabis plants without a hemp grower license.

(5) A licensed processor or handler shall not allow another person, other than an agent of the licensed processor or handler, to process, handle or store hemp under their license in lieu of obtaining a separate hemp processor/handler license.

(6) Processors using hazardous materials or flammable solvents (for example, ethanol) shall comply with the requirements of the State Fire Marshal.

(7) Any person owning or operating an analytical laboratory offering third-party testing services shall report post-decarboxylated delta-9 THC on a 100% dry weight basis.

(8) Any person owning or operating an analytical laboratory offering third-party testing services shall participate in the University of Kentucky's Hemp Proficiency Testing Program.

Section 15. Information Submitted to Department Subject to Open Records Act.

(1) Except as provided in subsection (2) of this section, information and documents generated or obtained by the department shall be subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.870 through 61.884.

(2) Personally identifiable information including physical address, mailing address, driver's license numbers, background checks, GPS coordinates, telephone numbers, and email addresses shall be shielded from disclosure to the maximum extent permitted by law; provided, however, the department shall provide this information to law enforcement agencies and other regulatory agencies upon request.

Section 16. Consequences for Negligent Violations.

(1) If the department determines that a licensed processor/handler committed a negligent violation of any provision within KRS Chapter 260.850 to 260.869, or any administrative regulation promulgated under the authority of those statutes, then the department shall devise and implement a corrective action plan for the licensed processor/handler.

(2) Corrective action plans will remain in place for at least two (2) years and include, at a minimum, the following:

(a) The date by which the licensed processor/handler shall correct each negligent violation;

(b) Steps to correct each negligent violation;

(c) A description of the procedures to demonstrate compliance; and

(d) Inspections or other measures to ensure compliance.

(3) A person who commits a negligent violation shall not, as a result of that violation, be subject to any criminal enforcement action by any government.

(4) If a subsequent violation occurs while a corrective action plan is in place, a new corrective action plan must be submitted with a heightened level of quality control, staff training, and quantifiable action measures.

Section 17. Violations Requiring Temporary License Suspension Procedures.

(1) The department shall notify a licensed processor/handler in writing that the Processor/Handler License has been temporarily suspended if a representative of the department receives information supporting an allegation that a licensed processor/handler has:

(a) plead guilty to, or is convicted of, any felony or drug-related misdemeanor or violation in accordance with KRS 260.864.

(b) Engaged in conduct violating a provision of KRS 260.850 through 260.869, 302 KAR Chapter 50, or the processor/handler license with a culpable mental state greater than negligence;

(c) Made a false statement to a representative of the department or a law enforcement agency with a culpable mental state greater than negligence;

(d) Been found to be in possession of cannabis with a measured delta-9-THC concentration above 0.3 percent with a culpable mental state greater than negligence;

(e) Been found to be growing hemp or cannabis without a hemp grower license with a culpable mental state greater than negligence; or

(f) Failed to comply with an order from a representative of the department or a law enforcement agency with a culpable mental state greater than negligence.

(2) The department shall schedule a license revocation hearing for a date as soon as practicable after the notification of temporary

suspension, but in any event not later than sixty (60) days following the notification of temporary suspension.

(3) A person whose processor/handler license has been temporarily suspended shall not process, or remove cannabis from the premises where hemp or other cannabis was located at the time when the department issued its notice of temporary suspension, except as authorized in writing by a representative of the department.

(4) As soon as possible after the notification of temporary suspension, a representative of the department shall inspect the licensed processor/handler's premises and perform an inventory of all cannabis, hemp, and hemp substances that are in the licensed processor/handler's possession.

Section 18. License Revocation Hearings and Consequences of Revocation.

(1) The department shall notify a person whose processor/handler license has been temporarily suspended of the date when the person's license revocation hearing will occur at a time and place designated by the commissioner.

(2) License revocation hearings shall be adjudicated by a three

(3) person administrative panel in accordance with KRS 260.864.

(3) License revocation hearings shall be open to the public.

(4) A person whose processor/handler license has been temporarily suspended shall appear in person at the assigned hearing time. Failure to appear on time shall constitute a waiver of the person's right to present information and arguments against revoking the processor/handler license.

(5) A representative of the department shall be allowed an opportunity to present information and arguments for revoking the processor/handler license.

(6) A person whose processor/handler license has been temporarily suspended shall be allowed an opportunity to present information and arguments against revoking the processor/handler license.

(7) The three (3) members of the administrative panel shall rule on the question of revocation by a majority vote.

(8) If a majority of the three (3) members of the administrative panel find that it is more likely than not that a licensed processor or handler has committed any of the acts listed in Section 17(1) of this administrative regulation then the processor/handler license shall be revoked effective immediately.

(9) If a majority of the members of the administrative panel vote against revoking the processor/handler license, the department shall lift the temporary suspension within twenty-four (24) hours of the vote.

(10) If a majority of the members of the administrative panel vote in favor of revoking the processor/handler license, then a representative of the department or a law enforcement agency shall have authority to destroy or confiscate all cannabis, hemp, and hemp substances that are in the person's possession.

(11) A person whose property is destroyed or confiscated by a representative of the department or a law enforcement agency shall be owed no compensation or indemnity for the value of the cannabis, hemp, or hemp products that were destroyed or confiscated.

(12) The department shall immediately report any person whose license has been revoked on the grounds that he or she violated a provision of KRS 260.850 through 260.869, 302 KAR Chapter 50, or the processor/handler license with a culpable mental state greater than negligence, to an appropriate law enforcement agency.

(13) A person whose processor/handler license has been revoked shall not be eligible for licensure for a period of five (5) years from the date of the most recent violation.

Section 19. Monetary Civil Penalties.

(1) If a representative of the department receives information supporting a finding that it is more likely than not that a person has engaged in conduct violating a provision of KRS 260.850 through 260.869, 302 KAR Chapter 50 or the processor or handler license application, then the department shall assess a monetary civil penalty not to exceed \$2,500 per violation.

(2) A person wishing to appeal the department's assessment of a monetary civil penalty shall submit a written request for a hearing within fifteen (15) days of the notification date.

(3) A person wishing to appeal the department's assessment of a monetary civil penalty shall mail a hearing request letter to KDA Hemp Licensing Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(4) Appeals shall be heard by a three (3) person administrative panel whose members shall be designated by the commissioner. The administrative panel shall include at least one (1) person who is a department employee and at least one (1) person who is not a department employee and not involved or invested in any Kentucky hemp projects.

(5) The members of the administrative panel shall determine if the department's action in assessing the monetary civil penalty was arbitrary or capricious.

(6) Hearings on the appeal shall be open to the public and occur at a time, date, and location designated by the commissioner.

(7) An appealing person shall appear in person at the assigned hearing time. Failure to appear on time shall constitute grounds for dismissal of the appeal.

(8) An appealing person shall be allowed an opportunity to present arguments for reversing the assessed monetary civil penalty.

(9) A representative of the department shall be allowed an opportunity to present arguments for affirming the assessed monetary civil penalty.

(10) The three (3) members of the administrative panel shall rule on the appeal by a majority vote.

(11) A majority of the three (3) members of the administrative panel may affirm the assessed monetary civil penalty, affirm and increase or decrease the assessed monetary civil penalty, or reverse the assessed monetary civil penalty.

(12) The department shall have the authority to pursue unpaid monetary civil penalties by filing a civil cause of action in the Franklin Circuit Court.

Section 20. Licensing for Representatives of Universities and Colleges.

(1) Except as provided in this Section of this administrative regulation, faculty members, administrators, and staff members of an institution of higher education shall be subject to each of the sections of this administrative regulation.

(2) No institution of higher education shall permit or authorize its faculty, administration, or staff members, or any sponsored student, to be in possession of, or conduct academic research involving, living hemp plants and harvested hemp without first completing and submitting a Grower License Application.

(3) An authorized faculty, administrator, or staff member of an eligible institution of higher education who wishes to be in possession of, or conduct an academic research project involving, living hemp plants and harvested hemp shall complete and submit a Grower License Application.

(4) No institution of higher education shall permit or authorize its faculty, administration, or staff members, or any sponsored student, to be in possession of, or conduct academic research involving, leaf material, or floral material from hemp without first completing and submitting a Processor/Handler License Application.

(5) An authorized faculty, administrator, or staff member of an eligible institution of higher education who wishes to be in possession of, or conduct an academic research project involving, leaf material or floral material from hemp shall complete and submit a Processor/Handler License Application.

(6) The department shall accept applications from an authorized faculty, administrator, or staff member of an eligible institution of higher education at any time of the year.

(7) The department shall not collect fees for licenses issued to a faculty member, administrator, or staff member of an institution of higher education if the project is for research only (that is, not intended for commerce).

(8) Sampling and testing of hemp processed or handled under

the authority of this section shall be conducted by the department if the harvested material is intended for commerce.

(9) As used in this section, "eligible institution of higher education" means an institution of higher education that is:

(a) Is accredited by, and in good standing with, a regional or national higher education accreditation agency;

(b) Confers academic degrees at the associate, bachelor, master, or doctoral level; and

(c) Has a principal campus or office that is located at a site within the Commonwealth of Kentucky.

~~(NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.862(1)(a) authorizes the department to promulgate administrative regulations for the 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 establishes rules and procedures for licensing persons who wish to process and handle industrial hemp as a participant in the department's industrial hemp research pilot program.~~

Section 1. Definitions:

(1) "Applicant" means a person, or a person who is authorized to sign for a business entity, who submits an application to participate in the industrial hemp pilot program.

(2) "Brokering" means engaging or participating in the marketing of industrial hemp by acting as an intermediary or negotiator between prospective buyers and sellers.

(3) "Cannabis":

(a) Means all parts of the cannabis plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts; and

(b) Does not mean "publicly marketable hemp product", as defined by this administrative regulation.

(4) "CBD" means cannabidiol.

(5) "Certified seed" means seed for which a certificate or any other instrument has been issued by an agency authorized under the laws of a state, territory, or possession to officially certify seed and that has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified.

(6) "Commissioner" is defined by KRS 260.850(1).

(7) "Commonwealth" means the Commonwealth of Kentucky.

(8) "DEA" means the United States Drug Enforcement Administration.

(9) "Decarboxylated" means the completion of the chemical reaction that converts THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid.

(10) "delta-9-THC" means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis).

(11) "Department" or "KDA" is defined by KRS 260.850(3).

(12) "Grower licensing agreement" means a document executed by a person and the department authorizing the person to grow, handle, and store hemp at one (1) or more specified locations in the Commonwealth under the terms established in the document, KRS 260.850 through 260.863, and 302 KAR 50:020.

(13) "GPS" means Global Positioning System.

(14) "Handling" is defined by KRS 260.850(4).

(15) "Hemp" or "industrial hemp" is defined by KRS 260.850(5).

(16) "Hemp product" or "industrial hemp product" is defined by KRS 260.850(6).

(17) "Law enforcement agency" means the Kentucky State Police, DEA, or other federal, state, or local law enforcement agency, or drug suppression unit.

(18) "Licensed grower" means a person authorized in the commonwealth by the department to grow, handle, store, and market hemp under the terms established in a grower licensing agreement, KRS 260.850 through 260.859, and 302 KAR 50:020.

(19) "Licensed processor" means a person in the

Commonwealth authorized by the department to process, handle, store, and market hemp under the terms established in a processor licensing agreement, KRS 260.850 through 260.859, and this administrative regulation.

(20) "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.

(21) "Nonviable seed" means a seed that has been crushed, dehulled, or otherwise rendered to have a zero percent germination rate.

(22) "Person" means an individual or business entity.

(23) "Pesticide" means any substance or mixture of substances intended to:

(a) Prevent, destroy, control, repel, attract, or mitigate any pest;

(b) Be used as a plant regulator, defoliant, or desiccant; or

(c) Be used as a spray adjuvant, once they have been mixed with a U.S. Environmental Protection Agency-registered product.

(24) "Plot" means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout the area.

(25) "ppm" means parts per million.

(26) "Post-harvest sample" means a sample taken from the harvested hemp from a particular plot's harvest in accordance with the procedures as established in 302 KAR 50:050. The entire plot's harvest is in the same form (for example, intact plant, flowers, ground materials, etc.), homogenous, and not mixed with nonhemp materials or hemp from another plot.

(27) "Pre-harvest sample" means a composite, representative portion from plants in a hemp plot collected in accordance with the procedures as established in 302 KAR 50:050.

(28) "Prohibited variety" means a variety or strain of cannabis excluded from the department's program.

(29) "Processing" is defined by KRS 260.850(9).

(30) "Processor licensing agreement" means a document executed by a person and the department authorizing the person to process, handle, and store hemp at one (1) or more specified locations in the Commonwealth under the terms established in the document, KRS 260.850 through 260.869, and this administrative regulation.

(31) "Program" means the department's Industrial Hemp Research Pilot Program.

(32) "Propagule" means a plant or plant part that can be utilized to grow a new plant.

(33) "Publicly marketable hemp product" means a hemp product that meets one (1) or more of the following descriptions:

(a)1. The product does not include any living hemp plants, viable seeds, leaf materials, floral materials, or delta-9-THC content above zero and three-tenths (0.3) percent; and

2. Does include, without limitation, the following products: bare stalks, bast fiber, hurd fiber, nonviable roots, nonviable seeds, seed oils, and plant extracts (excluding products containing delta-9 THC above zero and three-tenths (0.3) percent);

(b) The product is CBD that was derived from hemp, as defined by this administrative regulation; or

(c) The product is CBD that is approved as a prescription medication by the United States Food and Drug Administration.

(34) "Secondary pre-harvest sample" means a pre-harvest sample that is taken:

(a) In a given plot after the first pre-harvest sample is taken; and

(b) On a different day than the initial pre-harvest sample.

(35) "Seed source" means the origin of the seed or propagules as determined by the department.

(36) "Signing authority" means an officer or agent of the organization with written authorization to commit the legal entity to a binding agreement.

(37) "UK DRS" means the Division of Regulatory Services at the University of Kentucky College of Agriculture, Food, and Environment.

(38) "University" means an accredited institution of higher learning located in the Commonwealth.

(39) "Variety" means a subdivision of a species that is:

(a) Uniform, in the sense that the variations in essential and distinctive characteristics are describable;

(b) Stable, in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity if reproduced or reconstituted as required by the different categories of varieties; and

(c) Distinct, in the sense that the variety can be differentiated by one (1) or more identifiable morphological, physiological, other characteristics from all other publicly known varieties, or other characteristics from all other publicly known varieties.

(40) "Variety of concern" means any variety of hemp in the department's program that tests above 3,000 ppm or 0.3000 percent delta-9-THC in one (1) or more pre-harvest samples. A hemp variety designated as a "variety of concern" could be subject to restrictions and additional testing.

(41) "Volunteer cannabis plant" means any cannabis plant that:

(a) Grows of its own accord from seeds or roots in the years following an intentionally planted cannabis crop; and

(b) Are not intentionally planted.

Section 2. Processor or Handler License Application.

(1) Any person who wishes to engage in the processing, handling, brokering, or marketing of hemp that does not fall within the definition of a "publicly marketable hemp product" at any location in the Commonwealth shall submit to the department annually a complete Processor/Handler License Application, incorporated by reference as part of the Processor/Handler License Application Packet in 302 KAR 50:080.

(2) Any person who does not hold a license from the department shall not:

(a) Grow, cultivate, handle, or process hemp or other cannabis; or

(b) Broker or market hemp or other cannabis that does not fall within the definition of a "publicly marketable hemp product" at any location within the commonwealth.

(3) A person under the age of eighteen (18) years of age shall not apply for or hold a processor or handler license.

(4)(a) Completed Processor/Handler License Application forms shall be postmarked or received by the department by the end of the application period established in the application.

(b) Completed Processor/Handler License Application forms shall be delivered to KDA Industrial Hemp Research Pilot Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(c) The department shall deny any Processor/Handler License Application that is not received by the deadline established in the application.

(5) The department shall require each applicant to pay a processor or handler application fee in the amount established in 302 KAR 50:060.

(6) Application fees shall not cover or include the cost of criminal background checks required by KRS 260.862(2)(d) and Section 3 of this administrative regulation. Applicants and license holders shall pay criminal background check fees directly to the Kentucky State Police or other law enforcement agency designated by the department.

(7) The department may deny any Processor/Handler License Application that is received without the application fee established in 302 KAR 50:060.

(8) With the Processor/Handler License Application form, the applicant shall submit, at a minimum:

(a) Full name, mailing address, telephone number, and email address, if an email address is available;

(b) If the applicant represents a business entity, the full name of the business, the principal Kentucky business location address, the full name of the applicant who will have signing authority on behalf of the entity, title, and email address if an email address is available, of the person;

(c) Research plan;

(d) Planned source of hemp; and

(e) Maps and the street address, location ID, and GPS coordinates for each building or site where hemp will be processed, handled, or stored.

(9) Any Processor/Handler License Application that is missing required information shall be grounds for license denial.

Section 3. Criminal Background Check. (1) Each licensed processor/handler or applicant shall undergo and pay for an annual criminal background check.

(2) Each person who is required to undergo an annual criminal background check as required by KRS 260.862(2)(d) shall following completion of the background check, ensure delivery of the report to the department not more than fourteen (14) days following the date the application was received by the department.

(3) The department shall not accept a report from a criminal background check that occurred prior to October 1 of the application year.

(4) Failure to submit the background check by the deadline stated in subsection (2) shall be grounds for license denial.

(5) Substitution of a signing authority shall require approval from the department and the submission of a current criminal background check on the signing authority.

Section 4. Application for Processor or Handler Licensing: Criteria and Procedure for Evaluation.

(1) The department shall apply the criteria established in paragraphs (a) through (n) of this subsection in evaluating applications for a processor or handler licensing agreement:

(a) In accordance with Section 2 of this administrative regulation, the applicant shall submit a complete application with all required components and attachments.

(b) An applicant who has been a program participant previously, the applicant shall comply with the responsibility to submit any reports required by 302 KAR Chapter 50.

(c) All involved business entities shall be registered and in good standing with the Kentucky Secretary of State.

(d) The applicant's processing sites, handling sites, and storage sites, shall be located in the Commonwealth of Kentucky.

(e) The criminal background check report indicates that, within ten (10) years from the date when the background check was issued, the applicant shall not have:

1. A felony conviction; or

2. A drug-related misdemeanor conviction or violation.

(f) The research plan shall be compliant with state and federal law.

(g) The applicant's planned activities shall remain compliant with state law and KDA policy.

(h) The applicant shall have a hemp acquisition plan.

(i) The applicant shall have a marketing plan that is compliant with state and federal law.

(j) The applicant shall have adequate facilities, or plans to acquire adequate facilities sufficiently soon enough, to complete the research plan.

(k) In the past, including those times when the applicant was not a participant in the department's program, the applicant shall have demonstrated a willingness to comply with the department's rules, instructions from department staff, and instructions from representatives of Kentucky State Police and other law enforcement agencies.

(l) The applicant shall not be delinquent in making any required reports or payments to the department in connection with the applicant's participation in the program or other programs within the department.

(m) The applicant shall not have any unpaid fines or civil penalties owed to the department.

(n) The applicant shall not have made and shall not make any false statements or representations to a representative of the department or a law enforcement agency.

(2) The department shall conditionally approve an application for a processor or handler licensing agreement if the application satisfies the criteria established in this administrative regulation.

(3) The department shall notify applicants by letter or email whether the application has been denied or conditionally approved. A person shall not be a participant in the department's program until the applicant and the department have executed a processor or handler licensing agreement following the applicant's

attendance at the department's mandatory orientation session.

Section 5. Land Use Restrictions for Licensed Processors or Handlers.

(1) A licensed processor or handler shall not process or store leaf or floral material from hemp or other cannabis in or adjacent to any structure that is used for residential purposes.

(2) A licensed processor or handler shall not process hemp or other cannabis in a site that is located within 1,000 feet of a school or a public recreational area.

(3) A licensed processor or handler shall not apply to process, handle, or store hemp on any property that is not owned or completely controlled by the applicant or licensed processor.

(4) A licensed processor or handler shall not process, handle, or store hemp on property owned by, leased from, or previously submitted in an application by any person who is ineligible or was terminated or denied admission to the program for one (1) or both of the following reasons:

(a) Failure to obtain an acceptable criminal background check, or

(b) Failure to comply with an order from a representative of the department.

Section 6. Administrative Appeal from Denial of Application.

(1) An applicant wishing to appeal the department's denial or partial denial of an application shall submit a written request for a hearing postmarked within fifteen (15) days of the date of the department's notification letter or email.

(2) An appealing applicant shall mail a hearing request letter to KDA Industrial Hemp Research Pilot Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(3) Appeals shall be heard by a three (3) person administrative panel whose members shall be designated by the commissioner. The panel shall include at least one (1) person who is a department employee and at least one (1) person who is not a department employee and not involved or invested in any hemp research projects in Kentucky.

(4) The members of the administrative panel shall not be required to accept or consider information or documents that were not compliant with application deadlines established in this administrative regulation.

(5) The members of the administrative panel shall apply the same standards set forth in this regulation to determine if the department's action in denying the application was arbitrary or capricious.

(6) Hearings on appeals shall be open to the public and occur at a time and date and location designated by the commissioner.

(7) An appealing applicant shall appear in person at the assigned hearing time. Failure to appear on time shall constitute grounds for dismissal of the appeal.

(8) An appealing applicant shall be allowed an opportunity to present arguments for reversing the department's denial of the application.

(9) A representative of the department shall be allowed an opportunity to present arguments for affirming the department's denial of the application.

(10) The three (3) members of the administrative panel shall rule on the appeal by a majority vote.

Section 7. Processor or Handler Licensing Agreements.

(1) An applicant shall not be a participant in the department's program until the conditionally approved applicant and the department have executed a processor or handler licensing agreement following the applicant's attendance at the department's mandatory orientation session.

(2) The processor or handler licensing agreement shall establish the terms and conditions governing participation in the department's program.

(3) The terms and conditions established in the processor or handler licensing agreement shall include, at a minimum, the following requirements for licensed processor or handler:

(a) Acknowledge that licensed processors or handlers are acting as agents of the department and shall comply with

instructions from representatives of the department and law enforcement agencies;

(b) Agree to pay a licensing fee in the amount established in 302 KAR 50:060;

(c) Consent to entry onto, and inspection of, all premises where hemp or other cannabis materials are located, or licensed to be located, by representatives of the department and law enforcement agencies, with or without cause, with or without advance notice;

(d) Consent to forfeiture and destruction, without compensation, of:

1. Material found to have a measured delta-9-THC content in excess of zero and three-tenths (0.3) percent on a dry weight basis;

2. Material located in an area that is not licensed by the department; or

3. Material not properly accounted for in required reporting to the department;

(e) Acknowledge that no hemp shall be processed, handled, or stored in any location other than the location listed in the processor or handler licensing agreement;

(f) Acknowledge that licensed processors or handlers shall comply with restrictions established by the department limiting the movement of hemp plants and plant parts;

(g) Acknowledge that the risk of financial or other loss shall be borne solely by the licensed processor or handler;

(h) Agree that any time the hemp is in transit, a copy of the processor or handler licensing agreement shall be available for inspection upon the request of a representative of the department or a law enforcement agency;

(i) Agree to immediately produce a copy of the processor or handler licensing agreement for inspection upon request from a representative of the department or a law enforcement agency;

(j) Agree to submit reports required by the department on or before the deadlines established by the department;

(k) Agree to notify the department of any interaction with law enforcement immediately by phone and follow-up in writing within three (3) calendar days of the occurrence; and

(l) Agree to notify the department of any theft of cannabis materials.

(4) Failure to agree or comply with terms and conditions established in the processor or handler licensing agreement or this administrative regulation shall constitute grounds for appropriate departmental action, up to and including termination of the license and expulsion from the department's program.

(5) A person who has been expelled from the program is not eligible to reapply to the program for a period of five (5) years from the date of expulsion.

(6) Failure to agree and sign the processor or handler licensing agreement shall terminate conditional approval and no licensing agreement shall be executed.

(7) A multi-year licensed processor or handler shall:

(a) Submit to the department an annual criminal background check for the signing authority of record;

(b) Attend a mandatory, annual program orientation session hosted by the department;

(c) Pay annual fees in the amount established in 302 KAR 50:060;

(d) Update all registered addresses, location IDs, and GPS coordinates with the department; and

(e) Agree to comply with the department's program policies as established in 302 KAR Chapter 50.

Section 8. Mandatory Orientation Session. (1) Conditionally approved applicants and multi-year licensed processor or handler shall attend an annual mandatory orientation session at a location designated by the department.

(2) The department shall require in-person attendance.

(a) The department shall not permit any person to attend a mandatory orientation session telephonically or by video.

(b) The department shall not allow any person to attend in lieu of the conditionally approved applicant or licensed processor or handler.

Section 9. Processor or Handler Licensing Fee.

(1) The licensed processor or handler fee for processing one (1) or more fiber harvests shall be the amount established in 302 KAR 50:060.

(2) The licensing fee for processing one (1) or more grain harvests shall be the amount established in 302 KAR 50:060.

(3) The Licensing fee for processing floral material (for example, CBD) shall be the amount established in 302 KAR 50:060.

(4) A licensed processor or handler that processes more than one (1) crop type (for example, fiber, grain, and CBD) shall pay the licensing fee that is required for each crop type that is applicable.

(5) A handler that does not engage in processing (for example, a seed cleaner, or laboratory) shall be subject to a licensing fee in the amount established in 302 KAR 50:060.

(6) The licensed processor or handler fee shall be paid annually in full prior to the execution of the processor or handler licensing agreement with a check or money order payable to the Kentucky State Treasurer.

Section 10. Seed Acquisition from a Source within the Commonwealth.

(1) A department pre-approval shall not be required for a transfer of hemp seed or propagules of any variety listed on the department's Summary of Varieties list, published at kyagr.com, excluding prohibited varieties, between Kentucky licensed growers and licensed processor or handler within the Commonwealth of Kentucky.

(2) A licensed grower or licensed processor or handler shall not buy, sell, possess, or transfer hemp seeds or propagules to or from any person in the Commonwealth without first verifying that the person is licensed by the department.

(3) A licensed grower or licensed processor or handler shall obtain written approval from the department to change the name of any variety in the department's program.

(4) Upon request from a representative of the department, a licensed grower or licensed processor or handler shall provide a distribution list showing locations where and to whom hemp seeds or propagules were distributed.

Section 11. Seed Acquisition from a Source in a U.S. territory, Tribal Land, or State Other than the Commonwealth of Kentucky.

(1) A person shall not acquire seeds or propagules from a source in a U.S. territory, tribal land, or state other than the Commonwealth of Kentucky without first:

(a) Submitting a complete Domestic Seed/Propagule Request form and all required attachments, and

(b) Obtaining written approval of the Domestic Seed/Propagule Request from a representative of the department.

(2) The department shall not approve a Domestic Seed/Propagule Request unless the Domestic Seed/Propagule Request form states in writing that the requested seed acquisition plan shall not infringe on the intellectual property rights of any person.

(3) A person submitting a Domestic Seed/Propagule Request form shall submit to the department THC test results showing that floral material sampled from mature plants grown from that seed or propagule variety or strain has a delta-9-THC content of not more than 3,000 ppm on a dry weight basis from an independent third-party laboratory.

(4) A person submitting a Domestic Seed/Propagule Request form shall submit to the department documentation verifying the seed or propagule source as a current legal hemp operation in the state of origin.

(5) A person acquiring seeds or propagules from a source outside the Commonwealth shall arrange for the seeds or propagules to arrive at the department's facility at 105 Corporate Drive, Frankfort, Kentucky 40601, for inventory and distribution.

(6) Upon request from a representative of the department, a Domestic Seed/Propagule Request form shall provide a distribution list showing locations where and to whom the hemp seeds were distributed following inventory at the department's facility.

Section 12. Seed Acquisition From a Source Outside the United States.

(1) A person seeking to obtain seeds from an international source shall submit a complete International Seed Request form, incorporated by reference in 302 KAR 50:080, to the department.

(a) If approved, the department shall request the DEA Permit to Import under the department's DEA registration.

(b) A person shall not acquire seeds from a source outside the United States unless the Department first obtains a permit to import from the DEA.

(2) A person shall not acquire propagules other than seeds from outside the United States.

(3) The department shall not approve an International Seed Request form for any purpose other than seeds for planting in Kentucky. All licensed growers intending to plant the requested seed shall be listed on the request form.

(4) The department shall not approve an International Seed Request form unless the licensed processor affirms in writing that the licensed processor's planned activities shall not infringe on the intellectual property rights of any person.

(5) A person submitting an International Seed Request form shall submit to the department documentation showing that mature plants grown from that seed variety have a floral material delta-9 THC content of not more than 3,000 ppm on a dry weight basis.

(6) A person acquiring seeds or propagules from a source outside the United States shall arrange for the seeds or propagules to arrive at the department's facility at 105 Corporate Drive, Frankfort, Kentucky 40601, for inventory and distribution.

(7) Upon request from a representative of the department, a licensed processor or handler shall provide a distribution list showing locations where and to whom the imported hemp seeds were distributed following inventory at the department's facility.

Section 13. Seeds of Wild, Landrace, or Unknown Origin.

(1) A person shall not acquire or grow hemp or cannabis seeds or propagules of wild, landrace, or unknown origin without first obtaining written approval from a representative of the department.

(2) The department shall not permit hemp or cannabis seeds or propagules of wild, landrace, or unknown origin to be planted, cultivated, or replicated by any person without the department first arranging for replication and THC testing of mature plants grown from the seeds or propagules by the department or its designee.

(3) Any licensed grower or licensed processor or handler found to have saved seed, propagules, or cuttings, or cultivated seeds, propagules, or cuttings from a cannabis plant of wild, landrace, or unknown origin, without permission from the department shall be subject to suspension or revocation of their license and forfeiture without compensation of their materials.

Section 14. Site Access for Representatives of the Department and Law Enforcement Agencies. (1) The department shall provide information about approved growing, handling, processing, and storage site locations to representatives of the Kentucky State Police, DEA, and other law enforcement agencies whose representatives request registered site location information, including GPS coordinates.

(2) Licensed processors or handler shall have no reasonable expectation of privacy with respect to premises where hemp or other cannabis seeds, plants, or materials are located and any premises listed in the processor or handler licensing agreement.

(3) A licensed processor or handler, whether present or not, shall permit a representative of the department or a law enforcement agency to enter into premises where hemp or other cannabis seeds, plants, or materials are located and any premises listed in the processor or handler licensing agreement, with or without cause, and with or without advance notice.

Section 15. Collection and Retention of Cannabis Samples.

(1) The department shall have the authority to collect and retain samples of hemp or other cannabis, and products derived from all hemp or cannabis in the possession of a licensed processor or handler.

(2) All samples collected by the department shall become the property of the department and shall be nonreturnable. Compensation shall not be owed by the department.

(3) The material to be collected for sampling shall be determined by the department inspector.

Section 16. Restrictions on Sale or Transfer.

(1) A licensed processor or handler shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person in the Commonwealth who does not hold a license issued by the department.

(2) A licensed processor or handler shall not sell or transfer, or permit the sale or transfer, of living plants, viable seeds, leaf material, or floral material to any person outside the Commonwealth (but within the United States) who is not authorized by a university or state department of agriculture under the authority of 7 U.S.C. 5940 and the laws of that state. The licensed processor or handler shall be responsible for insuring that such sale or transfer is lawful in other states.

(3) The department shall permit the sale or transfer of stripped stalks, fiber, dried roots, nonviable seeds, seed oils, floral and plant extracts (excluding THC in excess of zero and three-tenths (0.3) percent), and other marketable hemp products to members of the general public, both within and outside the Commonwealth, if the product's delta-9-THC level is not more than zero and three-tenths (0.3) percent.

(4) A licensed processor or handler selling or transferring, or permitting the sale or transfer, of floral or plant extracts (including CBD), shall conduct and retain testing data or results for at least three (3) years demonstrating that the product's delta-9-THC level is not more than zero and three-tenths (0.3) percent.

(5) The department shall permit a licensed processor or handler to transfer up to one (1) pound of hemp per transfer to testing laboratories, both within and outside the Commonwealth, for the purpose of measuring THC, CBD or other phytocannabinoid profile levels. It shall be the responsibility of the licensed processor or handler to ensure compliance with laws with other states.

(6) A licensed processor or handler shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9, and all other applicable local, state, and federal laws and regulations relating to product development, product manufacturing, consumer safety, and public health.

(7) A licensed processor or handler shall not knowingly permit hemp to be sold to or used by any person involved in the manufacture of an item named on the prohibited products list in 302 KAR 50:070.

Section 17. Other Prohibited Activities.

(1) A licensed processor or handler shall not process or store hemp on any site not listed in the processor or handler licensing agreement.

(2) A person shall not ship or transport, or allow to be shipped or transported, live hemp plants, cuttings for planting, or viable seeds from a variety that is currently designated by the department as a prohibited variety or variety of concern to any location outside the Commonwealth of Kentucky.

(3) A person shall not ship or transport, or allow to be shipped or transported, any hemp product with a delta-9-THC concentration in excess of zero and three-tenths (0.3) percent.

(4) A licensed processor or handler shall not transport live hemp plants, viable seeds, leaf materials, or floral materials to unapproved locations including trade shows, county fairs, educational or other events, or any other address not listed on the licensed processor or handler current processor or handler licensing agreement or within another research program.

(5) A licensed processor or handler shall not allow unsupervised public access to hemp plots, including activities such as a hemp maze.

(6) A person shall not possess live hemp or other cannabis plants without a grower licensing agreement.

Section 18. Required Reports.

(1) A licensed processor or handler shall submit a completed

Production Report annually.

(2) A licensed processor or handler failure to submit an accurate and complete report that is required by subsection (1) of this administrative regulation on or before the deadline established by the department shall constitute grounds for the department to terminate the processor or handler licensing agreement and deny future applications for licensure.

Section 19. Information Submitted to Department Subject to Open Records Act.

(1) Except as provided in subsection (2) of this section, information and documents generated or obtained by the department in connection with the program shall be subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.870 through 61.884.

(2) Personally identifiable information including physical address, mailing address, driver's license numbers, background checks, GPS coordinates, telephone, and email addresses shall be shielded by the department to the maximum extent permitted by law.

Section 20. Immediate License Suspension.

(1) The department shall immediately revoke a license, without an opportunity for a hearing, if the licensed person pleads guilty to, or is convicted of, any felony or drug-related misdemeanor or violation.

(2) The department shall immediately revoke a license, without an opportunity for a hearing, if the licensed person or his or her agent admits to having:

(a) Violated any provision of KRS 260.850 through 260.869 or 302 KAR Chapter 50;

(b) Made any false statement to the department or its representative; or

(c) Failed to comply with any instruction or order from the department, a representative of the Kentucky State Police, or any law enforcement officer.

Section 21. Temporary License Suspension Procedures.

(1) The department shall notify a licensed processor or handler in writing that the processor or handler licensing agreement has been temporarily suspended if a representative of the department receives information supporting an allegation that a licensed processor or handler has:

(a) Engaged in conduct violating a provision of this administrative regulation, KRS 260.850 through 260.869, or the processor or handler licensing agreement;

(b) Made a false statement to a representative of the department or a law enforcement agency;

(c) Been found to be in possession of cannabis with a measured delta-9-THC concentration at or above 30,000 ppm (3 percent); or

(d) Failed to comply with an order from a representative of the department or a law enforcement agency.

(2) A person whose processor or handler licensing agreement has been temporarily suspended shall not harvest, process, or remove cannabis from the premises where hemp or other cannabis was located at the time when the department issued its notice of temporary suspension, except as authorized in writing by a representative of the department.

(3) As soon as possible after the notification of temporary suspension, a representative of the department shall inspect the licensed processor or handler premises and perform an inventory of all cannabis, hemp, and hemp products that are in the licensed processor or handler possession.

(4) The department shall schedule a license revocation hearing for a date as soon as practicable after the notification of temporary suspension, but in any event not later than sixty (60) days following the notification of temporary suspension.

Section 22. License Revocation Hearings and Consequences of Revocation.

(1) The department shall notify a person whose processor or handler licensing agreement has been temporarily suspended of

the date when the person's license revocation hearing will occur at a time and place designated by the commissioner.

(2) License revocation hearings shall be adjudicated by a three (3) person administrative panel whose members shall be designated by the commissioner. The panel shall include at least one (1) person who is a department employee and at least one (1) person who is not a department employee and not involved or invested in any Kentucky hemp projects.

(3) License revocation hearings shall be open to the public.

(4) A person whose processor or handler licensing agreement has been temporarily suspended shall appear in person at the assigned hearing time. Failure to appear on time shall constitute a waiver of the person's right to present information and arguments against revoking the processor or handler licensing agreement.

(5) A representative of the department shall be allowed an opportunity to present information and arguments for revoking the processor or handler licensing agreement.

(6) A person whose processor or handler licensing agreement has been temporarily suspended shall be allowed an opportunity to present information and arguments against revoking the processor or handler licensing agreement.

(7) The three (3) members of the administrative panel shall rule on the question of revocation by a majority vote.

(8) If a majority of the three (3) members of the administrative panel find that it is more likely than not that a licensed processor or handler has committed any of the acts listed in Section 21(1) of this administrative regulation or violated any provision of the processor or handler licensing agreement, then the processor or handler licensing agreement shall be revoked effective immediately.

(9) If a majority of the members of the administrative panel vote against revoking the processor or handler licensing agreement, the department shall lift the temporary suspension within twenty-four (24) hours of the vote.

(10) If a majority of the members of the administrative panel vote in favor of revoking the processor or handler licensing agreement, then a representative of the department or a law enforcement agency shall have authority to destroy or confiscate all cannabis, hemp, and hemp products that are in the person's possession.

(11) A person whose property is destroyed or confiscated by a representative of the department or a law enforcement agency shall be owed no compensation or indemnity for the value of the cannabis, hemp, or hemp products that were destroyed or confiscated.

(12) A person whose processor or handler licensing agreement has been revoked shall be barred from participation in the hemp research pilot program in any capacity for a minimum period of five (5) years.

Section 23. Monetary Civil Penalties.

(1) If a representative of the department receives information supporting a finding that it is more likely than not that a person has engaged in conduct violating a provision of this administrative regulation, KRS 260.850 through 260.869, or the processor or handler licensing agreement, then the department shall assess a monetary civil penalty not to exceed \$2,500 per violation.

(2) A person wishing to appeal the department's assessment of a monetary civil penalty shall submit a written request for a hearing within fifteen (15) days of the notification date.

(3) A person wishing to appeal the department's assessment of a monetary civil penalty shall mail a hearing request letter to KDA Industrial Hemp Research Pilot Program, 111 Corporate Drive, Frankfort, Kentucky 40601.

(4) Appeals shall be heard by a three (3) person administrative panel whose members shall be designated by the commissioner. The administrative panel shall include at least one (1) person who is a department employee and at least one (1) person who is not a department employee and not involved or invested in any Kentucky hemp projects.

(5) The members of the administrative panel shall determine if the department's action in assessing the monetary civil penalty was arbitrary or capricious.

(6) Hearings on the appeal shall be open to the public and

occur at a time, date, and location designated by the commissioner.

(7) An appealing person shall appear in person at the assigned hearing time. Failure to appear on time shall constitute grounds for dismissal of the appeal.

(8) An appealing person shall be allowed an opportunity to present arguments for reversing the assessed monetary civil penalty.

(9) A representative of the department shall be allowed an opportunity to present arguments for affirming the assessed monetary civil penalty.

(10) The three (3) members of the administrative panel shall rule on the appeal by a majority vote.

(11) A majority of the three (3) members of the administrative panel may affirm the assessed monetary civil penalty, affirm and increase or decrease the assessed monetary civil penalty, or reverse the assessed monetary civil penalty.

(12) The department shall have the authority to pursue unpaid monetary civil penalties by filing a civil cause of action in the Franklin Circuit Court.]

RYAN F. QUARLES, Commissioner

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 13, 2020 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2020 at 11:00 a.m., at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2020. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, fax (502) 564-2133, email clint.quarles@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes rules for processing hemp in Kentucky.

(b) The necessity of this administrative regulation: This regulation establishes rules for processing hemp that are necessary for Kentucky hemp products to be generally seen as allowable for trade.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 260.862 commands the KDA to establish administrative regulations for hemp.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by making hemp processing rules very clear in Kentucky.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment updates the existing regulation to adopt programmatic changes that the Department has decided will be necessary in advance the 2020 growing season.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure that the administrative regulations accurately reflect the Hemp Licensing Program's current structure and rules.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the intent of the General Assembly for the Department to promulgate administrative

regulations for the Hemp Licensing Program.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will enable the Department to carry out the General Assembly's mandate to administer the Hemp Licensing Program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Department of Agriculture, 978 growers, 17 Universities and 200 processors.

(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: Entities will be required to follow the instructions in the filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Likely no modification of current actions would be needed, so little to no costs would be incurred.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease on behalf of the KDA and clear guidance for entities.

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

(a) Initially: Expenses for the entire hemp program for 2019 were approximately \$1,156,000.

(b) On a continuing basis: Market forces will determine participation levels for 2020 and beyond. Ongoing costs will be a function of grower numbers and location modifications.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The hemp program is funded by the fees set for in 302 KAR 50:060.

(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 increases in funding are required currently.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This filing does not contain fees. The hemp program is funded by the fees set for in 302 KAR 50:060.

(9) TIERING: Is tiering applied? (Explain why or why not) No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Department of Agriculture, and any agency that might concern hemp shall be affected 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 260.682

(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? Income for the entire hemp program for 2019 was approximately \$1,575,000.

(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? Even with a fixed fee structure, revenue is almost entirely determined by participation. Market forces will dictate revenue to a point the KDA cannot guess with any certainty.

(c) How much will it cost to administer this program for the first

year? Expenses for the entire hemp program for 2019 were approximately \$1,156,000.

(d) How much will it cost to administer this program for subsequent years? The KDA expects this spending trendline to continue for the hemp program as a whole, but based on producer participation.

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

Revenues (+/-): \$1,575,000

Expenditures (+/-): \$1,156,000.

Other Explanation:

DEPARTMENT OF AGRICULTURE Office of the Consumer and Environmental Protection (Amendment)

302 KAR 50:060. Fees for the Hemp Licensing Program[and forms].

RELATES TO: KRS Chapter 217B, 260.850-260.869[—7 U.S.C. 5949]

STATUTORY AUTHORITY: KRS 260.862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.862(1)(a) authorizes the department to promulgate administrative regulations for a Hemp Licensing Program in the Commonwealth of Kentucky. KRS 260.862(1)(c) authorizes the department to license persons who wish to participate in a Hemp Licensing Program by cultivating, handling, processing, or marketing hemp. KRS 260.862(1)(g) authorizes the department to establish a schedule of nonrefundable fees. This administrative regulation establishes a schedule of fees for the department's industrial hemp research pilot program.

Section 1. Schedule of Fees for Growers.

(1) The definitions for this section shall be the same definitions established in 302 KAR 50:021, Section 1.

(2) The fees established in this section shall be nonrefundable.

(3) The Grower License Application fee shall be waived. There shall be a \$200 service charge for those applications submitted on paper. There shall be no service charge for applications submitted online.

(4) The annual Grower Licensing Fee shall be \$400 for each growing address. This fee includes the first three samples collected for THC testing from that growing address. Beginning with the fourth sample, the Licensed Grower shall be invoiced for a secondary pre-harvest sample fee of \$250 for each additional sample collected for THC testing.

(5) The secondary pre-harvest sample fee shall be \$250 for each sample.

(6) The retest fee shall be \$250 for each sample.

(7) The site modification surcharge fee shall be \$750 for each GPS coordinate location change for each growing site after the grower licensing agreement has been executed.

Section 2. Schedule of Fees for Processors or Handlers.

(1) The definitions for this section shall be the same definitions established in 302 KAR 50:031, Section 1.

(2) The fees established in this section shall be nonrefundable.

(3) The Processor/Handler License Application fee shall be waived. There shall be a \$200 service charge for those applications submitted on paper. There shall be no service charge for applications submitted online.

(4) The annual Processor/Handler Licensing Fee for processing the grain component of hemp shall be \$500.

(5) The annual Processor/Handler Licensing Fee for processing the fiber component of hemp shall be \$500.

(6) The annual Processor/Handler Licensing Fee for processing the floral material component of hemp (such as CBD) shall be \$3,000.

(7) The annual Processor/Handler Licensing Fee for a handler (such as a seed cleaner or laboratory) shall be \$500.

(8) A processor for more than one (1) component (grain, fiber, or floral material) shall pay the licensing fee for each component. (For example, a person who processes hemp for fiber, grain, and CBD shall pay a participation fee of \$4,000.)

(9) The site modification surcharge fee shall be \$750 for each GPS coordinate location change for each processing or handling site after the Processor/Handler application or renewal has been submitted. [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)(g) authorizes the department to establish a schedule of nonrefundable fees. This administrative regulation establishes a schedule of fees for the department's industrial hemp research pilot program.]

Section 1. Schedule of Fees for Growers.

(1) The definitions for this section shall be the same definitions established in 302 KAR 50:020, Section 1.

(2) The fees established in this section shall be nonrefundable.

(3) The Grower License Application fee shall be \$100 for each application.

(4) The annual grower participation fee shall be \$400 for each growing address.

(5) The secondary pre-harvest sample fee shall be \$250 for each sample.

(6) The post-harvest retest fee shall be \$250 for each sample.

(7) The site modification surcharge fee shall be \$750 for each GPS coordinate location change for each growing site after the grower licensing agreement has been executed.

Section 2. Schedule of Fees for Processors or Handlers.

(1) The definitions for this section shall be the same definitions established in 302 KAR 50:030, Section 1.

(2) The fees established in this section shall be nonrefundable.

(3) The Processor/Handler License Application fee shall be \$100 per application.

(4) The annual participation fee for processing the grain component of hemp shall be \$500.

(5) The annual participation fee for processing the fiber component of hemp shall be \$500.

(6) The annual participation fee for processing the floral material component of hemp (such as CBD) shall be \$3,000.

(7) The annual participation fee for a handler (such as a seed cleaner or laboratory) shall be \$500.

(8) A processor for more than one (1) component (grain, fiber, or floral material) shall pay the annual participation fee for each component. (For example, a person who processes hemp for fiber, grain, and CBD shall pay a participation fee of \$4,000.)

(9) The site modification surcharge fee shall be \$750 for each GPS coordinate location change for each processing site after the processor or handler licensing agreement has been executed.]

RYAN F. QUARLES, Commissioner

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 13, 2020 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2020 at 11:00 a.m., at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2020. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, fax (502) 564-2133, email

clint.quarles@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes fees for hemp activities in Kentucky.

(b) The necessity of this administrative regulation: This regulation establishes fees for hemp activities in Kentucky, that are necessary to fund the program and cover expenses.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 260.862 commands the KDA to establish administrative regulations for hemp.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by making hemp fees very clear in Kentucky.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment updates the existing regulation to adopt programmatic changes that the Department has decided will be necessary in advance the 2020 growing season.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure that the administrative regulations accurately reflect the Hemp Licensing Program's current structure and rules.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the intent of the General Assembly for the Department to promulgate administrative regulations for the Hemp Licensing Program.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will enable the Department to carry out the General Assembly's mandate to administer the Hemp Licensing Program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Department of Agriculture, 978 growers, 17 Universities and 200 processors.

(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: Entities will be required to follow the instructions in the filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Likely no modification of current actions would be needed, so little to no costs would be incurred.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease on behalf of the KDA and clear guidance for entities.

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

(a) Initially: Expenses for the entire hemp program for 2019 were approximately \$1,156,000.

(b) On a continuing basis: Market forces will determine participation levels for 2020 and beyond. Ongoing costs will be a function of grower numbers and location modifications.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The hemp program is funded by the fees set for in 302 KAR 50:060.

(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 increases in funding are required currently.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This filing does not contain fees. The hemp program is funded by

the fees set for in 302 KAR 50:060.

(9) TIERING: Is tiering applied? (Explain why or why not) No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Department of Agriculture, and any agency that might concern hemp shall be affected 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 260.682

(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? Income for the entire hemp program for 2019 was approximately \$1,575,000.

(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? Even with a fixed fee structure, revenue is almost entirely determined by participation. Market forces will dictate revenue to a point the KDA cannot guess with any certainty.

(c) How much will it cost to administer this program for the first year? Expenses for the entire hemp program for 2019 were approximately \$1,156,000.

(d) How much will it cost to administer this program for subsequent years? The KDA expects this spending trendline to continue for the hemp program as a whole, but based on producer participation.

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

Revenues (+/-): \$1,575,000

Expenditures (+/-): \$1,156,000

Other Explanation:

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(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; and

(2) The amendment to 29 C.F.R. Part 1904 as published in the January 25, 2019 Federal Register, Volume 84, Number 17.

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. (1 Ky.R. 835; eff. 5-14-1975; 5 Ky.R. 144; eff. 10-4-1978; 621; eff. 3-7-1979; 10 Ky.R. 309; eff. 9-7-1983; 21 Ky.R. 105; 926; eff. 9-12-1994; 26 Ky.R. 2038; 27 Ky.R. 117; eff. 7-17-2000; 28 Ky.R. 1919; 2206; eff. 4-15-2002; 29 Ky.R. 2353; 2689; eff. 5-15-2003; 30 Ky.R. 1083; 1508; eff. 1-5-2004; 32 Ky.R. 1338; 33 Ky.R. 102; eff. 8-7-2006; TAm eff. 8-9-2007; 35 Ky.R. 1287; 1753; eff. 1-5-2009; TAm eff. 9-8-2011; TAm eff. 7-12-12; 42 Ky.R. 108, 680; eff. 10-2-2015; 43 Ky.R. 330, 685; eff. 12-2-2016; 45 Ky.R. 2989; eff. 6-7-2019.)

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(Amendment)**

810 KAR 4:030. Entries, subscriptions, and declarations.

RELATES TO: KRS 230.215, 230.240, 230.290, 230.310, 230.320

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing the conditions under which all horse racing is conducted in Kentucky. KRS 230.260(8) grants the commission the authority to regulate conditions under which horse racing shall be conducted in Kentucky. This administrative regulation establishes requirements for entry, subscription, and declaration of horses in order to race.

Section 1. Definition. "Subscriber" means an owner who enters a horse into a stakes race and pays the requisite entry fee.

Section 2. Entering Required. A horse shall not be qualified to start in any race unless it has been, and continues to be, entered in

the race. Entries or subscriptions for any horse, or the transfer of entries or subscriptions for any horse, may be refused or cancelled by the association without notice or reason given.

Section 3. Procedure for Making Entries.

(1) An entry, subscription, declaration, or scratch shall be filed with the racing secretary and shall not be effective until received by the racing secretary. The racing secretary shall maintain a record of the time of receipt of an entry, subscription, declaration, or scratch for a period of at least one (1) year.

(2) An entry shall be made by the owner, the trainer, or an authorized agent of the owner or trainer. An entry shall be in the name of a horse's licensed owner, as completely disclosed and registered with the racing secretary pursuant to subsection (3) of this section.

(3) An entry shall be submitted in writing or by telephone to the racing secretary. A telephone entry shall be confirmed promptly in writing if requested by the stewards, the racing secretary, or an assistant to the racing secretary.

(4) An entry shall clearly designate the horse entered as reflected by its registration certificate, racing permit, or virtual certificate.

(a) A horse shall not race unless registered pursuant to 810 KAR 4:010 or otherwise correctly identified to the satisfaction of the stewards.

(b) Establishing the identity of a horse shall be the responsibility of its owner and of any other person required to certify the identity of the horse. A person shall be subject to appropriate disciplinary action under 810 KAR 8:030 for incorrect identification.

(5) The entry shall indicate usage of furosemide pursuant to 810 KAR 8:010.

(6) An entry shall not be altered after the closing of entries, except to correct an error with permission of the stewards.

(7) A horse shall not be entered in two (2) races to be run on the same day.

(8)(a) A horse that has not started in the past forty-five (45) days shall not be permitted to start unless it has at least one (1) published workout within twenty (20) days of entry at a distance satisfactory to the stewards. If a horse has performed the requisite workout, but the workout does not appear in the past performances, the horse shall be permitted to start if the stewards determine that the workout failed to be published through no fault of the trainer.

(b) A horse starting for the first time shall not be permitted to start unless it has three (3) workouts, one (1) of which is from the starting gate, one (1) of which is within twenty (20) days of entry, and at least one (1) of which is published.

(c) A workout not appearing in the official program shall be publicly displayed on television monitors, the tote board, and, if available, the bulletin boards where photo finishes are shown at the time when mutuel windows are opened and shall be displayed until the conclusion of the race in which the horse is entered.

(d) A horse that has never started shall not be entered until the trainer has produced a document or card issued by the starter indicating that the horse has been adequately trained to race from the starting gate.

(9) If the published conditions of the race permit, an association may accept in a turf race an entry designated "main track only." Preference shall apply to all horses drawn into a race, except that horses entered as "main track only" shall be listed as also-eligible and be considered only if the race is taken off the turf.

(10) A horse shall only be permitted to enter if at the time of entry, the owner, trainer, or an authorized agent of the owner or trainer submits a complete medical record for such horse for the fourteen (14) day period prior to the entry date.

Section 4. Limitation as to Spouses.

(1) An entry in a race shall not be accepted for a horse owned wholly or in part or trained by a person whose spouse is under license suspension, revocation, or is otherwise ineligible to be licensed, at the time of the entry except as established in subsection (2) of this section.

(2) If the license of a jockey has been suspended for a routine riding offense, depending on the severity of the offense, the stewards may waive the application of this section as to the licensed spouse of the suspended jockey.

Section 5. Mutuel Entries.

(1) More than two (2) horses having common ties through training shall not be entered in a purse race.

(2) Horses entered in the same race and owned wholly or in part by the same owner or spouse, shall be joined as a mutuel entry and single betting interest, except as established in subsection (5) of this section.

(3) More than two (2) horses having common ties through ownership shall not be joined as a mutuel entry in a purse race. If making a double entry of horses owned wholly or in part by the same owner or spouse, a preference for one (1) of the horses shall be made.

(4)(a) Two (2) horses having common ties through ownership shall not start in a purse race to the exclusion of a single entry, unless the horses have been uncoupled pursuant to subsection (5) of this section.

(b) In a purse race, the racing secretary may uncouple entries having common ties through training to make two (2) separate betting interests.

(5) In any stakes race with added money of \$50,000 or more, the racing secretary may uncouple mutuel entries of horses sharing common ties through training or ownership or both.

Section 6. Subscriptions.

(1) A subscriber to a stakes race may transfer or declare a subscription prior to the closing of entries for the race.

(2) Joint subscriptions and entries may be made by any one (1) of the joint owners of a horse. Each owner shall be jointly and severally liable for all payments due.

(3) Death of a horse or a mistake in its entry if the horse is eligible shall not release the subscriber or transferee from liability for all stakes fees due. Fees paid in connection with a subscription to a stakes race that is run shall not be refunded, except as otherwise stated in the conditions of the stakes race.

(4) Death of a nominator or original subscriber to a stakes race shall not render void any subscription, entry, or right of entry. All rights, privileges, and obligations shall attach to the successor owner, including the legal representatives of the decedent.

(5) If a horse is sold privately, sold at public auction, or claimed, stakes engagements for it shall be transferred automatically with the horse to its new owner. If the horse is transferred to a person whose license is suspended, revoked, or is otherwise ineligible to be licensed, the subscription shall be void as of the date of the transfer.

(6) All stakes fees paid toward a stakes race shall be allocated to the winner unless otherwise provided by the condition for the stakes race. If a stakes race is cancelled for any reason, all subscription fees paid shall be refunded.

Section 7. Closings.

(1) Entries for purse races and subscriptions to stakes races shall close at the time designated by the association in previously published conditions for the races.

(a) If a race is not split, an entry, subscription, or declaration shall not be accepted after closing time.

(b) If a purse race fails to fill, or in an emergency, the racing secretary may extend the closing time, if the approval of a steward has been obtained.

(2) Entries that have closed shall be compiled without delay by the racing secretary and shall be posted along with declarations.

Section 8. Number of Starters in a Race.

(1) The maximum number of starters in any race shall be limited to the number of starting positions afforded by the association starting gate and any extensions approved by the commission as can be positioned across the width of the track at the starting point for the race. The maximum number of starters further shall be limited by the number of horses that, in the opinion

of the stewards after considering the safety of the horses and riders and the distance from the start to the first turn, may be afforded a fair and equal start.

(2)(a) A maiden, starter, or claiming race shall be run if:

1. Eight (8) or more horses are entered;
2. The horses entered represent different betting interests; and
3. The race is listed in the printed condition book.

(b) Except as established in paragraph (c) of this subsection, any other purse race shall be run if:

1. Six (6) or more horses are entered;
2. The horses entered represent different betting interests; and
3. The race is listed in the printed condition book.

(c) If a purse race under paragraph (b) of this subsection includes two (2) horses having common ties through training, the race shall be run if eight (8) or more horses are entered.

(3) If a purse race in the printed condition book fails to fill with the minimum number of entries required by subsection (2) of this section, the association may cancel or declare the race off. The names of all horses entered in the race shall be publicly posted in the office of the racing secretary on the date of entry.

Section 9. Split or Divided Races.

(1) If a race is cancelled or declared off, the association may split any race programmed for the same day that may previously have been closed. Races printed in the condition book shall have preference over substitute and extra races.

(2) If a purse race is split, forming two (2) or more separate races, the racing secretary shall give notice of the split not less than fifteen (15) minutes before the races are closed in order to grant time for the making of additional entries to the split races.

(3) Division of entries upon the splitting of any race shall be made in accordance with the conditions under which entries and subscriptions were made and the conditions established in paragraphs (a) through (c) of this subsection.

(a) Horses originally joined as a mutual entry may be placed in different divisions of a split race unless the person making the multiple entry, at the time of the entry, indicates the coupling of horses is not to be uncoupled if the race is split.

(b) Division of entries in any split stakes race may be made according to age, sex, or both.

(c) Entries for any split race not divided by any method provided for in this administrative regulation shall be divided by lot so as to provide a number of betting interests as nearly equal as possible for each division of the split race.

Section 10. Post Positions.

(1) Post positions for all races shall be determined by lot, except as established in Section 11(5) of this administrative regulation. Owners, trainers, and their representatives shall have the opportunity to be present at the drawing.

(2) The racing secretary shall assign program numbers for each starter to conform with the post position drawn, except if a race includes two (2) or more horses joined as a single betting interest.

Section 11. Also-Eligible List.

(1) If the number of entries for a race exceeds the number of horses permitted to start, as established by Section 8 of this administrative regulation, the names of no more than eight (8) horses entered but not drawn into the race as starters shall be posted on the entry sheet as "also-eligible" to start.

(2) After a horse has been excused from a race at scratch time, also-eligible horses shall be drawn into the body of the race based on preference. If preference is equal, horses shall be drawn by lot, unless otherwise stipulated in the conditions of the race.

(3)(a) An owner or trainer of a horse on the also-eligible list not wishing to start the horse in a race shall notify the racing secretary prior to scratch time for the race. The horse shall forfeit any preference to which it may have been entitled.

(b) If there are no scratches in the body of a race, a horse on the also-eligible list not drawn into the race shall retain its previously established preference.

(4) A horse on the also-eligible list for a race on the present

day that has been drawn into the body of a race on the succeeding race day, shall not be permitted to run in the race on the present day for which it had been listed as also-eligible. This shall not include stakes and handicaps.

(5) A horse on the also-eligible list shall be assigned a post position by preference. If preference is equal, post positions shall be drawn by lot, unless otherwise stipulated in the published conditions of the race.

Section 12. Preferred List.

(1) The racing secretary shall maintain a list of horses that were entered but denied an opportunity to race because they were eliminated from a race included in the printed condition book either by overfilling or failure to fill.

(2) The racing secretary shall submit, for approval of the commission at least thirty (30) days prior to the opening date of a race meeting, a detailed description of the manner in which preference will be allocated.

(3) Preferences shall not be given to a horse otherwise eligible for a race if it is also entered for a race on the succeeding race day. This shall not include stakes and handicaps.

Section 13. Arrears. Unless approved by the racing secretary, a horse shall not be entered or raced unless its owner has paid all stakes fees owed.

Section 14. Declarations.

(1) Declarations shall be made in the same form, time, and procedure as required for the making of entries.

(2) Declarations shall be irrevocable.

(3) A declaration fee shall not be required by any licensed association.

Section 15. Scratches.

(1) Scratches shall be irrevocable and shall be permitted under the conditions established in this section.

(a) Except as established in paragraph (b) of this subsection, a horse may be scratched from a stakes race for any reason at any time until four (4) hours prior to post time for the race by obtaining approval from the stewards. Upon receiving a scratch from a stakes race, the racing secretary shall promptly notify the stewards and pari-mutuel manager, and shall cause public announcement of the scratch to be made.

(b) If a list of also-eligible horses has been drawn, scratches shall be filed at the regular scratch time as posted by the racing secretary. Thereafter, a horse shall not be scratched unless:

1. A valid physical reason exists; or

2. The scratch is related to adverse track conditions or change of racing surface.

(c) A horse shall not be scratched from a purse race unless:

1. The approval of the stewards has been obtained; and

2. Intention to scratch has been filed in writing with the racing secretary or the secretary's assistant at or before scratch time.

(2) A scratch of one (1) horse coupled in a mutual entry in a purse race shall be made at or before scratch time, unless permission is granted by the stewards to allow both horses to remain in the race until a later appointed scratch time.

(3) In a purse race, a horse that is physically disabled or sick shall be permitted to be scratched first. If horses representing more than eight (8) betting interests remain in after horses with physical excuses have been scratched, an owner or trainer may scratch horses without physical excuses at scratch time, down to a minimum of eight (8) betting interests. This privilege shall be determined by lot if an excessive number of owners or trainers wish to scratch their horses.

(4) A horse that has been scratched or excused from starting by the stewards because of a physical disability or sickness shall be placed on the commission's veterinarian list for six (6) calendar days beginning the day after the horse was scratched or excused.

(5) Each association shall keep records and statistics documenting the effect upon field sizes of the six (6) day veterinarian list requirement in subsection (4) of this section. Records and statistics kept pursuant to this section shall be

retained by the licensed racing association for at least one (1) year.

Section 16. Official Publication Statistics. In determining eligibility, allowances and penalties, the reports, records, and statistics as published in the Daily Racing Form or similar publication as the commission considers appropriate to advise the public and the monthly chart books, or corresponding official publications of any foreign country, shall be considered official, but may be corrected until fortyfive (45) minutes prior to post time of the race.

Section 17. Examination by Attending Veterinarian.

(1) A horse shall only be entered if:

(a) The horse has been examined by an attending veterinarian licensed by the veterinary regulatory body in the jurisdiction where the examination occurs no more than three (3) days prior to entry;

(b) The attending veterinarian certifies in writing that the horse is in serviceable, sound racing condition; and

(c) The written certification is provided to the racing secretary no later than the time of entry.

(2) The examination required by paragraph (a) of subsection (1) of this section shall include watching the horse jog in hand.

(3) If the attending veterinarian who examines the horse prescribes a diagnostic test as part of the evaluation of the horse's soundness, the results of the test shall be provided to the commission's veterinarian no later than one (1) day before the horse is set to start.

FRANKLIN S. KLING JR., Chairman

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: February 13, 2020

FILED WITH LRC: February 14, 2020 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on April 22, 2020 at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. 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, 2020. 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: Jennifer Wolsing, General Counsel, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone +1 (859) 246-2040, fax +1 (859) 246-2039, email jennifer.wolsing@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Wolsing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for entries, subscriptions and declarations in thoroughbred and other flat racing. These rules provide an orderly means of determining which horses will be considered eligible to enter a race.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide specific requirements and methods for entries, subscriptions and declarations in thoroughbred and other flat racing.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This administrative regulation prescribes the conditions relating to entries, subscriptions and declarations in thoroughbred

and other flat racing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth requirements and rules concerning entries, subscriptions and declarations in thoroughbred and other flat racing that enhance the integrity of racing.

(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 requires that fourteen (14) days of equine medical records be submitted at the time of entry of a horse, and requires that a horse be examined by an attending veterinarian, who must certify that the horse is in sound racing condition before entry.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to add a records-submission requirements that will assist the commission in evaluating horses for soundness prior to a race and to add a requirement that the horse's attending veterinarian certify the horse's soundness, which will help ensure that horses will race safely.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This amendment prescribes additional conditions relating to entries, subscriptions and declarations in thoroughbred and other flat racing.

(d) How the amendment will assist in the effective administration of the statutes: This amendment sets forth requirements and rules concerning entries, subscriptions and declarations in thoroughbred and other flat racing that enhance the integrity and safety of racing.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky's five (5) licensed thoroughbred race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the conduct of racing. In the year 2017, the commission licensed over 22,000 individuals to participate in horse racing. This number is consistent from year to year.

(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: Participants in horse racing, and especially owners, trainers, and veterinarians, will be required to adhere to the requirements and rules set forth in this administrative regulation pertaining to entries, subscriptions and declarations in thoroughbred and other flat racing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No significant costs are associated with complying with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities: Participants in racing will benefit from clearly defined rules that enhance the integrity and safety of racing.

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

(a) Initially: There is no initial administrative cost to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No significant funding will be necessary to implement and enforce this administrative regulation. Any minimal costs will be funded from the budget of the Commission.

(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

additional fees are funding are necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Explain why or why not. Tiering was not applied because this administrative regulation will apply to all similarly situated entities in an equal manner.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Horse Racing Commission 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 230.215, 230.225, 230.240, 230.260, 230.290, 230.310, 230.320, 230.370.

(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 will not generate revenue for state or local government for the first year.

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

(c) How much will it cost to administer this program for the first year? No funds will be required to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? No funds will be required to administer this 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 (+/-): Neutral
Expenditures (+/-): Neutral
Other Explanation: None

PUBLIC PROTECTION CABINET Kentucky Horse Racing Commission (Amendment)

810 KAR 5:060. Entries and starters.

RELATES TO: KRS 230.215, 230.260(1)

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. This administrative regulation establishes requirements for entries.

Section 1. Entries. An entry shall:

(1) Be made in writing, by telephone, or electronically to the association racing secretary's office;

(2) Include the following information pertinent to the entry:

- (a) The name of the horse;
- (b) The name of the trainer;
- (c) The name of the driver; and

(d) The class of the race into which the horse is to be entered; and

(3) Comply with the provisions of Section 18 of this administrative regulation if the entry concerns an overnight event.

(4) A horse shall only be permitted to enter if at the time of entry, the owner, trainer, or an authorized agent of the owner or trainer submits a complete medical record for such horse for the fourteen (14) day period prior to the entry date.

Section 2. Payment of Entry Fee. An entry fee shall be due and payable with declaration to start and shall not be refunded if the horse fails to start, unless the horse dies between the time of declaration to start and the start of the race.

Section 3. Receipt of Entries for Early Closing Events, Late Closing Events, Stakes and Futurities.

(1) An entry that is not received prior to the hour of closing shall be ineligible.

(a) If an entry or payment in a stake, futurity, or early closing race is payable on a Sunday or a legal holiday that falls on Saturday, the payment shall be due on the following Monday, and if made by mail, the envelope shall be postmarked on or before the following Tuesday.

(b) If a payment is due on a Monday that is a legal holiday, the payment shall be due on the following Tuesday, and if made by mail, the envelope shall be postmarked on or before the following Wednesday.

(2) Postage meter. If an entry is received by letter bearing the postage meter date without a postmark, the postage meter date shall be considered to be a postmark if the letter is received within seven (7) days following the closing date of the event. A letter received later than seven (7) days following the closing date of the event shall not be considered a valid entry or payment.

Section 4. Deviation from Published Conditions. An entry and payment not governed by published conditions shall be void and any deviation from published conditions shall be a violation of this administrative regulation. A nominator who is allowed privileges not in accordance with the published conditions of the race, or which are in conflict with the published conditions or with Title 810 KAR, shall be barred from receiving any portion of the purse, and any person who knowingly allows the privileges shall be in violation of this administrative regulation.

Section 5. (1) Ineligible Horse in a Stakes Race.

(a) A nominator shall be required to guarantee the identity and eligibility of entries and declarations. If a nominator provides incorrect information, winnings shall be forfeited and redistributed to eligible entries, and the person who provided the information shall be in violation of this administrative regulation.

(b) A person who obtains a purse or money through fraud or error, with the exception of paragraph (c) of this subsection, shall surrender or repay the proceeds upon demand. If the proceeds are not repaid upon demand, the horse that was the subject of the fraud or error, and all persons involved, shall be in violation of this administrative regulation and subject to suspension or revocation until repayment is made.

(c) If a horse is declared ineligible as a result of the negligence of the race secretary, the association shall reimburse the owner for the resultant loss of winnings.

(2) Ineligible horse drawn into overnight race. The trainer shall be responsible for entering the horse in the race for which it is eligible.

Section 6. Transfer of Ineligible Horse. A horse entered in an event for which it is not eligible may be transferred to any event for which it is eligible at the same gait.

Section 7. Withholding Purse on Ineligible Horse. An association shall withhold the purse of a horse, with or without a formal protest, if the association receives information that the entry or declaration was fraudulent or ineligible.

Section 8. Agreement to Race Under Rule. An entry shall constitute an agreement that the horse to be entered and all persons associated with or having control of the horse shall abide by Title 810 KAR.

Section 9. Early Closing Events and Late Closing Races.

(1) Date and place. The sponsor shall state the place and date the event will be raced, and there shall not be a change in the date, program, events, or conditions after the nominations have been taken without the written consent of the owners or trainers of all horses eligible when the conditions are changed.

(2) Filing conditions. An entry blank shall be filed with the commission.

(3) Payments shall be made on or before the 15th day of the month. Nominations and payments other than starting fees in early closing events shall be advertised to be received on the 15th day of the month.

(4) List of nominations. A complete list of nominations to any late closing race or early closing event shall be made available within twenty (20) days after the date of closing to each nominator and the commission.

(5) Procedure if event does not fill. If the event does not fill, each nominator and the commission shall be notified within ten (10) days, and a refund of nomination fees shall accompany the notice.

(6) Transfer provisions for change of gait.

(a) The following conditions shall govern transfers if there is a change of gait, unless the association makes available to the commission, at least thirty (30) days prior to the first publication, its early closing conditions and receives the approval of the commission for those conditions:

1. If a condition published for early closing events allows transfer for change of gait, the transfer shall be to the slowest class for which the horse is eligible, and eligibility shall be determined at time of closing of entries.

2. The race to which transfer may be made shall be the race nearest in time to the date of the event for which the horse was originally entered.

(b) A two (2) year old, three (3) year old, or four (4) year old entered in a class that corresponds to its age group shall be permitted to transfer only to a class for the same age group at the adopted gait, and shall be the race nearest in time to the date of the original event. If transfer is made, entry fees shall be so adjusted.

Section 10. Subsequent Payments; List of Eligibles. If subsequent payments are required by the published conditions, a complete list of those horses withdrawn or declared out shall be made within fifteen (15) days after:

(1) The payment was due; and

(2) The list has been made available to each nominator and the commission.

Section 11. Trust Funds. Fees paid in early closing events shall be segregated and held as trust funds until the event is contested.

Section 12. Early Closing Events by New Track. An early closing event at a pari-mutuel meeting shall not be advertised, nor shall nominations be taken for an early closing event, until the event has been approved by the commission. An association accepting nominations to early closing races, late closing races, stakes, or futurities shall provide stable space to a horse nominated and eligible to the event the day before, the day of, and the day after the race.

Section 13. Limitation on Conditions. Conditions of an early closing event or a late closing race shall not add a horse that has not been nominated to an event or eliminate an already nominated horse from an event by reason of the performance of the horse at an earlier meeting during the same season, and conditions purporting to do so shall be considered to be invalid. An early closing event or a late closing event shall not have more than two

(2) also eligible conditions.

Section 14. Purse Requirements. In early closing races, late closing races, and overnight races requiring entry fees, all monies paid in by the nominators in excess of eighty-five (85) percent of the advertised purse shall be added to the advertised purse and the total shall then be considered to be the advertised purse. In addition to adding excess entry fees as provided in this section, the sponsor shall add at least fifteen (15) percent to the advertised purses of late closing races and overnight races. Fifteen (15) percent of all monies paid in by the nominators shall be added to all early closing races by the sponsor.

Section 15. Requirement to Run Race.

(1) An association shall specify how many entries are required for overnight events and, after the condition is fulfilled, the race shall be run unless declared off as provided in 810 KAR 5:070.

(2) If six (6) or more betting interests are declared in to start an early closing event or a late closing event, the race shall be run, unless it is declared off. Stakes and futurities shall be raced if one (1) or more horses are declared in to start unless declared off as provided in 810 KAR 5:070.

(3) In an early closing event, if fewer horses are declared in than are required to start, and all declarers are immediately so notified, the horse or horses declared in and ready to race shall be entitled to the sum of the entry fees submitted.

Section 16. Elimination Heats or Two (2) Divisions

(1) If the number of horses declared in to start exceeds twelve (12) on a half-mile track or sixteen (16) on a larger track, the association conducting the race shall have the option, before positions are drawn, of announcing that the race shall be run in elimination heats. A maximum of two (2) tiers of horses, allowing eight (8) feet per horse, shall start in any race.

(2) If an early closing event or late closing event is divided, each division shall race for at least seventy-five (75) percent of the advertised purse unless otherwise specified in the conditions of the race.

(3) If a stake race or futurity is divided, the conditions of the race shall determine the number of starters per division and the purse distribution.

Section 17. Elimination Plans.

(1) If elimination heats are required, or are specified in the published conditions, the race shall be run in the following manner unless otherwise stated in the conditions or conducted under another section of this administrative regulation. The field shall be divided by lot, and:

(a) The first division shall race a qualifying dash for thirty (30) percent of the purse;

(b) The second division shall race a qualifying dash for thirty (30) percent of the purse;

(c) The horses so qualified shall race in the main event for forty (40) percent of the purse; and

(d) The winner of the main event shall be the race winner.

(2) Unless otherwise specified in the conditions of the race, the judges shall draw the starting positions for the main event and shall determine:

(a) Which of the dash winners shall have the pole and which the second position; and

(b) Which of the two (2) horses that have been second shall start in third position, which in fourth position, similarly in succession. An elimination dash and the concluding heat shall be programmed to be raced upon the same day or night, unless special provisions for earlier elimination dashes are set forth in the conditions.

(3) If there are three (3) or more separate heat or dash winners, those winners shall return for a single event race-off to determine the race winner. For that single event race-off, the participating horses shall be assigned post positions according to the order of their finish in the previous heat or dash.

Section 18. Overnight Events. More than nine (9) horses shall

not start on a half-mile track in overnight events and more than twelve (12) horses shall not start on larger tracks at extended pari-mutuel meetings allowing eight (8) feet per horse.

Section 19. Elimination Race for Early Closing Event, Stake, or Futurity. If elimination races are provided for in the conditions of an early closing event, stake, or futurity, the elimination race shall be held not more than five (5) days prior to contesting the main event (excluding Sunday) and omitting the day of the race.

Section 20. Declaration.

(1) Extended pari-mutuel meetings. The declaration time shall be the time posted on the condition sheet.

(2) A horse shall not start in more than one (1) race on a racing day.

(3) The time when declarations close shall be the time in use at the meeting.

(4) The association shall provide an entry box with an aperture through which declarations shall be deposited.

(5) At the close of entries the presiding judge or the race secretary shall remove any entries in the box and sort the declarations at the time specified on the condition sheet.

(6) If it is necessary to reopen any race, a minimum of two (2) public announcements shall be made, and the box shall be reopened at the announced time.

(7) In races of a duration of more than one (1) dash or heat at a pari-mutuel meeting, the judges may draw post positions from the stand for succeeding dashes or heats.

(8) Effect of failure to declare on time. If an association requires a horse to be declared at a stated time, failure to declare at that time shall be considered a withdrawal from the event.

(9) After declaration to start has been made, a horse shall be withdrawn only:

(a) Because of sickness, lameness, injury, or hazardous track conditions; and

(b) With the permission of the presiding judge.

(10) Horse omitted through error.

(a) Except as provided in this subsection, a drawing shall be final unless there is conclusive evidence that a horse was properly declared and omitted from the race, and the omission is verified to be due to an error of the association's racing office.

(b) The race shall be redrawn if the error is found prior to scratch time.

(c) If the race has multiple divisions, a horsemen's representative and a judge shall draw the division by lot rather than redraw the entire race.

(d) If there is a division or divisions with short fields, the division or divisions shall be chosen by lot to determine which division shall be drawn.

(e) If the error is found after scratch time, then the horse shall be added to the outside.

Section 21. Qualifying Races. At an extended pari-mutuel meeting, declarations for overnight events shall be governed by the following:

(1)(a) Within forty-five (45) days of being declared in, a horse that has not raced previously at the gait chosen shall:

1. Complete a qualifying race in compliance with the conditions set forth by the association under the supervision of a judge holding a presiding or associate judge's license for pari-mutuel meetings; and

2. Acquire at least one (1) charted line by a licensed charter.

(b) Time and beaten lengths shall be determined by a standard photo finish.

(2)(a) The requirements of subsection (1) of this section shall apply to a horse that does not show a charted line for:

1. The previous season; or

2. Within its last six (6) starts.

(b) Uncharted races contested in a heat of more than one (1) dash, and consolidated according to subsection (4) of this section, shall be considered one (1) start.

(3)(a) The requirements of subsection (2) of this section shall not apply if a horse:

1. Has raced at a charted meeting during the current season; and

2. Has two (2) meetings at which the races are not charted.

(b) The information from the uncharted races may be:

1. Summarized, including each start; and

2. Consolidated in favor of charted lines.

(4) If the race is less than one (1) mile, the consolidated line shall list the carry date, place, time, driver, finish, track condition, and distance.

(5)(a) The judges shall require a horse that has been on the judge's list to successfully complete a qualifying race.

(b) If a horse has raced in individual time not meeting the qualifying standards for that class of horse, after making allowance for track variations, the horse shall be required to successfully complete a qualifying race.

(6) A horse shall be required to qualify in a qualifying race if it is on the judge's list for any of the following:

(a) Repeated breaks on a fast or good track;

(b) Scratched sick or lame in two (2) consecutive starts, scratched sick or lame following a qualifier, or scratched sick or lame prior to or after a break line on a good or fast track;

(c) Refusing to come to the gate. Horses causing two (2) recalls shall be scratched and placed on the starter and qualifying list;

(d) Poor performance; or

(e) Being unmanageable.

(7) Qualifying races shall be:

(a) Held at least one (1) week prior to the opening of a meeting of ten (10) days or more; and

(b) Scheduled as needed through the last week of the meeting.

(8)(a) A race to qualify drivers and horses shall be charted, timed, and recorded.

(b) A race to qualify only drivers shall not be required to be charted, timed, and recorded.

(9)(a) Except as provided in paragraph (b) of this subsection, if a horse takes a win record in a qualifying race, the record shall be prefaced with the letter "Q".

(b)1. The record shall not be prefaced with the letter "Q" if, immediately prior to or following the race, the horse has been submitted to an approved urine, saliva, or blood test.

2. The presiding judge shall report the test on the judge's sheet.

(10) Before it is permitted to start in a race with pari-mutuel wagering, a horse shall have a clean charted line within forty-five (45) days and meet the standards of the meeting.

(11) A horse shall not enter more than one (1) qualifying race per day.

Section 22. Coupled Entries.

(1)(a) Except as provided by the provisions of this section, two (2) or more horses shall be coupled as a single entry if they are:

1. Owned or trained by the same person; or

2. Trained in the same stable by the same management.

(b) A wager on one (1) of the horses coupled as an "entry" shall be a wager on all horses in the entry.

(2)(a) If a trainer enters two (2) or more horses, under bona fide separate ownerships or the same ownership, each horse may race as a separate betting entry if:

1. The association has requested they be permitted to race as separate betting entries; and

2. The judges approve the request.

(b) In overnight events the entries do not exclude any single interest.

(c) In overnight events, part of an uncoupled entry drawing also eligible may not be moved into a race to replace another part of the uncoupled entry.

(d) If more than one (1) horse is trained by the same person, that fact shall be stated prominently in the program.

(e) The judges may place both horses in an uncoupled entry if the judges deem that the actions of one part of the uncoupled entry helped or improved the other.

(f) If the race is split in two (2) or more divisions, horses coupled or uncoupled in a single entry shall be seeded insofar as

possible, in the following order, by:

1. Owners;
2. Trainers; and
3. Stables.

(g) Divisions and post positions shall be drawn by lot.

(h) Elimination heats also shall be governed by the provisions of paragraphs (f) and (g) of this subsection.

(3) The presiding judge or the race secretary shall be responsible for coupling horses.

(4)(a) If it is necessary to protect the public interest, horses that are separately owned or trained may be coupled for pari-mutuel wagering; and

(b) An entry shall not be rejected on that basis.

(5) If an owner, lessor, or lessee has a vested interest in another horse in the same race, it shall constitute an entry.

Section 23. Also Eligibles.

(1) More than two (2) horses shall not be drawn as also eligibles for a race.

(2) The positions of also eligibles shall be drawn along with the starters in the race.

(3) If one (1) or more horses are excused by the judges, the also eligible horse shall:

(a) In handicap races in which the handicap is the same, take the place of the horse that it replaces;

(b) In handicap races in which the handicap is different, take the position on the outside of the horses with a similar handicap; or

(c) In other races, take the post position drawn by the horse it replaces.

(4) A horse shall not be added to a race as an also eligible unless the horse was drawn at the time declarations closed.

(5)(a) A horse shall not be barred from a race to which it is otherwise eligible by reason of its preference due to the fact that it has been drawn as an also eligible. A horse moved into the race from the also eligible list shall not be drawn without the permission of the judges.

(b) The owner or trainer of a horse moved into the race from the also eligible list shall be notified that the horse is in to go.

(6) A horse on the also eligible list that is not moved into race by scratch time of the track shall be released.

Section 24. Preference.

(1)(a) Preference shall be given in overnight events according to a horse's last previous purse race during the current year.

(b) The preference date on a horse that has drawn to race and has been scratched shall be the date of the race from which the horse was scratched.

(2) If a horse is racing for the first time in the current year, the date of the first successful qualifier shall be considered the horse's last race date, and preference shall be applied accordingly.

(3)(a) If an error has been made in determining or posting a preference date, and the error deprives an eligible horse of an opportunity to race, the trainer involved shall report the error to the racing secretary within one (1) hour of the announcement of the draw.

(b) If a preference date error has occurred, the race shall be redrawn.

Section 25. Judge's List.

(1)(a) A horse shall be placed on a judge's list by the presiding judge if it is unfit to race because it:

1. Is dangerous;
2. Is unmanageable;
3. Is sick;
4. Is lame;
5. Is unable to show a performance to qualify for races at the meeting; or
6. Has exhibited repeated breaks.

(b) The owner or trainer shall be notified in writing:

1. If a horse is placed on a judge's list; and

2. Of the specific item listed in paragraph (a) of this subsection upon which the action is based.

(c) Declaration on a horse placed on a judge's list shall be

refused.

(d) If a horse is placed on a judge's list, the clerk of the course shall make a note on the electronic eligibility of the horse stating the:

1. Date it was placed on the judge's list;
2. Reason it was placed on the judge's list; and
3. If the horse has been removed from the judge's list, the date of its removal.

(2)(a) A presiding judge or other official at a nonextended meeting shall not remove from the judge's list and accept as an entry a horse that:

1. Has been placed on a judge's list; and
2. Has not been removed from the judge's list because it is dangerous or unmanageable.

(b) A presiding judge shall refuse declarations on a horse that has been placed on, but not removed from, a judge's list.

(3) A horse scratched from a race because of lameness or sickness shall not race for a period of seven (7) days beginning with the day of the scratch.

Section 26. Driver.

(1) A declaration shall state the name of the horse's driver and the driver's colors.

(2) A driver shall not be changed after scratch time of the track without the permission of the judges. The judges shall grant permission if:

(a) The driver is unable to be on the premises for a good-faith reason beyond his or her control; or

(b) The driver is on the premises but unable to participate due to illness or injury.

(3) If a nominator starts two (2) or more horses, the judges shall approve the second and third drivers if no conflicts of interest exist between the ownership of the horses and the drivers.

Section 27. Withdrawals and Scratches.

(1) The presiding judge shall call a meeting of all horsemen on the grounds before the opening of an extended pari-mutuel meeting to appoint a committee to consist of the presiding judge, a representative of the association, and a representative of the Kentucky Harness Horseman's Association or the Kentucky Harness Association to consider matters relating to the withdrawal of horses due to bad track or weather conditions.

(2)(a) If track conditions are questionable due to weather, the presiding judge shall call a meeting of the committee established pursuant to subsection (1) of this section.

(b) Upon unanimous decision by the committee that track conditions are safe for racing, withdrawals shall not be made.

(3)(a) An entrant may scratch a horse if:

1. A decision by the committee that the track is safe is not unanimous; and
2. The entrant has posted ten (10) percent of the purse for the race.

(b) A person shall not scratch a horse for a reason other than sickness, lameness, injury, or hazardous track conditions.

(c) If sufficient withdrawals are received to cause the field to be less than six (6), the association shall have the right to postpone an early closing event or stake and cancel an overnight event.

(4)(a) The money posted pursuant to subsection 3(a)2 of this section shall be forwarded to the commission.

(b) The commission shall determine whether a withdrawal was for sickness, lameness, injury, or hazardous track conditions.

(c) The money shall be:

1. Forfeited if the commission determines that the withdrawal was not for good cause; or
2. Refunded if the commission determines that the withdrawal was for good cause.

(5) This section applies only to the withdrawal of horses that have been properly declared in and does not apply to postponement as set forth in 810 KAR 5:070.

Section 28. Length of Race and Number of Heats.

(1) A race or dash shall be listed at a stated distance in units no shorter than one-sixteenth (1/16) of a mile.

(2) The length of the race and the number of heats shall be stated in the conditions.

(3) If a distance or number of heats is not specified, any race shall be a single mile dash, except at fairs and meetings of a duration of six (6) days or less where they shall be conducted in two (2) dashes at one (1) mile distances.

Section 29. Two (2) Year Olds. A two (2) year old shall not be permitted to:

- (1) Start in a dash or heat exceeding one (1) mile in distance; or
- (2) Race in more than two (2) heats or dashes per day.

Section 29. Examination by attending veterinarian.

(1) A horse shall only be entered if:

(a) The horse has been examined by an attending veterinarian licensed by the veterinary regulatory body in the jurisdiction where the examination occurs no more than three (3) days prior to entry;

(b) The attending veterinarian certifies in writing that the horse is in serviceable, sound racing condition; and

(c) The written certification is provided to the racing secretary no later than the time of entry.

(2) The examination required by paragraph (a) of subsection (1) of this section shall include watching the horse jog in hand.

(3) If the attending veterinarian who examines the horse prescribes a diagnostic test as part of the evaluation of the horse's soundness, the results of the test shall be provided to the commission's veterinarian no later than one (1) day before the horse is set to start.

FRANKLIN S. KLING JR., Chairman

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: February 13, 2020

FILED WITH LRC: February 14, 2020 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on April 22, 2020 at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. 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, 2020. 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: Jennifer Wolsing, General Counsel, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone +1 (859) 246-2040, fax +1 (859) 246-2039, email jennifer.wolsing@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Wolsing

(1) Provide a brief summary of:

(a) What this administrative regulation does: These rules provide an orderly means of determining which horses will be considered eligible to enter a race.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide specific requirements and methods for the taking of entries, starters and declarations in Standardbred racing.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This rule prescribes conditions under which horses become eligible to race in particular standardbred races.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation fulfills the commission's statutory mandate to prescribe the conditions under which horse racing is conducted in the Commonwealth by establishing a comprehensive set of rules governing the selection of horses for entry into standardbred races.

(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 requires that fourteen (14) days of equine medical records be submitted at the time of entry of a horse, and requires that a horse be examined by an attending veterinarian, who must certify that the horse is in sound racing condition before entry. The amendment also adds the Kentucky Harness Association as a group that can be represented on the committee that considers matters relating to the withdrawal of horses due to bad track or weather conditions.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to add a records-submission requirement that will assist the commission in evaluating horses for soundness prior to a race and to add a requirement that the horse's attending veterinarian certify the horse's soundness, which will help ensure that horses will race safely. The amendment is also necessary to allow a representative of the Kentucky Harness Association to serve on the committee that considers matters relating to the withdrawal of horses due to bad track or weather conditions.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This amendment prescribes additional conditions under which horses become eligible to race in standardbred races.

(d) How the amendment will assist in the effective administration of the statutes: This amendment sets forth requirements and rules concerning conditions under which a horse becomes eligible for standardbred racing that enhance the integrity and safety of racing.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky's two (2) licensed standardbred race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the conduct of racing. In the year 2017, the commission licensed over 22,000 individuals to participate in horse racing. This number is consistent from year to year.

(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: Participants in horse racing, and especially owners, trainers, and veterinarians, will be required to adhere to the requirements and rules set forth in this administrative regulation pertaining to entries and starters in standardbred racing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No significant costs are associated with complying with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities: Participants in racing will benefit from clearly defined rules that enhance the integrity and safety of racing.

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

(a) Initially: There is no initial administrative cost to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to implement this administrative regulation.

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

No significant funding will be necessary to implement and enforce this administrative regulation. Any minimal costs will be funded from the budget of the commission.

(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 additional fees are funding are necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied because this amended regulation will apply to all similarly situated entities in an equal manner.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Horse Racing Commission 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 230.215, 230.225, 230.240, 230.260, 230.290, 230.310, 230.320, 230.370.

(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 will not generate revenue for state or local government for the first year.

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

(c) How much will it cost to administer this program for the first year? No funds will be required to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? No funds will be required to administer this 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 (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None

PUBLIC PROTECTION CABINET Kentucky Horse Racing Commission (Amendment)

810 KAR 5:070. Running of the race.

RELATES TO: KRS 13B, 230.215, 230.260(1), 230.280, 230.290(2), (3), 230.300, 230.310, 230.320

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8), 230.320(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. KRS 230.320(1) authorizes the commission to promulgate

administrative regulations setting out the conditions under which licenses may be denied, revoked, or suspended. KRS 230.361(1) authorizes the commission to promulgate regulations concerning the pari-mutuel wagering system. This administrative regulation establishes track rules and requirements concerning proper racing conduct, the starting and timing of races, placing, money distribution, post time and postponements, and protests.

Section 1. Driving Violations. A leading horse shall be entitled to any part of the track. After selecting a position in the home stretch, a driver of a horse shall not:

(1) Change either to the right or left during any part of the race if another horse is so near the driver that in altering positions:

(a) The driver compels the horse behind to shorten strides; or

(b) Causes the driver of any other horse to pull the horse out of his stride;

(2) Jostle, strike, hook wheels, or interfere with another horse or driver;

(3) Cross sharply in front of a horse or cross over in front of a field of horses in a reckless manner, endangering other drivers;

(4) Swerve in and out or pull up quickly;

(5) Crowd a horse or driver by "putting a wheel under him";

(6) "Carry a horse out" or "sit down in front of him", take up abruptly in front of other horses so as to cause confusion or interference among the trailing horses, or do any other act that constitutes "helping";

(7) Allow a horse to pass inside needlessly or otherwise help another horse to improve its position in the race;

(8) Lay off a normal pace and leave a hole if it is well within the horse's capacity to keep the hole closed;

(9) Commit an act which impedes the progress of another horse or causes the horse to "break";

(10) Change course after selecting a position in the home stretch and swerve in or out, or bear in or out, in a manner which interferes with another horse or causes the horse to change course or take back;

(11) Drive in a careless or reckless manner or fail to maintain reasonable control of the horse at all times during the race;

(12) Whip under the arch of the sulky;

(13) Cross the inside limits of the course;

(14) Fail to set or maintain a pace comparable to the class being raced, including traveling an excessively slow quarter or any other distance that changes the normal pattern, overall timing, or general outcome of the race; or

(15) Kick a horse. Removal of a foot from the stirrups in and of itself shall not constitute the act of kicking.

Section 2. Leaving the Course.

(1) A horse or a horse's sulky that leaves the course by brushing, running over, or going inside of a pylon demarcation shall have violated this administrative regulation and may be penalized by a disqualification if in the opinion of the judges:

(a) The action results in the horse gaining an unfair advantage over other horses in the race;

(b) The action helps the horse improve its position in the race; or

(c) The driver goes inside the pylons and does not immediately correct position.

(2) A horse using the inside to pass shall have complete clearance of the pylons.

(3) A driver striking pylons but not gaining an unfair advantage shall be cited for a violation of this administrative regulation unless he was forced to strike the pylons by circumstances beyond his control.

(4) If an act of interference causes a horse or part of a horse's sulky to be in violation of this administrative regulation and the horse is disqualified, the offending horse shall be placed behind the horse with which it interfered.

Section 3. Penalties.

(1) A horse that violates Section 1 or 2 of this administrative regulation shall:

(a) Be placed back one (1) or more positions in the heat or

dash behind the horse with which the horse interfered;

(b) Be disqualified from receiving any winnings, if a horse is prevented from finishing as a result of the violation; or

(c) Be placed last among finishing horses, if a horse which the violating horse interfered with fails to finish the race due to a separate and unrelated incident.

(2) If a violation set forth in Section 1 or 2 of this administrative regulation is committed by a person driving a horse coupled as an entry in the betting, the judges shall set both horses back, if the judges determine that the violation may have affected the finish of the race. Otherwise, penalties shall be applied individually to the drivers of any entry.

Section 4. Complaints, Reports of Interference.

(1) Complaints.

(a) A complaint by a driver relating to driving or other misconduct during a heat shall be made at the termination of the heat, unless the driver is prevented from doing so by an accident or injury.

(b) A driver desiring to enter a claim of foul or other complaint of violation of the rules shall, before dismounting, indicate to the judges the driver's intention to enter a claim or complaint, and immediately upon dismounting, the driver shall proceed to the telephone or judges' stand where the claim, objection, or complaint shall be immediately entered.

(c) The judges shall not cause the official sign to be displayed until the claim, objection, or complaint has been entered and considered.

(2) Report of interference. A driver shall report to the designated official any interference to himself or herself or to the driver's horse by another horse or driver during a race.

Section 5. Unsatisfactory Drive; Fraud.

(1) A heat in a race shall be fairly contested by each horse in the race, and each horse shall be driven to the finish.

(2) A horse shall not be driven:

(a) With design to prevent the horse from winning a heat or dash which the horse was evidently able to win;

(b) In an inconsistent manner with the intent to improperly manipulate the outcome of a race; or (c) To perpetrate or to aid in a fraud.

(3) The judges shall substitute a competent and reliable driver at any time prior to the start of the heat or race if the judges have reason to doubt the competence or reliability of the original driver.

Section 6. Removal and Substitution of Driver. A driver may be removed and another driver substituted after the positions have been assigned in a race if, in the opinion of the judges, a driver:

(1) Is unfit or incompetent to drive;

(2) Refuses to comply with the directions of the judges; or

(3) Is reckless in his or her conduct and endangers the safety of horses or other drivers in the race.

Section 7. Failure to Finish. If, for any cause other than being interfered with or broken equipment, a horse fails to finish after starting in a heat, that horse shall be ruled "did not finish."

Section 8. Disruptive Conduct.

(1) A driver shall not engage in disruptive or distracting, improper conduct during a race.

(2) A driver may remove a foot from the stirrup temporarily for the purpose of pulling earplugs.

Section 9. Whipping.

(1) A driver may have a whip that does not exceed four (4) feet with a snapper not longer than six (6) inches.

(2) Except for the ordinary whip or crop, a person shall not use any goading device, chain or mechanical device, or appliance upon a horse in any race, training exercise, or while on association grounds.

(3) (a) A whip or crop shall not be used in a brutal, excessive, or indiscriminate manner during a race, training exercise, or while on association grounds.

(b) A driver shall use a whip only in the conventional manner,

by holding the handle and whipping the horse only above the shafts with wrist and elbow movement only. Full swings or going behind the head is prohibited.

(c) Welts, cuts, or whip marks on a horse resulting from whipping shall constitute a prima facie violation of this section.

(d) A driver shall not:

1. Whip a horse under the arch or shafts of the sulky;

2. Kick a horse;

3. Punch a horse;

4. Jab a horse;

5. Use the whip so as to interfere with or cause disturbance to any other horse or driver in a race;

6. Whip a horse after a race; or

7. Whip a horse that is exhausted or no longer in contention to win the race.

(4) A driver shall keep a line in each hand and both hands shall stay in front of the body of the driver from the start of the race until the finish of the race. The left line shall be held in the left hand and the right line shall be held in the right hand.

Section 10. Hopples.

(1) A horse shall not wear hopples in a race unless it has qualified in hopples.

(2) Having so started, the horse shall continue to wear them to the finish of the race.

(3) A person shall not remove or alter a horse's hopples during a race, or between races, for the purpose of fraud.

(4) A horse habitually wearing hopples shall not start in a race without them unless:

(a) The horse performs satisfactorily in a qualifying race; or

(b) The presiding judge excuses the horse from performing in a qualifying race.

(5) A horse habitually racing free-legged shall not wear hopples in a race unless:

(a) The horse performs satisfactorily in a qualifying race; or

(b) The presiding judge excuses the horse from performing in a qualifying race.

(6) A horse shall not wear a head pole protruding beyond its nose.

Section 11. Breaking.

(1) If a horse breaks from its gait in trotting or pacing, the driver shall at once, if clearance exists, take the horse to the outside and pull it to its gait.

(2) A driver shall not:

(a) Fail to properly attempt to pull the horse to its gait;

(b) Fail to take to the outside or inside if clearance exists;

(c) Fail to lose ground by the break; or

(d) Fail to prevent extended break.

(3) If there has been no failure on the part of the driver in complying with subsection (2) of this section, the horse shall not be set back unless a contending horse on its gait is lapped on the hind quarter of the breaking horse at the finish.

(4) A driver shall not allow a horse to break for the purpose of fraudulently losing a heat.

(5) If a horse or driver's actions cause another horse to be off-stride at the wire, the offending horse shall be placed behind the horse with whom it interfered after all other placements have been made.

(6) A horse making a break, which causes interference with other contesting horses, shall be placed behind all offended horses.

(7) The judges shall set a horse back one (1) or more places if this section is violated.

Section 12. Breaks. One (1) of the judges shall call out every break made, and the clerk shall at once note the break and its character in writing.

Section 13. Time Between Heats and Races. The time between separate heats of a single race shall be no less than forty (40) minutes. A heat shall not be called after sunset if the track is not lighted for night racing. The time between races shall not

exceed thirty (30) minutes.

Section 14. Accidents.

(1) If any horse in the current program falls, runs uncontrollably on the track, or is involved in an accident after starting to warm up, that horse shall be permitted to start only after examination and approval by the commission veterinarian.

(2) If an accident occurs, the judges shall allow adequate time in between posts to clear the track. A driver involved in an accident shall be cleared by an emergency medical technician or paramedic before resuming driving engagements.

Section 15. Sulkies.

(1) A driver shall be seated in his sulky at the finish of the race or the horse shall be placed as not finishing.

(2) The owner and trainer shall provide every sulky used in a race with uncolored or colorless wheel discs on the inside and outside of the wheel of a type approved by the commission. If necessary, the presiding judge may order the use of mud guards to be provided by the owners or trainers.

(3) A sulky shall not be used in a race unless it meets the requirements of the rules and regulations of the United States Trotting Association, 2018, Rule 18, Section 25, "Sulky Performance Standards".

Section 16. Helmets. A protective helmet, securely fastened under the chin and meeting the Snell Foundation 2000 Standard for Protective Headgear for Use in Harness Racing, shall be worn at all times on the premises of an association while:

- (1) Racing, parading, or warming up a horse prior to racing; or
- (2) Jogging, training, or exercising a horse at any time.

Section 17. Safety Vests. A safety vest shall be worn while racing, parading, or warming up a horse prior to racing.

Section 18. A licensee shall not:

- (1) Refuse to comply with an order or ruling of a member or employee of the commission, a racing official, or judge;
- (2) Interfere with the performance of the duty of a person specified in subsection (1) of this section;
- (3) Threaten, strike, or harass an owner, trainer, driver or attendant of a horse, or an employee of the association or commission;
- (4) Sexually harass an owner, trainer, driver or attendant of a horse, or an employee of the association or commission; or
- (5) Use force or intimidation against an owner, trainer, driver or attendant of a horse, or an employee of the association or commission.

Section 19. (1) A person or association shall not offer any money, benefit, or other inducement to any licensee, employee of the commission, or officer of a racing association to affect the entries to a race, the running of a race, or the outcome of a race.

(2) Any action prohibited by subsection (1) of this section shall be immediately reported to the judges who shall promptly inform the racing association and the commission.

Section 20. (1) An owner, trainer, agent, or driver of a horse shall not threaten or join with others in threatening not to race, or not to declare in, because of the entry of a certain horse or a particular stable, thereby compelling or attempting to compel the racing secretary to reject an eligible entry.

(2) An action prohibited by subsection (1) of this section shall be immediately reported to the commission.

Section 21. An owner, agent, or driver who has entered a horse shall not demand of the association a bonus of money or other special award or consideration as a condition for starting the horse.

Section 22. Wagering.

(1) A driver shall not place a wager, or cause a wager to be placed on his or her behalf, or accept a ticket or winnings from a

wager on a race, except:

- (a) A race on the horse he is driving; and
- (b) Through the owner or trainer of the horse he is driving.
- (2) An owner or trainer who places a wager for his driver shall:
 - (a) Maintain a complete record of the wager; and
 - (b) Make the record available for examination by the judges upon request.

Section 23. Duty to Report Fraudulent Proposal. A person shall immediately report to the presiding judge the details of an offer, promise, or request for a bribe or wager intended to affect the outcome of a race.

Section 24. Denerving.

(1) A horse that has had a chemical, surgical, or thermal neurectomy at or above the fetlock shall not be permitted to race.

(2) A horse that has had a palmar or plantar digital neurectomy may be permitted to race if:

- (a) The neurectomy has been reported by the trainer to the stewards; and
- (b) The horse has been approved for racing by the commission veterinarian prior to being entered to race.

(3) A horse on which a neurectomy has been performed shall have that fact designated on its registration certificate, virtual certificate, racing permit, and entry in the electronic registration system. Responsibility for ensuring that the neurectomy is correctly noted on the horse's registration certificate, virtual certificate, racing permit, and entry in the electronic registration system shall fall:

(a) Jointly on the practicing veterinarian who performed the operation and the trainer of the denerved horse if the neurectomy was performed at a location under the commission's jurisdiction; and

(b) Solely on the owner of the denerved horse if the neurectomy was performed at a location not under the commission's jurisdiction.

(4) If a horse races in violation of this section and participates in the purse distribution, a protest shall not be considered unless submitted in writing to the stewards within forty-eight (48) hours after the race.

(5) If a horse races in violation of this section and is claimed, a protest shall not be considered unless the successful claimant submits a protest in writing within forty-eight (48) hours requesting that the claim be voided. If the claim is voided, the horse shall be returned to the owner who started the horse in the race, and the claim price shall be returned to the claimant.

(6) A list of all denerved horses shall be made publicly available.

Section 25. Spayed Mares. If a mare has been spayed:

- (1) It shall be noted on the:
 - (a) Registration certificate;
 - (b) Electronic eligibility certificate; and
 - (c) Program when the mare races; and
- (2) The owner shall:
 - (a) Notify the United States Trotting Association that the mare has been spayed; and
 - (b) Return the mare's papers to the United States Trotting Association for correction.

Section 26. Starting Gate.

(1) Starter's control. The starter shall have control of the horses from the formation of the parade until the word, "go", is given.

(2) Before or during the parade, the starter shall inform the drivers of the number of scores permitted. After one (1) or two (2) preliminary warming up scores, the starter shall notify the drivers to proceed to the starting gate.

(3) A horse shall not be brought to the starting gate nearer than one eighth (1/8) of a mile before the start, if the length of the stretch permits.

(4) On a mile track, a horse shall be brought to the starting gate at the head of the stretch.

(5) The starting point shall be a point on the inside rail a

distance of at least 200 feet from the first turn. The starter shall give the word "go" at the starting point.

(6) When a speed has been reached in the course of a start there shall be no decrease except in the case of a recall.

(7) If a recall is necessary, a light plainly visible to the driver shall be flashed and a recall sounded and, if possible, the starter shall leave the wings of the gate extended and gradually slow the speed of the gate to assist in stopping the field of horses. The starter may close the wings of the gate if an emergency situation arises.

(8) There shall be no recall after the word "go" has been given and any horse, regardless of position or accident, shall be considered a starter from the time the horse enters into the starter's control, unless dismissed by the starter or judges pursuant to subsection (10) of this section.

(9) The starter shall endeavor to start all horses in position and on gait, but a recall shall not be sounded for a breaking horse.

(10) The starter may sound a recall only for the following reasons, if the starter believes the integrity of the race may be jeopardized:

- (a) A horse scores ahead of the gate;
- (b) There is interference;
- (c) A horse has broken equipment;
- (d) A horse falls before the word "go" is given;
- (e) There is a malfunction of the starting gate;
- (f) A horse comes to the gate out of position; or
- (g) A circumstance arises which will not allow a fair start, as determined by the starter.

(11) A driver shall not:

- (a) Delay the start;
- (b) Fail to obey the starter's instructions;
- (c) Rush ahead of the inside or outside wing of the gate;
- (d) Come to the starting gate out of position;
- (e) Cross over before reaching the starting point;
- (f) Interfere with another driver during the start; or
- (g) Fail to come up into position.

(12) Unless granted permission by the presiding judge, a person other than the starter, or the starter's driver or operator, shall not be allowed to ride in the starting gate.

(13) Use of a mechanical loudspeaker for any purpose other than to give instructions to drivers shall be prohibited. The volume shall not be higher than necessary to carry the voice of the starter to the drivers.

Section 27. Holding Horses Before Start.

(1) A horse shall not be held on the backstretch for more than three (3) minutes awaiting post time, except if delayed by an emergency or by permission of the judges.

(2) Post time must be posted no later than two (2) minutes following a previous race with the exception of mutual malfunction.

(3) Horses may not be held on the track more than ten (10) minutes unless permission is granted by the Presiding Judge.

Section 28. Two (2) Tiers.

(1) If there are two (2) tiers of horses, the withdrawal of a horse that has drawn or earned a position in the front tier shall not affect the position of the horses that have drawn or earned positions in the second tier.

(2)(a) If a horse is drawn from any tier, horses on the outside shall fill the vacancy.

(b) If a horse has drawn a post position in the second tier, the driver of the horse may elect to score out behind any horse in the first tier, if the driver does not interfere with another trailing horse or deprive another trailing horse of a drawn position.

Section 29. Starters.

(1) A horse shall be considered to have started when the word, "go", is given by the starter, and a horse shall be required to complete the course except in case of accident, broken equipment, or other circumstance which, in the opinion of the judges, makes it impossible or unsafe to complete the course.

(2) For the purpose of declaring a horse a nonstarter, the judges shall consider the actual starting point on the track

regardless if there was a start.

Section 30. Unmanageable Horse.

(1) If, in the opinion of the judges or the starter, a horse is unmanageable or may cause accidents or injury to another horse or to any driver, it shall be scratched. The starter shall notify the judges of the scratch, who shall then notify the public.

(2) A horse shall be considered unmanageable if it causes two (2) recalls in the same dash or heat, in which case it shall be scratched.

Section 31. Bad Acting Horse. At a meeting where there is no wagering, the starter may place a bad acting horse on the outside. At a pari-mutuel meeting, this action may be taken only if there is time for the starter to notify the judges, who shall in turn notify the public prior to the sale of tickets for the race. If tickets have been sold, the bad acting horse shall be scratched under the provisions of Section 30 of this administrative regulation.

Section 32. Post Positions; Heat Racing. The horse winning a heat shall take the pole (or inside position) in the succeeding heat, unless otherwise specified in the published conditions, and all others shall take their positions in the order they were placed in the last heat. If two (2) or more horses finish in a dead heat, their positions shall be settled by lot.

Section 33. Shield. The arms of a starting gate shall be provided with a screen or a shield in front of the position for each horse, and the arms shall be perpendicular to the rail.

Section 34. Unfair Advantage Prior to Start. If a horse comes to the gate out of its assigned post position and gains an unfair advantage by moving either to the left or right to its assigned post position before the starter gives the word, "go," that horse shall be disqualified and placed by the judges.

Section 35. Malfunction of the Gate. A licensed starter shall check the starting gate for malfunctions before commencing a meeting and shall practice the measures to be followed if there is a malfunction. Both the starter and the driver of the gate shall know and practice emergency measures, and the starter shall be responsible for the training of drivers in taking emergency measures.

Section 36. Timing Races. The time of a heat shall be taken by:

- (1) One electronic timing device; and
- (2) One hand-held timing device.

Section 37. Track Measurement Certificate. An association shall file with the commission a certificate from a duly licensed civil engineer or land surveyor attesting that the track has been measured from wire to wire three (3) feet out from the pole or inside hub rail, and certifying in linear feet the result of the measurement. If there is a change or relocation of the hub rail, the track shall be measured and recertified.

Section 38. Time for Lapped on Break. The leading horse shall be timed and his time only shall be announced. A horse shall not obtain a win race record by reason of the disqualification of another horse unless the horse's actual race time can be determined by photo finish or electronic timing.

Section 39. Time for Dead Heat. In case of a dead heat, the time shall constitute a record for the horses making a dead heat and both shall be considered winners.

Section 40. Timing Procedure. The time shall be taken from the first horse leaving the point from which the distance of the race is measured until the winner reaches the wire.

Section 41. Time Performances.

(1) Time performances shall be permitted with the permission

of the presiding judge subject to the following:

(2) A urine test or blood test or both shall be required for any horse with a winning time performance.

(3) A workout for the judges or time trial performance shall not be used to qualify a horse to race.

Section 42. Unless otherwise provided in the conditions, a purse shall be distributed on the dash basis with the money awarded according to a horse's position in each separate dash or heat of the race. Purse money distribution in overnight events shall be limited to the first five (5) finishers.

Section 43. Dashes.

(1) Except in the case of stakes or futurities as set forth in 810 KAR 5:040, Section 7, unless otherwise specified in the conditions, the money distribution in dashes shall be in the following percentages: fifty (50), twenty-five (25), twelve (12), eight (8), and five (5).

(2) In early closing races, late closing races, or added money events, if there are less than five (5) starters, the remaining purse shall go to the race winner unless the conditions call for a different distribution.

(3) In overnight events, if there are less than five (5) starters, the purse for the position for which there are no starters shall be retained by the association.

(4) If there is a purse for which horses have started but were unable to finish due to an accident, all non-offending horses that did not finish shall share equally in the premium or premiums.

(5) If there is a purse for which horses have started but were unable to finish and the situation is not covered by subsection (4) of this section, the purse shall be paid to the winner.

Section 44. If unfavorable weather or other unavoidable cause exists that necessitates postponement of a race, and the judges consent, an association shall postpone a race in the following manner:

(1) Early closing races, stakes, and futurities shall be postponed to a definite hour the next fair day and good track.

(2) A late closing race, early closing race, stake, or futurity (except as provided in subsections (4) and (5) of this section) that cannot be raced during the scheduled meeting shall be declared off, and the entrance money and forfeits shall be divided equally among the nominators who have horses declared in and eligible to start.

(3) A late closing race or early closing race that has been started and remains unfinished on the last day of the scheduled meeting shall be declared ended and the full purse divided according to the summary. A late closing race or early closing race that has been started but postponed by rain earlier in the meeting shall be declared ended and the full purse divided according to the summary, if there is sufficient time to conduct the race during the scheduled meeting.

(4) A stake or futurity shall be raced where advertised, and the race meeting, if necessary, shall be extended. A stake or futurity that has been started and remains unfinished on the last day of the scheduled meeting shall be declared ended and the full purse divided according to the summary, unless the association elects to extend the meeting to complete the race. A horse that is scratched after a heat and before a race is declared finished shall not participate in purse distribution from subsequent heats.

(5) Unless otherwise provided in the conditions of the race, unanimous consent shall be obtained from the association and from those with eligibles in the race before a stakes race or futurity may be transferred to another meeting.

(6) At a meeting of more than five (5) days duration, an overnight event may be postponed and carried over for a maximum of two (2) racing days.

(7) At a meeting of five (5) days duration or less, an overnight event or late closing race shall be cancelled and starting fees shall be returned if postponement occurs, unless the association adds the postponed race to the advertised program and the race is held within two (2) weeks of cancellation.

(8) A postponed race may, at the option of the association, be

contested in a single mile dash. If a race is postponed under this administrative regulation, the association shall select the order in which the events shall be raced in any combined program.

Section 45. Post Time.

(1) If racing is conducted at night or twilight, the racing program shall be completed no later than 12:00 a.m., midnight.

(2) Post time for the first race of the evening shall be fixed by the association. A delay in the first post of not more than ten (10) minutes from the established post time may be taken without prior approval of the commission.

Section 46. Number of Races Per Program.

(1) If eight (8) races are programmed, four (4) completed races shall constitute a completed program.

(2) If nine (9) races are programmed, five (5) completed races shall constitute a completed program.

(3) If ten (10) or more races are programmed, six (6) completed races shall constitute a completed program.

Section 47. Postponements.

(1) Racing shall not be conducted by an association over a track that is dangerous to drivers or horses.

(2) If inclement weather or other conditions appear to make the track dangerous, the presiding judge, a representative of the association, and a representative of the Kentucky Harness Horseman's Association or the Kentucky Harness Association shall determine whether racing shall be conducted or postponed.

(3) If a difference of opinion exists between the representative of the association and the representative of the Kentucky Harness Horseman's Association or the Kentucky Harness Association as to whether racing shall be conducted or postponed, the decision of the presiding judge shall be final.

Section 48. Protests. Protests shall:

(1) Be made only by:

(a) An owner;

(b) A manager;

(c) A trainer; or

(d) A driver; and

(2) Shall be made at any time before distribution of the purse is made;

(3) Shall be made in writing;

(4) Shall be sworn to; and

(5) Shall contain at least one (1) specific charge questioning eligibility which, if true, would prevent the offending horse from competing in the race.

Section 49. The judges shall, in case of protest, demand that the driver and the owner or owners, if present, shall immediately testify under oath. If a person refuses to testify after being ordered to do so and the race has not yet started, that person's horse shall not be allowed to start or continue in the race, but shall be ruled out, and any entrance money shall be forfeited.

Section 50. Unless the judges find satisfactory evidence to warrant excluding the horse, they shall allow a horse to start or continue in the race under protest. If the purse is won by that horse, it shall be retained by the association on behalf of the commission to allow the interested parties to continue the protest proceeding, in accordance with Section 53 of this administrative regulation.

Section 51. A person shall not knowingly, and with intent to influence the results of a race, protest a horse falsely and without cause.

Section 52. This administrative regulation shall not affect the distribution of the pari-mutuel pools at tracks where pari-mutuel wagering is conducted, if the distribution is made upon the official placing at the conclusion of the heat or dash.

Section 53. (1) A protest shall be reviewed and appealed in

accordance with the procedures set forth in 810 KAR 8:030 and KRS Chapter 13B.

(2) The purse money affected shall be deposited with the association pending the decision of the protest review or appeal.

Section 54. A judge shall not refuse to accept a protest.

Section 55. A person who has knowledge, prior to a race, of information that would prevent an ineligible horse from running in a race, and who fails to file a protest prior to the race with regard to that horse, shall have waived the right to protest after the race if the protest would have prevented the ineligible horse from running in the race.

Section 56. Material Incorporated by Reference.

(1) The following material is incorporated by reference:

(a) Rules and Regulations of the United States Trotting Association, 2018, Rule 18, Section 25, "Sulky Performance Standards"; and

(b) The Snell Memorial Foundation's "2000 Standard for Protective Headgear for use in Harness Racing".

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the office of the Kentucky Horse Racing Commission, 4063 Iron Works Pike, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the Kentucky Horse Racing Commission Web site, <http://khrc.ky.gov>.

FRANKLIN S. KLING JR., Chairman

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: February 13, 2020

FILED WITH LRC: February 14, 2020 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on April 22, 2020 at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. 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, 2020. 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: Jennifer Wolsing, General Counsel, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone +1 (859) 246-2040, fax +1 (859) 246-2039, email jennifer.wolsing@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Wolsing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a comprehensive set of rules for the conduct of standardbred races. The regulation sets forth rules concerning fouls, improper driving, timing of races, placing and money distribution, postponement and rescheduling, post time requirements, and protests.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide a set of rules to ensure the orderly and fair running of standardbred races.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This administrative regulation prescribes the conditions relating to various aspects of the running of standardbred races.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation implements the statutory mandate of the commission to promulgate regulations prescribing the conditions under which horse racing is conducted in the Commonwealth.

(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 adds the Kentucky Harness Association as a participant in the group that determines whether racing shall be conducted or postponed during inclement weather or other dangerous track conditions.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to allow a representative of the Kentucky Harness Association to serve on the group that determines whether racing shall be conducted or postponed during inclement weather or other dangerous track conditions.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. The amendment adds to the conditions under which racing shall be conducted in Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: The amendment adds to the pool of persons who assist the commission in determining when racing should be postponed or cancelled due to inclement weather or dangerous conditions, and thus helps ensure the integrity and safety of racing.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky's two (2) licensed standardbred race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the conduct of racing. In the year 2017, the commission licensed over 22,000 individuals to participate in horse racing. This number is consistent from year to year.

(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: Licensed standardbred associations participate in the decision whether to postpone racing through a representative who confers with the presiding judge and a horsemen's group representative. To comply with the amendment, the association's representative will have to confer with the representative of the applicable horsemen's group. Other regulated licenses will be represented by the relevant horsemen's group and will not have to take action to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No significant costs are associated with complying with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities: Licensed harness racing associations will have an option in the horsemen's group representation that participates in the decision whether to postpone racing for inclement weather or other dangerous conditions. Compliance puts the harness racing associations on a similar footing with thoroughbred racing associations, which also have two (2) horsemen's groups with which they interact.

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

(a) Initially: There is no initial administrative cost to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No significant funding will be necessary to implement and enforce

this administrative regulation. Any minimal costs will be funded from the budget of the commission.

(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 additional fees are funding are necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied because this amended regulation will apply to all similarly situated entities in an equal manner.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Horse Racing Commission 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 230.215, 230.225, 230.240, 230.260, 230.290, 230.310, 230.320, 230.370.

(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 will not generate revenue for state or local government for the first year.

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

(c) How much will it cost to administer this program for the first year? No funds will be required to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? No funds will be required to administer this 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 (+/-): Neutral
Expenditures (+/-): Neutral
Other Explanation: None

PUBLIC PROTECTION CABINET Kentucky Horse Racing Commission (Amendment)

810 KAR 7:040. Kentucky Standardbred Development Fund and Kentucky Standardbred Breeders' Incentive Fund.

RELATES TO: KRS 230.215, 230.260, 230.770, 230.802, 230.990

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8), 230.770(1), (6), (7), 230.802(2)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky and to fix and regulate the minimum amount of purses, stakes, or awards to

be offered for the conduct of any horse race meeting. KRS 230.770(1) establishes the Kentucky standardbred development fund. KRS 230.770(6) and (7) authorize the commission to promulgate administrative regulations establishing the eligibility of horses participating in races for which a portion of the purse is provided by the Kentucky Standardbred Development Fund and the conditions, class, and quality of the races. KRS 230.802(1) establishes the Kentucky standardbred breeders' incentive fund. KRS 230.802(2)(b) authorizes the commission to promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the fund. This administrative regulation establishes eligibility standards, administrative practices to enforce the standards, criteria for the distribution of moneys from these funds, mandatory criteria for races, and the administration of purses and payments in these races.

Section 1. Definitions.

(1) "Commission" means the Kentucky Horse Racing Commission.

(2) "Consolation" means the race following a series of preliminary legs for the next preferred horses, as set forth in section 8 of this administrative regulation, which did not qualify for the finals of each racing division of the Kentucky Sire Stakes program.

(3) "Final" means the race following a series of preliminary legs established to determine the divisional champion of each racing division of the Sire Stakes Program.

(4) "Kentucky-bred" means a standardbred horse that is:

(a) Foaled out of a standardbred mare that is registered with the commission and is a resident of Kentucky [~~as provided in this administrative regulation~~]; or

(b) Sired by a standardbred stallion residing in Kentucky that meets the requirements of this administrative regulation.

(5) "Kentucky Sire Stakes" means the series of races held annually in Kentucky for two (2) and three (3) year old Kentucky-bred fillies and colts, both trotting and pacing, and funded in whole or in part by the Kentucky Standardbred Development Fund or the Kentucky Standardbred Breeders' Incentive Fund.

(6) "KSBI" means the Kentucky Standardbred Breeders' Incentive Fund as established in KRS 230.802.

(7) "KSDF" means the Kentucky Standardbred Development Fund as established in KRS 230.770.

(8) "Stallion residing in Kentucky" means a stallion physically located and standing in Kentucky for 180 days of the calendar year in which the stallion is registered that does not service mares in any other state, jurisdiction, or country outside Kentucky during the calendar year in which the stallion is registered.

(9) "USTA" means the United States Trotting Association.

Section 2. Domicile Requirements.

(1)(a) An owner, lessee, stallion manager, or syndicate manager of a standardbred stallion residing in Kentucky who desires to use the stallion to breed and to have his progeny eligible for the KSDF or KSBI shall register the stallion with the commission by December 31st of the year of conception of the horse sought to be eligible by submitting a completed "KSDF/KSBI Stallion Certificate of Eligibility Form", KHRC 7-040-2.

(b) Standardbred stallions not residing in Kentucky are not required to register with the commission. The progeny of a standardbred stallion not residing in Kentucky is not eligible for the KSDF or KSBI unless the progeny is that of a standardbred mare registered under and meeting the requirements of this regulation.

(c) All standardbred stallions shall be registered with the USTA, Standardbred Canada, or other appropriate international harness racing governing agency whether residing in Kentucky or not.

(2) (a) An owner, lessee, manager, or syndicate manager of a standardbred mare who desires to use the mare for breeding purposes and to have her progeny eligible for the KSDF or KSBI shall register the mare by December 31st of the year of conception of the horse sought to be eligible by submitting a completed "KSDF/KSBI Mare Certificate of Eligibility Form", KHRC 7-040-3.

(b) To be eligible for registration, the mare shall:

1. Be registered with the USTA, Standardbred Canada, or other appropriate international harness racing governing agency; and

2. Have resided in Kentucky for a period of not less than 180 days in the calendar year of conception of the horse sought to be eligible.

(c) If a horse is conceived by embryo and ovum transplant (ET), both the donor mare and recipient mare shall be registered during the year of conception, and the recipient mare shall reside in Kentucky for a period of not less than 180 days in the calendar year of conception of the horse sought to be eligible.

(3) Registrations shall be received by the commission by the close of business or postmarked on the deadline established in this section in order to be eligible.

(4) An owner, lessee, stallion manager, manager, or syndicate manager of a stallion or mare eligible for the KSDF and KSBIF shall be responsible for:

(a) The registrations and records of the farm where the stallion stands or the mare resides; and

(b) Complying with all applicable requirements of this administrative regulation.

Section 3. Eligibility.

(1) In order to qualify for the Kentucky Sire Stakes, a foal shall be a two (2) or three (3) year old Kentucky-bred and maintain eligibility for the KSDF and KSBIF.

(2) (a) Except as provided by paragraph (b) of this subsection, only a foal that is the first born to a mare (donor or recipient) in each calendar year produced by any method, including embryo and ovum transplant (ET), shall be eligible for the Kentucky Sire Stakes.

(b) Natural birth twins produced from the same pregnancy and foaling by the natural, nonrecipient mare shall also be eligible.

(3) Any future offspring of foals ineligible for racing under this section shall be ineligible for the Kentucky Sire Stakes.

Section 4. Distance. Each Kentucky Sire Stakes race shall be a one (1) mile dash.

Section 5. Post Positions. Post positions for the final, consolation, and all preliminary legs of the Kentucky Sire Stakes race shall be an open draw with two (2) horses drawn for the final and consolation races that are designated as "also eligibles" under Section 6(6) of this administrative regulation.

Section 6. Eligibility for the Final and Consolation Races.

(1) Beginning with the 2018 Kentucky Sire Stakes races, consolation races may be eligible for funding.

(2) A horse that does not start in at least one (1) of the preliminary legs scheduled shall not be eligible for the final or consolation.

(a) All horses earning points may enter in the final with:

1. The top eight (8) point earners, if the horses raced on a half (1/2) mile track or five-eighths (5/8) mile track; or

2. Top ten (10) point earners, if the horses raced on a one (1) mile track, to be declared eligible.

(b) On a half (1/2) mile track or five-eighths (5/8) mile track, the top eight (8) point earners shall not be eligible for the consolation. On a one (1) mile track, the top ten (10) point earners shall not be eligible for the consolation.

(c) A horse that is eligible to race in the final shall only be eligible to race in the final, unless the horse is qualified as an also eligible.

(d) A horse that is eligible to race in the consolation shall only be eligible to race in the consolation, unless qualified in the final as an also eligible.

(e) A horse that scratches from the final shall not race in the consolation.

(f) A horse that has qualified for the final or consolation shall remain eligible for the final or consolation.

(g) At least seven (7) eligible horses shall be declared for a consolation race to be contested.

(h) A horse that is automatically eligible to race in the final race shall not start in the consolation race.

(3) A horse that enters a preliminary leg that does not fill and is not raced shall receive credit toward fulfilling the minimum starting requirements set forth in subsection (2) of this section and toward determining tiebreaker status as set forth in subsection (6)(b) of this section.

(4) A horse that has been scratched from an event that is raced shall not receive credit toward meeting the starting requirements set forth in subsection (2) of this section.

(5) A horse, in order to start in the final or consolation, shall be declared at the host track where the race is being held on or before the time posted on the track condition sheet.

(6) (a) If the number of horses eligible and declared into any final or consolation event exceeds the maximum number specified by the KSDF or KSBIF or the number of positions on the starting gate, the following point system as applied to KSDF preliminary legs shall determine preference for the final:

1. 1st place - fifty (50) points;

2. 2nd place - twenty-five (25) points;

3. 3rd place - twelve (12) points;

4. 4th place - eight (8) points;

5. 5th place - five (5) points;

6. 6th place and all other starters - one (1) point; and

7. A horse finishing in a dead heat for any position in a preliminary leg shall be awarded an equal share of the total number of points awarded for that position.

(b) If there is a tie among horses after the awarding of points pursuant to paragraph (a) of this subsection, there shall be a drawing by lot among those horses tied in total points to determine which horses shall be included in the final field.

(c) If a horse that is qualified for the final or consolation is not declared, the horse with the next highest point total, pursuant to paragraph (a) of this subsection, that is declared shall be eligible for the final or consolation.

(7) Also eligibles.

(a) The two (2) horses accumulating the highest point total, pursuant to subsection (6) of this section, that are declared into the final or consolation, but do not qualify for the final or consolation, shall be designated "also eligible". The horse with the highest point total from the preliminary legs shall be designated as the "first also eligible" and the horse with the next highest point total shall be designated as the "second also eligible".

(b) A horse that is scratched in the final or consolation shall be replaced by the "first also eligible" and then the "second also eligible", if necessary.

1. If post positions have not been drawn at the time of the scratch, the "also eligible" shall take the place of the horse that has been scratched and shall participate in the normal draw.

2. If post positions have been drawn at the time of the scratch, the "also eligible" shall assume the post position of the horse that has been scratched.

3. A horse shall not be moved into the final or consolation as a replacement after the official scratch time deadline that is in effect at the host track.

Section 7. Final Order of Finish. The judges' "official order of finish" shall be used in determining eligibility to the final exclusive of all appeals yet to be decided at the time of closing of the entry box for final events.

Section 8. Detention. All starters shall be subject to the detention policy of the racetrack.

Section 9. Number of Starters.

(1) There shall not be more than:

(a) Ten (10) starters in each final race on a one (1) mile track; and

(b) Eight (8) horses on a one-half (1/2) or five-eighths (5/8) mile track.

(2) All horses shall be on the gate for the final race.

Section 10. Declaration Fees.

(1) For each horse declared to race in a preliminary leg, there shall be a declaration fee of \$500. If a preliminary leg splits into two (2) or more divisions, the declaration fee shall be \$500 per division.

(2) The declaration fee shall be due to the racing association at the time of declaration and payable one (1) hour prior to post time of the race.

(3) Purses for the KSDF and KSBIF shall consist of money from:

- (a) Nominating fees;
- (b) Sustaining fees;
- (c) Declaration fees; and
- (d) Added money from the Commonwealth of Kentucky.

(4)(a) Distribution of revenue for Kentucky Sire Stakes races shall be reviewed and addressed annually, not later than December 15 of each calendar year, by an advisory panel appointed by the Chairman of the commission and consisting of one (1) representative from each of the following:

- 1. The commission, who shall serve as the chairman of the panel;
- 2. The Kentucky Harness Horseman's Association;
- 3. The Kentucky Harness Association
- 4. The host racetrack; and

5[4]. One (1) participant[Two (2) participants] in the fund nominated by the chairman of the commission from a group of up to four (4)[six (6)] nominees recommended by each of the above four (4)[three (3)] members having one[two] (1) nominat[i]on[nominations] each.

(b) Each member of the panel shall serve from July 1 through June 30 of the following year and shall be a resident of Kentucky.

(c) The final determination regarding distribution of revenue shall be made by the commission.

Section 11. Divisions of Preliminary Legs.

(1) The total number of horses entered shall determine the number of divisions of the preliminary legs that shall be required.

(2) Preliminary legs shall be split into divisions as follows:

- (a) One (1) mile track:
 - 1. Twelve (12) horses or less entered - one (1) division race.
 - 2. Thirteen (13) to twenty (20) horses entered - two (2) divisions.
 - 3. Twenty-one (21) to thirty (30) horses entered - three (3) divisions.
 - 4. Thirty-one (31) to forty (40) horses entered - four (4) divisions.
 - 5. Forty-one (41) to fifty (50) horses entered - five (5) divisions.
 - 6. Fifty-one (51) to sixty (60) horses entered - six (6) divisions.
- (b) One-half (1/2) and five-eighths (5/8) mile track:
 - 1. Nine (9) to ten (10) horses entered - one (1) division.
 - 2. Eleven (11) to sixteen (16) horses entered - two (2) divisions.
 - 3. Seventeen (17) to twenty-four (24) horses entered - three (3) divisions.
 - 4. Twenty-five (25) to thirty-two (32) horses entered - four (4) divisions.
 - 5. Thirty-three (33) to forty (40) horses entered - five (5) divisions.
 - 6. Forty-one (41) to forty-eight (48) horses entered - six (6) divisions.

(c) If the need exists for seven (7) or more divisions, eligibility to the final shall be determined in a manner consistent with the published conditions.

Section 12. Gait.

(1) Gait shall be specified by the owner of the horse on or before the first two (2) year old payment.

(2) Change of gait:

- (a) May be made at the time of declaration at the track; and
- (b) Sustaining payments shall remain in the funds of the original gait specified.

(3) A horse shall not race on both gaits in the same year.

Section 13. Divisions. A race shall be raced in separate divisions as follows:

- (1) Colt, gelding, ridgeling divisions; and
- (2) Filly divisions.

Section 14. Purse Distributions.

(1) The purses awarded for all races shall be distributed on the following percentage basis:

(a) Five (5) starters - fifty (50) percent, twenty-five (25) percent, twelve (12) percent, eight (8) percent, and five (5) percent;

(b) Four (4) starters - fifty (50) percent, twenty-five (25) percent, twelve (12) percent, eight (8) percent, and the remaining five (5) percent reverts back to the fund;

(c) Three (3) starters - fifty (50) percent, twenty-five (25) percent, twelve (12) percent, and the remaining thirteen (13) percent reverts back to the fund;

(d) Two (2) starters - fifty (50) percent, and twenty-five (25) percent, and the remaining twenty-five (25) percent reverts back to the fund; and

(e) One (1) starter - fifty (50) percent, and the remaining fifty (50) percent reverts back to the fund.

(2) The percentage basis established by subsection (1) of this section shall apply at each of the Kentucky pari-mutuel tracks.[]

~~(3) In addition to the purses set forth in subsection (1) of this section, \$25,000 shall be awarded in each division of the finals to the owner of the stallion or stallions residing in Kentucky that sired the first, second, or third place finisher, as follows:~~

- ~~(a) First place: \$15,000;~~
- ~~(b) Second place: \$7,500; and~~
- ~~(c) Third place: \$2,500.]~~

Section 15. Cancellations.

(1) If circumstances prevent the racing of an event and the race is not drawn, all funds allocated to the division in each of the preliminary legs or the final shall be refunded and prorated to the owners of the horses eligible at the time of cancellation.

(2) The eligible horses shall include only horses that made the payments required by Section 22 of this administrative regulation.

(3) The added monies provided by the Commonwealth of Kentucky for use in the KSDF and KSBIF shall be disbursed by December 15 of each calendar year in accordance with the formula created by the panel as set out in Section 12(4) of this administrative regulation.

Section 16. Qualifying.

(1) Any horse declared into a Kentucky Sires Stakes race shall:

(a) Show at least one (1) charted race line with no breaks within forty-five (45) days prior to the day of the race; and

(b) Have satisfied the following time requirements:

- 1. On a track larger than five-eighths (5/8) of a mile:
 - a. A two (2) year old trotter shall have been timed in two minutes and six seconds (2:06) or faster;
 - b. A two (2) year old pacer shall have been timed in two minutes and four seconds (2:04) or faster;
 - c. A three (3) year old trotter shall have been timed in two minutes and two seconds (2:02) or faster; and
 - d. A three (3) year old pacer shall have been timed in two minutes and zero seconds (2:00) or faster.
- 2. On a five-eighths (5/8) mile track:
 - a. A two (2) year old trotter shall have been timed in two minutes and seven seconds (2:07) or faster;
 - b. A two (2) year old pacer shall have been timed in two minutes and five seconds (2:05) or faster;
 - c. A three (3) year old trotter shall have been timed in two minutes and three seconds (2:03) or faster; and
 - d. A three (3) year old pacer shall have been timed in two minutes and one second (2:01) or faster.
- 3. On a one-half (1/2) mile track:
 - a. A two (2) year old trotter shall have been timed in two minutes and eight seconds (2:08) or faster;
 - b. A two (2) year old pacer shall have been timed in two minutes and six seconds (2:06) or faster;
 - c. A three (3) year old trotter shall have been timed in two minutes and four seconds (2:04) or faster; and

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d. A three (3) year old pacer shall have been timed in two minutes and two seconds (2:02) or faster.

(2) A horse shall be scratched from a race if the person declaring the horse has failed to advise the race secretary of a start that is not reflected on the electronic eligibilities.

(3) The requirements of this section shall apply both to wagering and nonwagering races.

Section 17. Purse Allocations.

(1) At a scheduled meeting of the commission, the commission shall:

(a) Establish the distribution of funds for stakes races for the upcoming year; and

(b) Authorize expenditures at a time it designates.

(2) The racing dates for KSDF and KSBIF stakes shall be issued after the track has established its race dates.

Section 18. Promotions. The KSDF or KSBIF shall provide a trophy for each event, and the program that provides the trophy shall purchase the trophy out of its fund.

Section 19. Nomination Fees.

(1) After payment of the nomination fee, foals shall remain eligible for events each year by making the required sustaining and declaration payments for that year. The "KSDF/KSBIF Kentucky Sire Stakes (KYSS) Nomination Form", KHRC 7-040-1, shall be filed with the commission along with the nomination and sustaining fees.

(2) The two (2) year old March 15 payment shall be made in order to remain eligible to the KSDF and KSBIF as a three (3) year old.

(3) Nomination and sustaining payments shall be made to the KSDF and KSBIF in U.S. funds by a money order or a check drawn on a U.S. bank account.

Section 20. Nomination Schedule.

(1) Yearlings shall be nominated by May 15 of their yearling year, except as provided in subsection (4) of this section.

(2) For yearlings sired by a standardbred stallion residing in Kentucky and registered with the KSDF and KSBIF, the nomination fee shall be forty (40) dollars per yearling. For yearlings sired by a standardbred stallion not residing in Kentucky, the nomination fee shall be eighty (80) dollars per yearling.

(3) Nominated horses shall be registered with the USTA, Standardbred Canada, or other appropriate international harness racing governing agency and shall be properly identified to the satisfaction of the commission at the time of the nomination. Identification shall be determined by the official registration maintained by the USTA, Standardbred Canada, or other appropriate international harness racing governing agency.

(4) If a horse is not nominated during its yearling year, the horse may be nominated prior to March 15 of its two (2) year old year if:

(a) For horses sired by a standardbred stallion residing in Kentucky and registered with the KSDF and KSBIF, a nomination fee of \$500 is made by March 15 of the horse's two (2) year old year, along with the sustaining payment required by subsection (5)(a) of this section; or

(b) For horses sired by a standardbred stallion not residing in Kentucky, a nomination fee of \$600 is made by March 15 of the horse's two (2) year old year, along with the sustaining payment required by subsection (5)(a) of this section.

(5) Sustaining payments shall be as follows:

(a) TWO (2) YEAR OLD PAYMENTS	
March 15	\$300
April 15	\$300
May 15	\$300
March 15 payment shall be mandatory to make entry eligible as a three (3) year old.	

(b) THREE (3) YEAR OLD PAYMENTS	
February 15	\$300

March 15	\$300
April 15	\$300

Section 21. Early Closing Events. The commission may provide for separate early closing events for Kentucky-bred horses.

Section 22. Stallion and Breeder awards. The commission may provide for stallion and breeder awards for Kentucky-bred horses.

Section 23. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "KSDF/KSBIF Kentucky Sire Stakes (KYSS) Nomination Form", KHRC 7-040-1, 11/2018;

(b) "KSDF/KSBIF Stallion Certificate of Eligibility Form", KHRC 7-040-2, 11/2018; and

(c) "KSDF/KSBIF Mare Certificate of Eligibility Form", KHRC 7-040-3, 11/2018.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the KHRC Web site at <http://khrc.ky.gov>.

FRANKLIN S. KLING JR., Chairman

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: February 13, 2020

FILED WITH LRC: February 14, 2020 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on April 22, 2020 at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. 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, 2020. 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: Jennifer Wolsing, General Counsel, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone +1 (859) 246-2040, fax +1 (859) 246-2039, email jennifer.wolsing@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Wolsing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the conditions under which standardbred racing shall be conducted in Kentucky. Specifically, KRS 230.770(6) authorizes the commission to promulgate regulations establishing the eligibility requirements for horses participating in races for which a portion of the purse is provided by the Kentucky Standardbred Development Fund and Kentucky Standardbred Breeders' Incentive Fund ("KSDF/KSBIF"). This particular regulation establishes the eligibility requirements to receive funds from KSDF/KSBIF.

(b) The necessity of this administrative regulation: This regulation is necessary to exercise the statutory authority of the KHRC set forth in KRS 230.215(2) to "promulgate administrative regulations prescribing conditions under which all legitimate standardbred horse racing and wagering thereon is conducted in the Commonwealth of Kentucky" and the statutory authority set forth in KRS 230.240(1). Specifically, this regulation is necessary to establish the eligibility requirements for those desiring to receive distributions from the KSDF/KSBIF.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to the statutory authority granted to the Kentucky Horse Racing Commission by KRS 230.215(2), 230.260(8), 230.770(1), (6), (7), and KRS 230.802(2)(b).

(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 by outlining the qualifications a horse owner and breeder need to follow to be eligible to receive KSDF/KSBIF monies.

(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 is necessary to update the text of the administrative regulation to reflect the current realities of standardbred racing and the corresponding eligibility requirements to receive KSDF/KSBIF funds. Specifically, this amendment: -Adds Kentucky Harness Association to the advisory panel established in 810 KAR 7:040 (10) -Removes the stallion bonus that is no longer effective -Adds language to allow stallion and breeder bonus

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to include the Kentucky Harness Association as a member of the Advisory Panel and provide a more competitive bonus to incentivize stallion owners and breeders to purchase Kentucky-bred horses eligible to race in the Kentucky Sire Stakes.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 230.770 (2) requires the commission "to use the development fund to promote races, and to provide purses for races, for Kentucky-bred Standardbred horses." KRS 230.802 (2)(a) requires the commission to "use moneys deposited in the Kentucky Standardbred breeders incentive fund to provide rewards for breeders or owners of Kentucky-bred standardbred horses." This amendment fulfills that statutory mandate by implementing the changes outlined above to enhance the fund.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by ensuring all harness organizations are represented on the advisory panel and by providing incentives for stallion owners to stand their horses in Kentucky and breeders to keep their mares in Kentucky.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect standardbred breeders; owners; boarding farm owners and employees; Kentucky veterinarians and equine healthcare facilities; horse transportation companies; farriers; farmers and suppliers of hay, feed and grain; equine supply companies; daily maintenance care and tack; Kentucky Standardbred sale companies; retail stores and maintenance services; and state and local payroll tax.

(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: Breeders will have an additional opportunity to earn breeder awards, owners will have an additional incentive to buy Kentucky-bred horses, and stallion owners will be provided incentives to relocate their stud horses to Kentucky. All other entities identified in (3) will not acquire any additional responsibilities, but will reap the benefits of a stronger breeding industry in Kentucky.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None of the entities identified in question (3) will incur any costs in complying with the amendment. Rather, this amendment specifically offers more opportunities to receive distributions from the fund. There is no fee to nominate a mare or stallion, and the yearling, two-year-old and three-year-old fees will not change.

(c) As a result of compliance, what benefits will accrue to the entities: This amendment will permit multiple harness organizations

to have a seat on the advisory panel. This is similar to the thoroughbred development fund. This amendment will also provide additional stallion and breeder awards.

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

(a) Initially: No cost is anticipated as the administration of this program is currently established.

(b) On a continuing basis: No cost is anticipated as the administration of this program is currently established.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The nomination fees are used for the implementation and enforcement of this regulation. No additional funding is required.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement the amendment to this regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This amendment does not establish any new fees or increase any current fees to participate.

(9) TIERING: Is tiering applied? Explain why or why not. Tiering was not applied because this amended regulation will apply to all similarly situated entities in an equal manner.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Horse Racing Commission 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. The statutory authority for this administrative regulation is found in KRS 230.215(2), 230.260(8), 230.770(1), (6), (7), 230.802(2)(b).

(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? Although specific dollar estimates cannot be determined, the greatest impact of this regulation to the state and local government will be the increase in payroll taxes by all participants noted in the Regulatory Impact Analysis & Tiering Statement.

(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? Continued growth and participation in the program will increase payroll taxes by all participants noted in the Regulatory Impact Analysis & Tiering Statement.

(c) How much will it cost to administer this program for the first year? Because the infrastructure for administering the program is already in place, it is anticipated that there will be no additional net cost to administer this program for the first year.

(d) How much will it cost to administer this program for subsequent years? Because the infrastructure for administering the program is already in place, it is anticipated that there will be no additional net cost to administer this program in subsequent years.

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

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: NA

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(Amendment)**

810 KAR 8:010. Medication; testing procedures; prohibited practices.

RELATES TO: KRS 230.215, 230.225, 230.240, 230.260, 230.265, 230.290, 230.320, 230.370

STATUTORY AUTHORITY: KRS 230.215(2), 230.225, 230.240(2), 230.260(8), 230.320, 230.370

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2), 230.260(8), and 230.320 authorize the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in Kentucky. KRS 230.240(2) requires the commission to promulgate administrative regulations restricting or prohibiting the administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race. This administrative regulation establishes requirements and controls in the administration of drugs, medications, and substances to horses, governs certain prohibited practices, and establishes trainer responsibilities relating to the health and fitness of horses.

Section 1. Definitions.

(1) "AAS" or "anabolic steroid" means an anabolic androgenic steroid.

(2) "Administer" means to apply to or cause the introduction of a substance into the body of a horse.

(3) "Commission laboratory" means a laboratory chosen by the commission to test biologic specimens from horses taken under the supervision of the commission veterinarian.

(4) "Location under the jurisdiction of the commission" means a licensed race track or a training center as described in KRS 230.260(5).

(5) ~~"Permitted NSAIDs" means the following permitted nonsteroidal antiinflammatory drugs: phenylbutazone, flunixin, and ketoprofen, if administered in compliance with Section 8 of this administrative regulation.~~

(6) ~~"Positive finding"~~ means the commission laboratory has conducted testing and determined that a drug, medication, or substance, the use of which is restricted or prohibited by this administrative regulation, 810 KAR 8:020, or 810 KAR 8:040, was present in the sample.

(a) For the drugs, medications, or substances listed in this administrative regulation or 810 KAR 8:020 for which an established concentration level is provided, it shall be necessary to have a finding in excess of the established concentration level as provided for the finding to be considered a positive finding.

(b) Positive finding also includes:

1. Substances present in the horse in excess of concentrations at which the substances could occur naturally; and

2. Substances foreign to a horse that cause interference with testing procedures.

(7) "Primary sample" means the primary sample portion of the biologic specimen taken under the supervision of the commission veterinarian to be tested by the commission laboratory.

(8) "Split sample" means the split sample portion of the biologic specimen taken under the supervision of the commission veterinarian to be tested by the split sample laboratory.

(9) "Split sample laboratory" means the laboratory approved by the commission to test the split sample portion of the biologic specimen from horses taken under the supervision of the commission veterinarian.

(10) "Test barn" means a fenced enclosure sufficient in size and facilities to accommodate the stabling of horses temporarily detained for obtaining biologic specimens for testing.

Section 2. Use of Medication.

(1) Therapeutic measures and medication necessary to improve or protect the health of a horse shall be administered to a horse in training under the direction of a licensed veterinarian.

(2) Except as expressly permitted in 810 KAR Chapter 8, while participating in a race (betting or non-betting), qualifying race, or time trial, it shall be a violation for a horse to carry in its body any drug, medication, substance, or metabolic derivative, that:

(a) Is foreign to the horse; or

(b) Might mask the presence of a prohibited drug, or obstruct testing procedures.

(3) It shall be a violation for therapeutic medications to be present in excess of established threshold concentrations established in this administrative regulation or in 810 KAR 8:020. The thresholds for permitted NSAIDs are established in Section 8 of this administrative regulation.

(4) Except as provided by paragraphs (a) and (b) of this subsection, it shall be a violation for a substance to be present in a horse in excess of a concentration at which the substance could occur naturally. It shall be the responsibility of the commission to prove that the substance was in excess of normal concentration levels.

(a) Gamma amino butyric acid shall not be present in a concentration greater than 110 nanograms per milliliter in serum or plasma.

(b) Cobalt shall not be present in a concentration greater than twenty-five (25) parts per billion in serum or plasma.

(5) It shall be prima facie evidence that a horse was administered and carried, while running in a race (betting or non-betting), qualifying race, or time trial, a drug, medication, substance, or metabolic derivative thereof prohibited by this section if:

(a) A biologic specimen from the horse was taken under the supervision of the commission veterinarian promptly after a horse ran in a race (betting or non-betting), qualifying race, or time trial; and

(b) The commission laboratory presents to the commission a report of a positive finding.

(6) The commission shall utilize the Kentucky Horse Racing Commission Uniform Drug, Medication, and Substance Classification Schedule as provided in 810 KAR 8:020, for classification of drugs, medications, and substances violating this administrative regulation. Penalties for violations of this administrative regulation shall be implemented in accordance with 810 KAR 8:030.

Section 3. Treatment Restrictions.

(1) Except as provided in Section 4 of this administrative regulation, ~~only~~~~[a person other than]~~ a veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission shall ~~[not]~~ administer by injection a prescription or controlled drug, medication, or other substance to a horse at a location under the jurisdiction of the commission.

(2) The only injectable substance allowed within twenty-four (24) hours prior to post time of the race in which the horse is entered shall be furosemide, as established in Section 6 of this administrative regulation.

(3) Except as provided by subsection (5) of this section, ~~only~~~~[a person other than]~~ a veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission shall ~~[not]~~ possess a hypodermic needle, syringe, or injectable of any kind at a location under the jurisdiction of the commission.

(4) A veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission shall use only single-use disposable needles and syringes, and shall dispose of them in a container approved by the commission veterinarian.

(5) If a person regulated by the commission has a medical condition that makes it necessary to possess a needle and syringe at a location under the jurisdiction of the commission, the person shall request prior permission from the stewards or judges and furnish a letter from a licensed physician explaining why it is necessary for the person to possess a needle and syringe. The stewards or judges may grant approval for a person to possess and use a needle and syringe at a location under the jurisdiction of the commission, but may also establish necessary restrictions and limitations.

(6) A commission employee may accompany a veterinarian at

a location under the jurisdiction of the commission and take possession of a syringe, needle, or other device used to administer a substance to a horse.

(7) Electronic therapeutic treatments, other than nebulization, shall not be administered to a horse within twenty-four (24) hours prior to post time of a race in which the horse is entered.

Section 4. Certain Permitted Substances. Liniments, antiseptics, antibiotics, ointments, leg paints, washes, and other products commonly used in the daily care of horses may be administered by a person, other than a licensed veterinarian if:

- (1) The treatment does not include any drug, medication, or substance otherwise prohibited by this administrative regulation;
- (2) The treatment is not injected; and
- (3) The person is acting under the direction of a licensed trainer or veterinarian licensed to practice veterinary medicine in Kentucky and licensed by the commission.

Section 5. Anti-ulcer Medications. The following anti-ulcer medications may be administered orally, at the dosage stated in this section, up to twenty-four (24) hours prior to post time of the race in which the horse is entered:

- (1) Cimetidine (Tagamet): eight (8) to twenty (20) milligrams per kilogram;
- (2) Omeprazole (Gastrogard): two and two-tenths (2.2) grams;
- (3) Ranitidine (Zantac): eight (8) milligrams per kilogram; and
- (4) Sucralfate: two (2) to four (4) grams.

Section 6. Furosemide Use on Race Day.

(1) Furosemide may be administered, in accordance with this section, to a horse that is entered to compete in a race, qualifying race, or time trial, except as provided in subsection (6) of this section[-].

~~(2)(a) Only the commission veterinarian shall administer furosemide prior to a race, qualifying race, or time trial.~~

~~(2)(b) If the commission veterinarian is unavailable to administer Furosemide shall only be administered to a horse prior to a race, qualifying race, or time trial. by:~~

~~(a) The commission veterinarian; or~~

~~(b) [shall approve] A licensed veterinarian approved by the commission to perform to perform the administration. The approved licensed veterinarian shall agree to comply with this administrative regulation regarding the administration if the commission veterinarian is unavailable. of furosemide on race day.~~

~~(c) If the furosemide is administered by an approved licensed veterinarian, the administering veterinarian shall provide a written report to the commission veterinarian no later than two (2) hours prior to post time of the race in which the horse receiving the furosemide is competing.~~

~~(3) Except as provided in subsection (6) of this section, Furosemide may be used under the circumstances established in this subsection.~~

~~(a) furosemide may be used if [shall be] administered;~~

~~(a) At a location under the jurisdiction of the commission where the horse is scheduled to race; [-]~~

~~(b) [Furosemide shall be administered] By a single intravenous injection, not less than four (4) hours prior to post time for the race, qualifying race, or time trial in which the horse is entered.~~

~~(c) In a dosage not less than 150 [The furosemide dosage administered shall not exceed 500] milligrams [-], and not more [nor be less] than 500 [450] milligrams.~~

~~(4)(d) The specific gravity of a post-race urine sample shall not be below one and one one-hundredths (1.010). If the specific gravity of the post-race urine sample is determined to be below one and one one-hundredths (1.010), a quantification of furosemide in serum or plasma shall be performed by the commission laboratory. If a horse fails to produce a urine specimen, the commission laboratory shall perform a quantification of furosemide in the serum or plasma sample. Concentrations above 100 nanograms of furosemide per milliliter of serum or plasma shall constitute a violation of this section.~~

~~(5) [(4)] The initial cost of administering the furosemide shall be twenty (20) dollars per administration. The commission shall~~

monitor the costs associated with administering furosemide and consult with industry representatives to determine if the cost should be lowered based on prevailing veterinarian services and supplies. The commission shall maintain records documenting the basis for its determination, and if the cost is determined to be less than twenty (20) dollars per administration, then the commission shall lower the cost accordingly. The cost shall be prominently posted in the racing office.

(6)(a) A two (2) year old or stakes horse shall not be administered any drug, medication or other substance, including furosemide, within twenty-four (24) hours of the post time of the race in which the horse is entered. Participation by the horse shall not affect the status of the participating horse on the official authorized bleeder medication list.

(b) The implementation and enforcement of the prohibition in paragraph (a) of this subsection shall begin on:

1. January 1, 2020 for all two (2) year olds; and

2. January 1, 2021 for all horses entered to run in a stakes race; including the races comprising the Breeders' Cup World Championships and the races designated as graded stakes by the American Graded Stakes Committee of the Thoroughbred Owners and Breeders Association.

(c) A concentration of furosemide greater than one and zero-tenths (1.0) nanograms per milliliter in serum in a post-race sample shall constitute a violation of this regulation.

Section 7. Furosemide Eligibility.

(1)(a) Except as provided in subsection (6) of section 6 of this administrative regulation, [Section 7. Furosemide Eligibility.

(1)(a)] a horse shall be eligible to race with furosemide if the licensed trainer or a licensed veterinarian determines that it would be in the horse's best interests to race with furosemide. Notice that a horse eligible to receive furosemide will race with or without furosemide shall be made at the time of entry to ensure public notification, including publication in the official racing program.

(b) It shall constitute a violation of this administrative regulation if notice is made pursuant to this section that a horse will race with furosemide, and the post-race urine, serum, or plasma does not show a detectable concentration of furosemide in the post-race urine, serum, or plasma.

(2) After a horse has been determined to no longer be required to receive furosemide, the horse shall not be eligible to receive furosemide unless the licensed trainer or a licensed veterinarian determines that it would be in the horse's best interest to race with furosemide and the licensed trainer or a licensed veterinarian complies with the requirements of this section.

Section 8. Permitted Non-steroidal Anti-inflammatory Drugs (NSAIDs).

(1) [Nonsteroidal Antiinflammatory Drugs (NSAIDs).

(1) One (1) of the following] NSAIDs shall [may be used by a single intravenous injection] not be administered within forty-eight [48] [less than twenty-four (24)] hours prior to post time for the race in which the horse is entered. [(if) The detection [concentration] in a [the horse's specimen does not exceed the following levels when tested] post-race sample of blood of a detectable concentration of an NSAID, except as allowed by subsection (2) of this section, shall constitute a violation of this administrative regulation. The detection in a post-race sample of blood of more than one (1) of phenylbutazone. [-]

(a) Phenylbutazone — not to exceed two (2.0) micrograms per milliliter of serum or plasma;

(b) Flunixin — not to exceed twenty (20) nanograms per milliliter of serum or plasma; and

(c) Ketoprofen — not to exceed two (2) nanograms per milliliter of serum or plasma.

(2) NSAIDs, including the permitted NSAIDs, shall not be administered within twenty-four (24) hours prior to post time for the race in which the horse is entered. However, as provided in 810 KAR 8:020, the recommended withdrawal guideline for flunixin, and ketoprofen in excess of the concentrations [is thirty-two (32) hours prior to post time for the race in which the horse is entered.

(3)(a) The use of any NSAID other than the] permitted by

subsection (2) of this section shall constitute a violation of this administrative regulation.

(2)(a) NSAIDs, and the use of multiple permitted NSAIDs shall be discontinued at least forty-eight (48) hours prior to post time for the race in which the horse is entered.

(b) A finding of phenylbutazone below a concentration of three-tenths (0.3) microgram per milliliter of serum or plasma shall not constitute a violation of this section.

(b)(e) A finding of flunixin below a concentration of five (5) [three (3)] nanograms per milliliter of serum or plasma shall not constitute a violation of this section.

(c)(d) A finding of ketoprofen below a concentration of two (2) nanograms [one (1) nanogram] per milliliter of serum or plasma shall not constitute a violation of this section.

Section 9. Anabolic Steroids.

(1) An exogenous AAS shall not be present in a horse that is racing. The detection of an exogenous AAS or metabolic derivative in a post-race sample shall constitute a violation of this administrative regulation.

(2) The detection in a post-race sample of an endogenous AAS or metabolic derivative where the concentration of the AAS or metabolic derivative exceeds naturally occurring physiological levels shall constitute a violation of this administrative regulation. The following shall be deemed to be naturally occurring physiological levels:

(a) Boldenone:

1. In male horses other than geldings, free and conjugated boldenone fifteen (15) nanograms per milliliter in urine or free boldenone twenty-five (25) picograms per milliliter in serum or plasma; and

2. In geldings and female horses, free and conjugated boldenone one (1) nanogram per milliliter in urine or free boldenone twenty-five (25) picograms per milliliter in serum or plasma.

(b) Nandrolone:

1. In geldings, free and conjugated nandrolone one (1) nanogram per milliliter in urine or free nandrolone twenty-five [twenty five] (25) picograms per milliliter in serum or plasma;

2. In fillies and mares, free and conjugated nandrolone one (1) nanogram per milliliter in urine or free nandrolone twenty-five [twenty five] (25) picograms per milliliter in serum or plasma; and

3. In male horses other than geldings, forty-five (45) nanograms per milliliter of metabolite, 5 α -estrane-3 β , 17 α -diol in urine or a ratio in urine of 5 α -estrane-3 β , 17 α -diol to 5 α -estrane-3 β , 17 α -diol of >1:1.

(c) Testosterone:

1. In geldings, free and conjugated testosterone twenty (20) nanograms per milliliter in urine or free testosterone one hundred (100) picograms per milliliter in serum or plasma; and

2. In fillies and mares (unless in foal), free and conjugated testosterone fifty-five (55) nanograms per milliliter in urine or free testosterone one hundred (100) picograms per milliliter in serum or plasma.

(3) The gender of the horse from which a post-race biologic specimen is collected shall be identified to the commission veterinarian and the testing laboratory.

Section 10. Test Barn.

(1) A licensed association shall provide and maintain a test barn on association grounds.

(2) The test barn shall be a fenced enclosure sufficient:

(a) In size and facilities to accommodate the stabling of horses temporarily detained for the taking of biologic specimens; and

(b) In structural design to prevent entry by unauthorized persons.

(3) The test barn shall be under the supervision and control of the Chief Racing Veterinarian or his or her designee, and no access to individuals other than commission personnel shall be permitted unless with the permission of the Chief Racing Veterinarian or his or her designee. If association personnel require immediate access to the test barn due to fire or other

emergency, the association shall report the access to commission officials as soon as possible after the emergency.

Section 11. Sample Collection, Testing and Reporting.

(1) Sample collection shall be done in accordance with the procedures provided in this administrative regulation, 810 KAR 8:060, and under the instructions provided by the commission veterinarian.

(2) The commission veterinarian, in consultation with the commission laboratory shall determine a minimum sample requirement which shall be uniform for each horse and which shall be separated into primary and split samples.

(3) An owner or trainer may request that a split sample be tested by a split sample laboratory approved by the commission.

(4) The cost of testing under subsection (3) of this section, including shipping, shall be borne by the owner or trainer requesting the test.

(5) (a) Stable equipment other than that necessary for washing and cooling out a horse shall not be permitted in the test barn.

(b) Buckets and water shall be furnished by the commission veterinarian.

(c) If a body brace is to be used on a horse, it shall:

1. Be supplied by the trainer; and

2. Applied only with the permission and in the presence of the commission veterinarian or his designee.

(d) A licensed veterinarian may attend to a horse in the test barn only with the permission of and in the presence of the commission veterinarian or his designee.

(6) Within five (5) business days of receipt of notification by the commission laboratory of a positive finding, the stewards and judges shall notify the owner and trainer orally or in writing of the positive finding.

(7) The stewards or judges shall conduct a hearing as soon as possible after the conclusion of an investigation of a positive finding. A person charged with a violation may request a continuance, which the stewards or the judges may grant for good cause shown.

Section 12. Storage and Shipment of Split Samples.

(1) Split samples shall be secured and made available for further testing in accordance with the procedures established in this subsection:

(a) Split samples shall be secured in the test barn in the same manner as the primary samples for shipment to the commission laboratory, as established in Section 11 of this administrative regulation, until the primary samples are packed and secured for shipment to the commission laboratory. Split samples shall then be transferred to a freezer or refrigerator at a secure location approved and chosen by the commission.

(b) A freezer or refrigerator for storage of split samples shall be equipped with a lock. The lock shall be secured to prevent access to the freezer or refrigerator at all times except as specifically provided by paragraph (c) of this subsection.

(c) A freezer or refrigerator for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of samples.

(d) A log shall be maintained by the commission veterinarian that shall be used each time a split sample freezer or refrigerator is opened to specify each person in attendance, the purpose for opening the freezer or refrigerator, identification of split samples deposited or removed, the date and time the freezer or refrigerator was opened, the time the freezer or refrigerator was closed, and verification that the lock was secured prior to and after opening of the freezer or refrigerator. A commission veterinarian or his designee shall be present when the freezer or refrigerator is opened.

(e) Evidence of a malfunction of a split sample freezer or refrigerator shall be documented in the log.

(f) The commission shall be considered the owner of a split sample.

(2)(a) A trainer or owner of a horse receiving notice of a positive finding may request that a split sample corresponding to the portion of the sample tested by the commission laboratory be

sent to the split sample laboratory. The party requesting the split sample shall select a laboratory solicited and approved by the commission to perform the analysis.

(b) The request shall be made in writing and delivered to the stewards or judges within three (3) business days after the trainer or owner of the horse receives oral or written notice of the positive finding by the commission laboratory.

(c) A split sample so requested shall be shipped as expeditiously as possible.

(3) (a) The owner or trainer requesting testing of a split sample shall be responsible for the cost of the testing, including the cost of shipping.

(b) Failure of the owner, trainer, or a designee to appear at the time and place designated by the commission veterinarian in connection with securing, maintaining, or shipping the split sample shall constitute a waiver of any right to be present during split sample testing procedures.

(c) Prior to shipment of the split sample, the commission shall confirm:

1. That the split sample laboratory has agreed to provide the testing requested;
2. That the split sample laboratory has agreed to send results to the commission; and
3. That arrangements for payment satisfactory to the split sample laboratory have been made.

Section 13. Split Sample Chain of Custody.

(1) Prior to opening the split sample freezer or refrigerator, the commission shall provide a split sample chain of custody verification form. The form to be used shall be the Split Sample Chain of Custody Form. The form shall be fully completed during the retrieval, packaging, and shipment of the split sample and shall contain the following information:

- (a) The date and time the sample is removed from the split sample freezer or refrigerator;
- (b) The sample number; and
- (c) The address where the split sample is to be sent.

(2) A split sample shall be removed from the split sample freezer or refrigerator by a commission employee after notice to the owner, trainer, or designee thereof and a commission-designated representative shall pack the split sample for shipment in accordance with the packaging procedures directed by the commission. The Split Sample Chain of Custody Form shall be signed by both the owner's representative, if present, and the commission representative to confirm the proper packaging of the split sample for shipment. The exterior of the package shall be secured and sealed to prevent tampering with the package.

(3) The owner, trainer, or designee, if present, may inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

(4) The Split Sample Chain of Custody Form shall be completed and signed by the representative of the commission and the owner, trainer, or designee, if present.

(5) The commission representative shall retain the original Split Sample Chain of Custody Form and provide a copy to the owner, trainer, or designee, if requested.

Section 14. Medical Labeling.

(1) A drug or medication which, by federal or state law, requires a prescription shall not be used or kept on association grounds unless validly prescribed by a duly licensed veterinarian.

(2) A drug or medication shall bear a prescription label which is securely attached and clearly ascribed to show the following:

- (a) The name of the product;
- (b) The name, address, and telephone number of the veterinarian prescribing or dispensing the product;
- (c) The name of the horse for which the product is intended or prescribed;
- (d) The dosage, duration of treatment, and expiration date of the prescribed or dispensed product; and
- (e) The name of the trainer to whom the product was dispensed.

Section 15. Trainer Responsibility.

(1) In the absence of substantial evidence to the contrary, a trainer shall be responsible for the condition of a horse in his or her care.

(2) In the absence of substantial evidence to the contrary, a trainer shall be responsible for the presence of a prohibited drug, medication, substance, or metabolic derivative, including permitted medication in excess of the maximum allowable concentration, in a horse in his or her care.

(3) A trainer shall prevent the administration of a drug, medication, substance, or metabolic derivative that may constitute a violation of this administrative regulation.

(4) A trainer whose horse has been claimed shall remain responsible for a violation of this administrative regulation regarding that horse's participation in the race in which the horse is claimed.

(5) A trainer shall be responsible for:

(a) Maintaining the assigned stable area in a clean, neat, and sanitary condition at all times;

(b) Using the services of those veterinarians licensed by the commission to attend to horses that are on association grounds;

(c) The proper identity, custody, care, health, condition, and safety of horses in his or her care;

(d) Promptly reporting the alteration of the sex of a horse to the horse identifier and the racing secretary;

(e) Promptly reporting to the racing secretary and the commission veterinarian if a posterior digital neurectomy (heel nerving) is performed on a horse in his or her care and ensuring this fact is designated on its certificate of registration;

(f) Promptly reporting to the racing secretary the name of a mare in his or her care that has been bred and is entered to race;

(g) Promptly notifying the commission veterinarian of a reportable disease or communicable illness in a horse in his or her care;

(h) Promptly reporting the serious injury or death of a horse in his or her care at a location under the jurisdiction of the commission to the stewards or judges and the commission veterinarian and ensuring compliance with Section 22 of this administrative regulation and 810 KAR 4:010, Section 14, governing postmortem examinations;

(i) Complying with the~~Maintaining~~a medication and recordkeeping requirements in subsection (6) of this section~~record and medication status of horses in his or her care~~;

(j) Promptly notifying the stewards or judges and the commission veterinarian if the trainer has knowledge or reason to believe that there has been an administration to a horse of a drug, medication, or other substance prohibited by this administrative regulation or has knowledge or reason to believe that a prohibited practice has occurred as established in Section 20 of this administrative regulation;

(k) Ensuring the fitness of every horse in his or her care to perform creditably at the distance entered;

(l) Ensuring that every horse he or she has entered to race is present at its assigned stall for a pre-race soundness inspection as prescribed by 810 KAR 2:010, Section 4(1)(l);

(m) Ensuring proper bandages, equipment, and shoes;

(n) Ensuring the horse's presence in the paddock at the time prescribed by racing officials before the race in which the horse is entered;

(o) Personally attending in the paddock and supervising the saddling or preparation of a horse in his or her care, unless an assistant trainer fulfills these duties or the trainer is excused by the judges or stewards pursuant to 810 KAR 4:100, Section 3(2)(f); and

(p) Attending the collection of a biologic specimen taken from a horse in his or her care or delegating a licensed employee or the owner to do so.

(6)(a) A trainer shall maintain a clear and accurate record of any treatment administered to a horse in his or her care.

(b) A trainer shall ensure the transfer of copies of all medical records to the subsequent owner and trainer of a horse.

(c) Failure to comply with this subsection may result in the

imposition of penalties pursuant to 810 KAR 8:030.

(d) The stewards and judges may at any time require presentation of a horse's medical records.

Section 16. Licensed Veterinarians.

(1) A veterinarian licensed by the commission and practicing at a location under the jurisdiction of the commission shall be considered under the supervision of the commission veterinarian and the stewards or judges.

(2) A veterinarian shall report to the stewards, judges or the commission veterinarian a violation of this administrative regulation by a licensee.

Section 17. Veterinary Reports.

(1) A veterinarian who treats a horse at a location under the jurisdiction of the commission shall submit a Veterinary Report of Horses Treated to be Submitted Daily form to the commission veterinarian containing the following information:

- (a) The name of the horse treated;
- (b) The type and dosage of drug or medication administered or prescribed;
- (c) The name of the trainer of the horse;
- (d) The date and time of treatment; and
- (e) Other pertinent treatment information requested by the commission veterinarian.

(2) The Veterinary Report of Horses Treated to be Submitted Daily form shall be signed by the treating practicing veterinarian.

(3) The Veterinary Report of Horses Treated to be Submitted Daily form shall be on file not later than the time prescribed on the next race day by the commission veterinarian.

(4) The Veterinary Report of Horses Treated to be Submitted Daily form shall be confidential, and its content shall not be disclosed except in the course of an investigation of a possible violation of this administrative regulation or in a proceeding before the stewards, judges or the commission, or to the trainer or owner of record at the time of treatment.

(5) A timely and accurate filing of a Veterinary Report of Horses Treated to be Submitted Daily form by the veterinarian or his designee that is consistent with the analytical results of a positive test reported by the commission laboratory may be used as a mitigating factor in determining the appropriate penalties pursuant to 810 KAR 8:030.

(6) A veterinarian having knowledge or reason to believe that a horse entered in a race has received a drug, medication, or substance prohibited under this administrative regulation or has knowledge or reason to believe that a prohibited practice has occurred as established in Section 20 of this administrative regulation shall report this fact immediately to the commission veterinarian or to the stewards or judges.

(7) A practicing veterinarian shall maintain records of all horses treated and of all medications sold or dispensed. The records shall include:

- (a) The name of the horse;
- (b) The trainer of the horse;
- (c) The date, time, amount, and type of medication administered;
- (d) The drug or compound administered;
- (e) The method of administration; and
- (f) The diagnosis.

(8) The records shall be retained for at least sixty (60) days after the horse has raced and shall be available for inspection by the commission.

Section 18. Veterinarian's List.

(1) The commission veterinarian shall maintain a list of horses determined to be unfit to compete in a race due to illness, physical distress, unsoundness, infirmity, or other medical condition.

(2) A horse may be removed from the veterinarian's list when, in the opinion of the commission veterinarian, the horse is capable of competing in a race.

(3) The commission shall maintain a bleeder list of all horses that have demonstrated external evidence of exercise-induced pulmonary hemorrhage during or after a race or workout as

observed by the commission veterinarian.

(4) Every horse that is a confirmed bleeder, regardless of age, shall be placed on the bleeder list and be ineligible to participate in a race (betting or non-betting), qualifying race, time trial, or for the following time periods:

- (a) First incident - fourteen (14) days;
- (b) Second incident within a 365-day period - thirty (30) days;
- (c) Third incident within a 365-day period - 180 days; and
- (d) Fourth incident within a 365-day period - barred from racing for life.

(5) For the purpose of counting the number of days a horse is ineligible to run, the day after the horse bled externally shall be the first day of the recovery period.

(6) The voluntary administration of furosemide without an external bleeding incident shall not subject a horse to the initial period of ineligibility as established in this section.

Section 19. Distribution of Purses, Barn Searches, and Retention of Samples.

(1) For all races, purse money in thoroughbred and other flat racing shall be paid or distributed pursuant to the process provided in 810 KAR 2:070, Section 27(3), and in standardbred racing, no later than twenty-four (24) hours after notice from the commission that a final laboratory report has been issued.

(2) The distribution of purse money prior to the issuance of a final laboratory report shall not be considered a finding that no prohibited drug, medication, substance, or metabolic derivative has been administered to a horse.

(3) After the commission laboratory issues a positive finding the executive director of the commission or the stewards or judges may authorize and execute an investigation into the circumstances surrounding the incident that is the subject of the positive finding.

(4) If the purse money has been distributed, the stewards or judges shall order the money returned immediately to the association upon notification from the commission laboratory that a prohibited drug, medication, substance, or metabolic derivative was administered to a horse eligible for purse money.

(5) At the conclusion of testing by the commission laboratory and split sample laboratory, the remaining portion of the samples at the commission laboratory and split samples remaining at the test barn may be retained at a proper temperature at a secure facility approved and chosen by the commission. If a report indicating a positive finding has been issued, the commission shall use its best reasonable efforts to retain any remaining portion of the sample until legal proceedings have concluded. The commission may freeze samples.

Section 20. Other Prohibited Practices Constituting a Violation of this Administrative Regulation.

(1) A drug, medication, substance, or device shall not be possessed or used by a licensee, or his designee or agent, within a nonpublic area at a location under the jurisdiction of the commission:

- (a) The use of which may endanger the health and welfare of the horse; or
- (b) The use of which may endanger the safety of the rider or driver.

(2) Without the prior permission of the commission or its designee, a drug, medication, or substance that has never been approved by the United States Food and Drug Administration (USFDA) for use in humans or animals shall not be possessed or used at a location under the jurisdiction of the commission. The commission shall determine whether to grant prior permission after consultation with the Equine Drug Research Council.

(3) The following blood-doping agents shall not be possessed or used at a location under the jurisdiction of the commission:

- (a) Erythropoietin;
- (b) Darbepoietin;
- (c) Oxyglobin;
- (d) Hemopure; or
- (e) Any substance that abnormally enhances the oxygenation of body tissue.

(4) A treatment, procedure, or therapy shall not be practiced,

administered, or applied which may:

- (a) Endanger the health or welfare of a horse; or
- (b) Endanger the safety of a rider or driver.

(5) Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall not be used unless the conditions established in this subsection are met.

(a) A treated horse shall not race for a minimum of ten (10) days following treatment.

(b) A veterinarian licensed to practice by the commission shall administer the treatment.

(c) The commission veterinarian shall be notified prior to the delivery of the machine on association grounds.

(d) Prior to administering the treatment, a report shall be submitted by the veterinarian administering the treatment to the commission veterinarian on the Veterinary Report of Horses Treated with Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy.

(6) Other than furosemide, an alkalinizing substance that could alter the serum or plasma pH or concentration of bicarbonates or carbon dioxide in a horse shall not be used within twenty-four (24) hours prior to post time of the race in which the horse is entered.

(7) Without the prior permission of the commission veterinarian or his designee, based on standard veterinary practice for recognized conditions, a nasogastric tube which is longer than six (6) inches shall not be used for the administration of any substance within twenty-four (24) hours prior to post time of the race in which the horse is entered.

(8) A serum or plasma total carbon dioxide (TCO2) level shall not exceed thirty-seven (37.0) millimoles per liter; except, a violation shall not exist if the TCO2 level is found to be normal for the horse following the quarantine procedure established in Section 21 of this administrative regulation.

(9) A blood gas machine shall not be possessed or used by a person other than an authorized representative of the commission at a location under the jurisdiction of the commission.

(10) A shock wave therapy machine or radial pulse wave therapy machine shall not be possessed or used by anyone other than a veterinarian licensed by the commission at a location under the jurisdiction of the commission.

Section 21. TCO2 Testing and Procedures.

(1)(a) The stewards, judges, or commission veterinarian may order the pre-race or post-race collection of blood specimens from a horse to determine the total carbon dioxide concentration in the serum or plasma of the horse. The winning horse and other horses, as selected by the stewards or judges, may be tested in each race to determine if there has been a violation of this administrative regulation.

(b) Pre-race sampling shall be done at a reasonable time, place, and manner directed by the chief state steward in consultation with the commission veterinarian.

(c) A specimen consisting of at least two (2) blood tubes shall be taken from a horse to determine the TCO2 concentration in the serum or plasma of the horse. If the commission laboratory determines that the TCO2 level exceeds thirty-seven (37.0) millimoles per liter plus the laboratory's measurement of uncertainty, the executive director of the commission shall be informed of the positive finding.

(d) Split sample testing for TCO2 may be requested by an owner or trainer in advance of the collection of the specimen by the commission veterinarian; however, the collection and testing of a split sample for TCO2 testing shall be done at a reasonable time, place, and manner directed by the commission veterinarian.

(e) The cost of split sample testing, including the cost of shipping, shall be borne by the owner or the trainer.

(2)(a) If the level of TCO2 is determined to exceed thirty-seven (37.0) millimoles per liter plus the laboratory's measurement of uncertainty and the licensed owner or trainer of the horse certifies in writing to the stewards or judges within twenty-four (24) hours after the notification of the test result that the level is normal for that horse, the owner or trainer may request that the horse be held in quarantine. If quarantine is requested, the licensed association shall make guarded quarantine available for that horse for a period

of time to be determined by the steward or judges, but in no event for more than seventy-two (72) hours.

(b) The expense for maintaining the quarantine shall be borne by the owner or trainer.

(c) During quarantine, the horse shall be retested periodically by the commission veterinarian.

(d) The horse shall not be permitted to race during a quarantine period, but it may be exercised and trained at times prescribed by the licensed association and in a manner that allows monitoring of the horse by a commission representative.

(e) During quarantine, the horse shall be fed only hay, oats, and water.

(f) If the commission veterinarian is satisfied that the horse's level of TCO2, as registered in the original test, is physiologically normal for that horse, the stewards or judges:

1. Shall permit the horse to race; and

2. May require repetition of the quarantine procedure established in paragraphs (a) through (f) of this subsection to reestablish that the horse's TCO2 level is physiologically normal.

Section 22. Postmortem Examination.

(1) A horse that dies or is euthanized on the grounds of a licensed association or training center under the jurisdiction of the commission shall undergo a postmortem examination at the discretion of the commission and at a facility designated by the commission, through its designee, as provided in 810 KAR 4:010, Section 14.

(2) The commission shall bear the cost of an autopsy that is required by the commission.

(3) The presence of a prohibited drug, medication, substance, or metabolic derivative thereof in a specimen collected during the postmortem examination of a horse may constitute a violation of this administrative regulation.

Section 23. Corticosteroids.

(1) A corticosteroid shall not be administered intra-articularly within fourteen (14) days before post time for the race in which the horse is entered.

(2) The presence of a detectable concentration of more than one (1) corticosteroid in a post-race sample of blood, urine, or any combination of blood and urine shall constitute a violation of this section.

Section 24. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Veterinary Report of Horses Treated to be Submitted Daily", KHRC 8-010-1, 11/2018;

(b) "Split Sample Chain of Custody Form", KHRC 8-010-2, 11/2018; and

(c) "Veterinary Report of Horses Treated with Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy", KHRC 8-010-3, 11/2018.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the commission's Web site at <http://khrc.ky.gov>.

FRANKLIN S. KLING JR., Chairman

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: February 13, 2020

FILED WITH LRC: February 14, 2020 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on April 22, 2020 at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. 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, 2020. 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: Jennifer Wolsing, General Counsel, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone +1 (859) 246-2040, fax +1 (859) 246-2039, email jennifer.wolsing@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Wolsing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for pre- and post-race testing at licensed racing associations in the Commonwealth. The regulation sets forth specific prohibitions concerning medications, establishes the primary and split sample collection process and notification requirements, sets forth the trainer responsibility rule, establishes the veterinarian's list, contains provisions concerning veterinarians and medical labeling, and sets forth the procedures concerning search and seizure on racing association grounds.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to clearly establish requirements and prohibitions concerning the use of medications during race meetings.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. KRS 230.240(2) authorizes the commission to promulgate administrative regulations restricting or prohibiting the use and administration of drugs or stimulants or other improper acts to horses prior to horses participating in a race. This administrative regulation establishes the requirements, prohibitions, and procedures pertaining to the use of medications on and leading up to racing days during horse race meetings in Kentucky.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures that medications are used appropriately on racing days and in a manner that is consistent with the integrity of racing.

(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 regulation will: - Prohibit the use of electronic therapeutic treatments, other than nebulization, within twenty-four (24) hours before a horse is to race; - Phase down the use of furosemide by prohibiting its use in the twenty-four (24) hours before a race in two-year-old horses and horses running in stakes races the following year; - Expand the prohibition on the use of non-steroidal anti-inflammatory drugs (NSAIDs) from twenty-four (24) hours before a race to forty-eight (48) hours; - Impose requirements on trainers to maintain medical records and to ensure that such records are transferred to subsequent owners and trainers of a horse; and - Impose a fourteen (14) day limit on the intra-articular use of corticosteroids and make the presence of multiple corticosteroids in a post-race sample a violation.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to conform to an emerging industry consensus about proper medication usage in horse racing. Several amendments in particular, such as the corticosteroid and NSAID limits, are necessary to improve safety and welfare.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky.

KRS 230.240(2) authorizes the commission to promulgate administrative regulations restricting or prohibiting the use and administration of drugs or stimulants or other improper acts to horses prior to horses participating in a race. The amendment to this administrative regulation establishes additional requirements, prohibitions, and procedures pertaining to the use of medications on and leading up to racing days during horse race meetings in Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of KRS 230.215(2), 230.260(8), KRS 230.240(2) by establishing appropriate requirements and prohibitions pertaining to the use of medications in horse racing in Kentucky.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Horse Racing Commission is affected by this administrative regulation. In addition, Kentucky's licensed thoroughbred and standardbred race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the use of medication in horse racing. In the year 2017, the commission licensed over 22,000 individuals to participate in horse racing. This number is consistent from year to year.

(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: Participants in horse racing, and especially owners, trainers and veterinarians, will be required to adhere to the requirements and rules set forth in this administrative regulation pertaining to the use of medications in horse racing. Trainers, owners, and veterinarians will have to alter their medication administration practices to comply with the amendments to this regulation. Trainers will also have to take steps to maintain equine medical records and to ensure they are transferred upon the transfer of ownership of a race horse. Trainers will also have to take steps to have horses on track premises no less than twenty-four (24) hours before certain types of races.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No new costs are anticipated to comply with this administrative regulation, as Kentucky's licensees have operated in accordance with similar requirements for many years.

(c) As a result of compliance, what benefits will accrue to the entities: Participants in racing will benefit from clearly defined rules that enhance the integrity of racing.

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

(a) Initially: There is no initial administrative cost to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Kentucky's racing associations are required by KRS 230.240(2) to pay for the cost of testing for prohibited medications. The Kentucky Horse Racing Commission covers other costs of implementing and enforcing this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional fees or funding are necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Explain why or why not. Tiering was not applied because this administrative regulation will

apply to all similarly situated entities in an equal manner.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Horse Racing Commission 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 230.215, 230.225, 230.240, 230.260, KRS 230.290, KRS 230.300.

(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 will not generate revenue for state or local government for the first year.

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

(c) How much will it cost to administer this program for the first year? No funds will be required to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? No funds will be required to administer this 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 (+/-): Neutral
Expenditures (+/-): Neutral
Other Explanation: None

PUBLIC PROTECTION CABINET Kentucky Horse Racing Commission (Amendment)

810 KAR 8:030. Disciplinary measures and penalties.

RELATES TO: KRS 230.215, 230.260, 230.265, 230.290, 230.300, 230.310, 230.320, 230.361

STATUTORY AUTHORITY: KRS 230.215(2), 230.240(2), 230.260(8), 230.265, 230.320

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations under which racing shall be conducted in Kentucky. KRS 230.240(2) requires the commission to promulgate administrative regulations restricting or prohibiting the use and administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race. This administrative regulation establishes the penalty structure for rule violations and also establishes disciplinary powers and duties of the stewards, judges, and the commission.

Section 1. Definitions.

(1) "Associated person" means the spouse of an inactive person, or a companion, family member, employer, employee, agent, partnership, partner, corporation, or other entity whose relationship, whether financial or otherwise, with an inactive person would give the appearance that the other person or entity would care for or train a horse or perform veterinarian services on a horse for the benefit, credit, reputation, or satisfaction of the inactive

person.

(2) "Class A drug" means a drug, medication, or substance classified as a Class A drug, medication, or substance in the schedule.

(3) "Class B drug" means a drug, medication, or substance classified as a Class B drug, medication, or substance in the schedule.

(4) "Class C drug" means a drug, medication, or substance classified as a Class C drug, medication, or substance in the schedule.

(5) "Class D drug" means a drug, medication, or substance classified as a Class D drug, medication, or substance in the schedule.

(6) "Companion" means a person who cohabits with or shares living accommodations with an inactive person.

(7) "Inactive person" means a trainer or veterinarian who has his or her license denied or suspended or revoked for thirty (30) or more days pursuant to KAR Title 810 or KRS Chapter 230.

(8) "NSAID" means a nonsteroidal antiinflammatory drug.

(9) "Primary threshold" means the thresholds for phenylbutazone, flunixin, and ketoprofen provided in 810 KAR 8:010, Section 8(1)(a), (b), and (c), respectively.

(10) "Schedule" means the Kentucky Horse Racing Commission Uniform Drug, Medication, and Substance Classification Schedule as provided in 810 KAR 8:020.

(11) "Secondary threshold" means the thresholds for phenylbutazone, flunixin, and keto-profen provided in 810 KAR 8:010, Section 8(3)(b), (c) and (d), respectively.

(12) "Withdrawal guidelines" means the Kentucky Horse Racing Commission Withdrawal Guidelines established in 810 KAR 8:020.

Section 2. General Provisions.

(1) An alleged violation of the provisions of KRS Chapter 230 or KAR Title 810 shall be adjudicated in accordance with this administrative regulation, 810 KAR 9:010, and KRS Chapters 230 and 13B.

(2) If a drug, medication, or substance that is not classified in the schedule is found to be present in a pre-race or post-race sample or possessed or used by a licensee at a location under the jurisdiction of the commission, the commission may establish a classification after consultation with either or both of the Association of Racing Commissioners International and the Racing and Medication Testing Consortium or their respective successors.

(3) The stewards, judges, and the commission shall consider any mitigating or aggravating circumstances properly presented when assessing penalties pursuant to this administrative regulation. Evidence of full compliance with the withdrawal guidelines shall be considered by the stewards, judges, and the commission as a mitigating factor to be used in determining violations and penalties.

(4) A licensee whose license has been suspended or revoked in any racing jurisdiction or a horse that has been deemed ineligible to race in any racing jurisdiction shall be denied access to locations under the jurisdiction of the commission during the term of the suspension or revocation.

(5) A suspension or revocation shall be calculated in calendar days, unless otherwise specified by the stewards, judges, or the commission in a ruling or order.

(6) Notice of the assessment of a penalty, including a written warning, shall be made to the person penalized. The notice and terms of the penalty shall be posted immediately on the official Web site of the commission and sent to the United States Trotting Association, the Association of Racing Commissioners International, or their successors, as applicable, to be posted on their respective official Web sites. If an appeal is pending, that fact shall be so noted.

(7) A horse administered a substance in violation of 810 KAR 8:010 may be required to pass a commission-approved examination as determined by the stewards or judges pursuant to 810 KAR 4:010, Section 10 or 810 KAR 5:010, Section 4, or be placed on the veterinarian's list pursuant to 810 KAR 8:010, Section 18.

(8) To protect the racing public and ensure the integrity of racing in Kentucky, a trainer whose penalty for a Class A violation or for a Class B third offense violation has not been finally adjudicated may, if stall space is available, be required to house a horse that the trainer has entered in a race in a designated stall for the twenty-four (24) hour period prior to post time of the race in which the horse is entered. If the stewards or judges require the trainer's horse to be kept in a designated stall, there shall be twenty-four (24) hour surveillance of the horse by the association, and the cost shall be borne by the trainer.

(9) In addition to the penalties contained in Section 4 of this administrative regulation for the trainer and owner, any other person who administers, is a party to, facilitates, or is found to be responsible for any violation of 810 KAR 8:010 shall be subject to the relevant penalty as provided for the trainer or other penalty as may be appropriate based upon the violation.

(10) A veterinarian who administers, is a party to, facilitates, or is found to be responsible for any violation of KRS Chapter 230 or KAR Title 810 shall be reported to the Kentucky Board of Veterinary Examiners and the state licensing Board of Veterinary Medicine by the stewards or judges.

(11) In accordance with KRS 230.320(6), an administrative action or the imposition of penalties pursuant to this administrative regulation shall not constitute a bar or be considered jeopardy to prosecution of an act that violates the criminal statutes of Kentucky.

(12) If a person is charged with committing multiple or successive overages involving a Class C or Class D drug, medication, or substance, the stewards, judges, or the commission may charge the person with only one (1) offense if the person demonstrates that he or she was not aware that overages were being administered because the positive test results showing the overages were unavailable to the person charged. In this case, the person alleging that he or she was not aware of the overages shall bear the burden of proving that fact to the stewards, judges, or the commission.

(13) If a penalty for a medication violation requires a horse to be placed on the stewards' list or the judges' list for a period of time, the stewards or judges may waive this requirement if ownership of the horse was legitimately transferred prior to the trainer's notification by the commission of the positive result.

(14) In standardbred racing only, if the penalty is for a driving violation and does not exceed in time a period of five (5) days, the driver may complete the engagement of all horses declared in before the penalty becomes effective. The driver may drive in stake, futurity, early closing and feature races, during a suspension of five (5) days or less, but the suspension shall be extended one (1) day for each date the driver drives in a race.

(15) A horse shall not be permitted to race while owned or controlled wholly or in part by a person whose license has been suspended or revoked.

(16) An association under the jurisdiction of the commission shall not willfully allow:

(a) A person whose license has been suspended or revoked in any jurisdiction to participate in racing;

(b) A horse suspended in any jurisdiction to start in a race or a performance against time; or

(c) The use of its track or grounds by a licensee whose license has been suspended or revoked and has been denied access to the grounds by the stewards or judges in any jurisdiction.

(17) If a person is ejected or excluded from a location under the jurisdiction of the commission, the stewards, judges, and commission director of security shall be notified in writing.

(18) A licensee that has been suspended shall serve any suspension imposed:

(a) During the current race meet, if there are enough remaining days to serve out the suspension;

(b) During the next regularly scheduled race meet at the operating race track where the infraction took place if there are not enough remaining days to serve out the suspension; or

(c) At the discretion of the stewards or judges, during a race meet at another operating track in any jurisdiction where the licensee seeks to engage in the activity for which he or she is

licensed if the track where the infraction took place closes before another race meet is held at that track.

(19) A penalty imposed by the governing body of any racing jurisdiction or the USTA States Trotting Association shall be recognized and reciprocally enforced by the commission unless application is made for a hearing before the stewards or judges, during which the applicant shall show cause as to why the penalty should not be enforced against him in Kentucky. The hearing shall be limited to the following issues:

(a) Whether the applicant is the same person who is subject to the penalty imposed;

(b) Whether the USTA or other racing jurisdiction in fact suspended the applicant; and

(c) Determination of the time period of the suspension as imposed by the USTA or other racing jurisdiction.

Section 3. Prior Offenses. A prior offense occurring in Kentucky or any other racing jurisdiction shall be considered by the stewards, judges, and the commission in assessing penalties. The stewards or judges shall attach to a penalty judgment a copy of the offender's prior record listing violations that were committed both inside and outside of Kentucky.

Section 4. Penalties for Class A, B, C, and D Drug Violations and NSAID and Furosemide Violations.

(1) Class A drugs. The penalties established in paragraphs (a) and (b) of this subsection shall apply to a Class A drug violation.

(a) Trainer

First offense	Second lifetime offense in any racing jurisdiction	Third lifetime offense in any racing jurisdiction
One (1) to three (3) year suspension, absent mitigating circumstances;	Three (3) to five (5) year suspension, absent mitigating circumstances;	Five (5) year suspension to a lifetime ban, absent mitigating circumstances;
AND	AND	AND
\$10,000 to \$25,000 fine, absent mitigating circumstances.	\$25,000 to \$50,000 fine, absent mitigating circumstances.	\$50,000 to \$100,000 fine, absent mitigating circumstances.

(b) Owner

First offense	Second lifetime offense in any racing jurisdiction in a horse owned by the same owner	Third lifetime offense in any racing jurisdiction in a horse owned by the same owner
Disqualification and loss of purse;	Disqualification and loss of purse;	Disqualification and loss of purse;
AND	AND	AND
Horse shall be placed on the stewards' list or judges' list for sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	Horse shall be placed on the stewards' list or judges' list for 120 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	Ninety (90) day suspension, absent mitigating circumstances;
		AND
		\$50,000 fine, absent mitigating circumstances;
		AND
		Horse shall be placed on the

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		stewards' list or judges' list for 180 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.
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(2)(a) The penalties established in paragraphs (b) and (c) of this subsection shall apply to the following:

1. Class B drugs;
2. Gamma amino butyric acid in a concentration greater than 110 nanograms per milliliter; and
3. Cobalt in a concentration greater than fifty (50) parts per billion.

(b) Trainer

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Thirty (30) to sixty (60) day suspension, absent mitigating circumstances; AND \$500 to \$1,000 fine, absent mitigating circumstances.	Sixty (60) to 180 day suspension, absent mitigating circumstances; AND \$1,000 to \$2,500 fine, absent mitigating circumstances.	180 to 365 day suspension, absent mitigating circumstances; AND \$2,500 to \$5,000 fine, absent mitigating circumstances.

(c) Owner

First offense	Second offense within a 365-day period in any racing jurisdiction in a horse owned by the same owner	Third offense within a 365-day period in any racing jurisdiction in a horse owned by the same owner
Disqualification and loss of purse; Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges; AND For a cobalt violation, the horse shall be placed on the stewards' list or judges' list until the horse tests below twenty-five (25) parts per billion. The owner shall be responsible for the cost of testing.	Disqualification and loss of purse; AND Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	Disqualification and loss of purse; AND Horse shall be placed on the stewards' list or judges' list for forty-five (45) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.

(3)(a) The penalties established in paragraphs (b) and (c) of this subsection shall apply to a Class C drug violation and an overage of permitted NSAIDs as follows:

1. Phenylbutazone in a concentration greater than five (5.0) micrograms per milliliter;
2. Flunixin in a concentration greater than 100 nanograms per milliliter; and
3. Ketoprofen in a concentration greater than fifty (50) nanograms per milliliter.

(b) Trainer

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Zero to ten (10) day suspension absent mitigating circumstances; AND \$500 to \$1,500 fine absent mitigating circumstances.	Ten (10) to thirty (30) day suspension absent mitigating circumstances; AND \$1,500 to \$2,500 fine absent mitigating circumstances.	Thirty (30) to sixty (60) day suspension absent mitigating circumstances; AND \$2,500 to \$5,000 fine absent mitigating circumstances.

(c) Owner

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Disqualification and loss of purse; AND Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	Disqualification and loss of purse; AND If same horse as first offense, horse shall be placed on the stewards' list or judges' list for forty-five (45) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	Disqualification and loss of purse; \$5,000 fine, absent mitigating circumstances; AND If same horse as first and second offenses, horse shall be placed on the stewards' list or judges' list for sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.

(4)(a) The penalties established in paragraphs (b) and (c) of this subsection shall apply to the following:

1. Overage of permitted NSAIDs as follows:
 - a. Phenylbutazone in a concentration greater than two (2.0) micrograms per milliliter through five (5.0) micrograms per milliliter;
 - b. Flunixin in a concentration greater than twenty (20) nanograms per milliliter through 100 nanograms per milliliter; and
 - c. Ketoprofen in a concentration greater than two (2.0) nanograms per milliliter through fifty (50) nanograms per milliliter;
2. Overage of furosemide in a concentration greater than 100 nanograms per milliliter;
3. Furosemide not identified when notice made that the horse would run on furosemide; and
4. Cobalt in a concentration greater than twenty-five (25) parts per billion through fifty (50) parts per billion.

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(b) Trainer

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Written warning to a \$500 fine, absent mitigating circumstances.	Written warning to a \$750 fine, absent mitigating circumstances.	\$500 to \$1,000 fine, absent mitigating circumstances.

(c) Owner

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction
Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges; AND For a cobalt violation, the horse shall be placed on the stewards' list or judges' list until the horse tests below twenty-five (25) parts per billion. The owner shall be responsible for the cost of testing.	Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	If same horse as first and second offenses, disqualification and loss of purse; AND Horse may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.

(d) If a furosemide violation occurs due solely to the actions or inactions of the commission veterinarian, then the trainer and owner shall not be penalized.

(5) Multiple NSAIDs. The penalties established in paragraphs (a) and (b) of this subsection shall apply to an overage of two (2) permitted NSAIDs: phenylbutazone, flunixin, and keto-profen.

(a) Trainer

	Concentrations of both permitted NSAIDs above the primary threshold.	Concentrations of one (1) permitted NSAID above the primary threshold and one (1) above the secondary threshold.	Concentrations of both permitted NSAIDs below primary threshold and above secondary threshold.
First offense	Zero to sixty (60) day suspension, absent mitigating circumstances; AND \$500 to \$1,000 fine, absent mitigating circumstances.	Zero to fifteen (15) day suspension, absent mitigating circumstances; AND \$250 to \$750 fine, absent mitigating circumstances.	Zero to five (5) day suspension, absent mitigating circumstances; AND \$250 to \$500 fine, absent mitigating circumstances.

Second offense within a 365-day period in any racing jurisdiction	Sixty (60) to 180 day suspension, absent mitigating circumstances; AND \$1,000 to \$2,500 fine, absent mitigating circumstances.	Fifteen (15) to thirty (30) day suspension, absent mitigating circumstances; AND \$750 to \$1,500 fine, absent mitigating circumstances.	Five (5) to ten (10) day suspension, absent mitigating circumstances; AND \$500 to \$1,000 fine, absent mitigating circumstances.
Third offense within a 365-day period in any racing jurisdiction	180 to 365 day suspension, absent mitigating circumstances; AND \$2,500 to \$5,000 fine, absent mitigating circumstances.	Thirty (30) to sixty (60) day suspension, absent mitigating circumstances; AND \$1,500 to \$3,000 fine, absent mitigating circumstances.	Ten (10) to fifteen (15) day suspension, absent mitigating circumstances; AND \$1,000 to \$2,500 fine, absent mitigating circumstances.

(b) Owner

	Concentrations of both permitted NSAIDs above the primary threshold.	Concentrations of one (1) permitted NSAID above the primary threshold and one (1) above the secondary threshold.	Concentrations of both permitted NSAIDs below primary threshold and above secondary threshold.
First offense	Disqualification and loss of purse.	Disqualification and loss of purse.	No Penalty.
Second offense within a 365-day period in any racing jurisdiction	Disqualification and loss of purse.	Disqualification and loss of purse.	No Penalty.
Third offense within a 365-day period in any racing jurisdiction	Disqualification and loss of purse.	Disqualification and loss of purse.	No Penalty.

(6) Class D drugs.

(a) The penalties established in paragraph (b) of this subsection shall apply to a Class D drug violation.

(b) Trainer

One (1) to four (4) offenses within a 365-day period in any racing jurisdiction	Five (5) or more offenses within a 365-day period in any racing jurisdiction
Zero to five (5) day suspension, absent mitigating circumstances; AND \$250 to \$500 fine, absent	Five (5) to ten (10) day suspension, absent mitigating circumstances; AND \$500 to \$1,000 fine, absent

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mitigating circumstances.	mitigating circumstances.
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Section 5. TCO2 Penalties. The penalties established in subsections (1) and (2) of this section shall apply to a violation of 810 KAR 8:010, Section 20(6), (7), or (8).

(1) Trainer

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction	Subsequent offenses within a 365-day period in any racing jurisdiction
Zero to ninety (90) day suspension, absent mitigating circumstances;	Ninety (90) to 180 day suspension, absent mitigating circumstances;	180 to 365 day suspension, absent mitigating circumstances;	One (1) year suspension to lifetime ban, absent mitigating circumstances.
AND	AND	AND	
\$1,000 to \$1,500 fine, absent mitigating circumstances.	\$1,500 to \$3,000 fine, absent mitigating circumstances.	\$3,000 to \$5,000 fine, absent mitigating circumstances.	

(2) Owner

First offense	Second offense within a 365-day period in any racing jurisdiction	Third offense within a 365-day period in any racing jurisdiction	Subsequent offenses within a 365-day period in any racing jurisdiction
Disqualification and loss of purse.	Disqualification and loss of purse;	Disqualification and loss of purse;	Disqualification and loss of purse;
	AND	AND	AND
	If same horse as first offense, horse shall be placed on the stewards' list from fifteen (15) to sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.	If same horse as first and second offenses, horse shall be placed on the stewards' list from sixty (60) to 180 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.	If same horse as first, second, and third offenses, horse shall be placed on the stewards' list from 180 to 365 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards.

Section 6. Shock Wave Machine and Blood Gas Machine Penalties. The penalties established in subsections (1) and (2) of this section shall apply to a violation of 810 KAR 8:010, Section 20(5), (9), or (10).

(1) Trainer

First offense	Second offense in any lifetime	Third offense in any lifetime
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	racing jurisdiction	racing jurisdiction
Thirty (30) to sixty (60) day suspension absent mitigating circumstances;	Sixty (60) to 180 day suspension absent mitigating circumstances;	180 to 365 day suspension absent mitigating circumstances;
AND	AND	AND
\$1,000 to \$5,000 fine absent mitigating circumstances.	\$5,000 to \$10,000 fine absent mitigating circumstances.	\$10,000 to \$20,000 fine absent mitigating circumstances.

(2) Owner

First offense	Second offense in any racing jurisdiction	Third offense in any racing jurisdiction
Disqualification and loss of purse.	Disqualification and loss of purse;	Disqualification and loss of purse;
	AND	AND
	If same horse as first offense, horse shall be placed on the stewards' list or judges' list from fifteen (15) to sixty (60) days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.	If same horse as first and second offenses, horse shall be placed on the stewards' list or judges' list from sixty (60) to 180 days and may be required to pass a commission-approved examination before being eligible to enter as determined by the stewards or judges.

Section 7. Persons with a Suspended or Revoked License.

(1) A person shall not train a horse or practice veterinary medicine for the benefit, credit, reputation, or satisfaction of an inactive person. The partners in a veterinary practice may provide services to horses if the inactive person does not receive a pecuniary benefit from those services.

(2) An associated person of an inactive person shall not:

(a) Assume the inactive person's responsibilities at a location under the jurisdiction of the commission;

(b) Complete an entry form for a race to be held in Kentucky on behalf of or for the inactive person or an owner or customer for whom the inactive person has worked; or

(c) Pay or advance an entry fee for a race to be held in Kentucky on behalf of or for the inactive person or an owner or customer for whom the inactive person has worked.

(3) An associated person who assumes the responsibility for the care, custody, or control of an unsuspended horse owned (fully or partially), leased, or trained by an inactive person shall not:

(a) Be paid a salary directly or indirectly by or on behalf of the inactive person;

(b) Receive a bonus or any other form of compensation in cash, property, or other remuneration or consideration;

(c) Make a payment or give remuneration or other compensation or consideration to the inactive person or associated person; or

(d) Train or perform veterinary work for the inactive person or an owner or customer of the inactive person at a location under the jurisdiction of the commission. (4) A person who is responsible for the care, training, or veterinary services provided to a horse formerly under the care, training, or veterinary services of an inactive person shall:

(a) Bill customers directly on his or her bill form for any services rendered at or in connection with any race meeting in

Kentucky;

(b) Maintain a personal checking account totally separate from and independent of that of the inactive person to be used to pay expenses of and deposit income from an owner or client of the inactive person;

(c) Not use the services, directly or indirectly, of current employees of the inactive person; and

(d) Pay bills related to the care, training, and racing of the horse from a separate and independent checking account. Copies of the invoices for the expenses shall be retained for not less than six (6) months after the date of the reinstatement of the license of the inactive person or the expiration of the suspension of the inactive person's license.

Section 8. Other Disciplinary Measures.

(1) A person who violates 810 KAR 8:010, Section 20(2), shall be treated the same as a person who has committed a drug violation of the same class, as determined by the commission after consultation with the Equine Drug Research Council.

(2) A person who violates 810 KAR 8:010, Section 20(3), shall be treated the same as a person who has committed a Class A drug violation.

Section 9. Disciplinary Measures by Stewards or Judges. Upon finding a violation or an attempted violation of the provisions of KRS Chapter 230 or KAR Title 810, if not otherwise provided for in this administrative regulation, the stewards or judges may impose one (1) or more of the following penalties:

(1) If the violation or attempted violation may affect the health or safety of a horse or race participant, or may affect the outcome of a race, declare a horse or a licensee ineligible to race or disqualify a horse or a licensee in a race;

(2) Suspend or revoke a person's licensing privileges for a period of time of not more than five (5) years in proportion to the seriousness of the violation and the facts of the case;

(3) Cause a person, licensed or unlicensed, found to have interfered with, or contributed toward the interference of the orderly conduct of a race or race meeting, or person whose presence is found by the stewards or judges to be inconsistent with maintaining the honesty and integrity of the sport of horse racing to be denied access to association grounds or a portion of association grounds; and

(4) Payment of a fine in an amount not to exceed \$50,000 as deemed appropriate by the commission in keeping with the seriousness of the violation and the facts of the case.

Section 10. Disciplinary Measures by the Commission.

(1) Upon finding a violation or an attempted violation of the provisions of KRS Chapter 230 or KAR Title 810, if not otherwise provided for in this administrative regulation, the commission may impose one (1) or more of the following penalties:

(a) If the violation or attempted violation may affect the health or safety of a horse or race participant or may affect the outcome of a race, declare a horse or a licensed person ineligible to race or disqualify a horse or licensed person in a race;

(b) Suspend or revoke a person's licensing privileges for a period of time of not more than five (5) years in proportion to the seriousness of the violation;

(c) Cause a person found to have interfered with or contributed toward the interference of the orderly conduct of a race or race meeting, or person whose presence is found by the commission to be inconsistent with maintaining the honesty and integrity of horse racing, to be denied access to association grounds or a portion of association grounds for a length of time the commission deems necessary;

(d) Payment of a fine of up to \$50,000 as deemed appropriate by the commission in keeping with the seriousness of the violation and the facts of the case.

(2) Upon appeal of a matter determined by the stewards' or judges the commission may:

(a) Order a hearing de novo of a matter determined by the stewards' or judges; and

(b) Reverse or revise the stewards' or judges' ruling in whole or

in part, except as to findings of fact by the stewards' or judges' ruling regarding matters that occurred during or incident to the running of a race and as to the extent of disqualification fixed by the stewards or judges for a foul in a race.

FRANKLIN S. KLING JR., Chairman

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: February 13, 2020

FILED WITH LRC: February 14, 2020 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on April 22, 2020 at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. 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, 2020. 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: Jennifer Wolsing, General Counsel, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone +1 (859) 246-2040, fax +1 (859) 246-2039, email jennifer.wolsing@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Wolsing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the penalties for violations of the requirements and prohibitions concerning the use of medication at race meetings at licensed racing associations in the Commonwealth.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to clearly establish requirements and prohibitions concerning the use of medications during race meetings.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. KRS 230.240(2) authorizes the commission to promulgate administrative regulations restricting or prohibiting the use and administration of drugs or stimulants or other improper acts to horses prior to horses participating in a race. This administrative regulation establishes the requirements, prohibitions, and procedures pertaining to the use of medications on racing days during horse race meetings in Kentucky.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures that medications are used appropriately on racing days and in a manner that is consistent with the integrity of racing.

(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 sets penalties for positive findings of non-steroidal anti-inflammatory drugs (NSAIDs) and more than one NSAID that correspond to amendments being proposed to 810 KAR 8:010 that would expand the limitation on the use of NSAIDs from twenty-four (24) to forty-eight (48) hours before a race in which a horse is entered to race.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to conform to an emerging industry consensus about proper medication usage in horse racing, to improve safety and welfare, and to align the

penalty structure with amendments proposed for 810 KAR 8:010.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. KRS 230.240(2) authorizes the commission to promulgate administrative regulations restricting or prohibiting the use and administration of drugs or stimulants or other improper acts to horses prior to horses participating in a race. The amendment to this administrative regulation establishes additional requirements, prohibitions, and procedures pertaining to the use of medications on and leading up to racing days during horse race meetings in Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of KRS 230.215(2), 230.260(8), KRS 230.240(2) by establishing appropriate requirements and prohibitions pertaining to the use of medications in horse racing in Kentucky.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Horse Racing Commission is affected by this administrative regulation. In addition, Kentucky's licensed thoroughbred and standardbred race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the use of medication in horse racing. In the year 2017, the commission licensed over 22,000 individuals to participate in horse racing. This number is consistent from year to year.

(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: Participants in horse racing, and especially owners, trainers and veterinarians, will be required to adhere to the requirements and rules set forth in this administrative regulation pertaining to the use of medication in horse racing. Trainers, owners, and veterinarians will have to alter their medication administration practices to comply with the amendments to this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No new costs are anticipated to comply with this administrative regulation, as Kentucky's licensees have operated in accordance with similar requirements for many years.

(c) As a result of compliance, what benefits will accrue to the entities: Participants in racing will benefit from clearly defined rules that enhance the integrity of racing.

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

(a) Initially: There is no initial administrative cost to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Kentucky's racing associations are required by KRS 230.240(2) to pay for the cost of testing for prohibited medications. The Kentucky Horse Racing Commission covers other costs of implementing and enforcing this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional fees or funding are necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Explain why or why not. Tiering was not applied because this administrative regulation will

apply to all similarly situated entities in an equal manner.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Horse Racing Commission 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 230.215, 230.225, 230.240, 230.260, KRS 230.290, KRS 230.300.

(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 will not generate revenue for state or local government for the first year.

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

(c) How much will it cost to administer this program for the first year? No funds will be required to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? No funds will be required to administer this 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 (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None

PUBLIC PROTECTION CABINET Kentucky Horse Racing Commission (Amendment)

811 KAR 1:250. Exotic wagering.

RELATES TO: KRS 230.210-230.375, 230.990

STATUTORY AUTHORITY: KRS 230.215, 230.240, 230.260, 230.280, 230.290, 230.300, 230.310, 230.320, 230.361, 230.370

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the commission the authority to regulate conditions under which standardbred racing and pari-mutuel wagering thereon shall be conducted in Kentucky. KRS 230.361(1) requires the commission to promulgate administrative regulations governing and regulating ~~pari-mutuel~~ ^{mutual} wagering on horse races under the pari-mutuel system of wagering. This administrative regulation establishes the procedures and regulations governing exotic wagering under KRS Chapter 230 and 811 KAR Chapter 1.

Section 1. All Pari-mutuel Wagers on an Historical Horse Race Are Exotic Wagers. All pari-mutuel wagers other than win, place, or show wagers on a live horse race are exotic wagers.

Section 2. Exotic Wagers to Be Approved by Commission.

(1) An association shall not offer an exotic wager on any live or historical horse race without the prior written approval of the commission.

(2) An association making a request to offer an exotic wager

on a live or historical horse race may make an oral presentation to the commission regarding the wager, prior to the commission deciding on the request.

(a) The presentation shall be made by the association during a meeting of the commission.

(b) The presentation shall be limited to the information contained in the written request and any supplemental information relevant to the commission's determination of the suitability of the wager.

(c) The commission may require an association to clarify or otherwise respond to questions concerning the written request as a condition to approval of the exotic wager.

(3) The commission may request additional information from an association regarding the exotic wager if the additional information would assist the commission in deciding whether to approve it.

(4) In reviewing a written request for an exotic wager, the commission may consider any information, data, reports, findings, or other factors available which it considers important or relevant to its determination of whether the wager should be approved.

(5) The commission or its designee shall review and test the exotic wager and shall give its approval if it is satisfied that:

(a) The wager does not adversely affect the safety or integrity of horse racing or pari-mutuel wagering in the Commonwealth; and

(b) The wager complies with KRS Chapter 230 and 811 KAR Chapter 1.

(6) The commission shall notify the association if it determines that the criteria set forth in subsection (5) of this section are no longer being met and it intends to withdraw approval of a particular exotic wager.

(7) An association shall not implement any change or modification to the practices, procedures, or representations upon which the approval of the exotic wager was based without the prior written approval of the commission.

Section 3. Exotic Wagers on a Live Horse Race.

(1) Except as set forth in subsection (2) of this section, an association shall submit a written request to the commission for permission to offer any exotic wager on a live horse race, which shall include a detailed description of the rules that apply to the wager and the method of calculating payouts.

(2) If the rules have not been modified since the wager was approved by the commission, an association shall not be required to seek the commission's approval to offer the following previously approved exotic wagers on live horse races: Exacta, Perfecta, Quinella, Trifecta, Superfecta, Double Perfecta, Big Q, Twin Trifecta, Daily Double, Super High 5, Pick-3, Pick-4, and Pick-6.

Section 4. Exotic Wagers on an Historical Horse Race.

(1) An association shall submit a written request to the commission for permission to offer any exotic wager on an historical horse race, which shall include:

(a) The types, number, and denominations of pari-mutuel wagers to be offered;

(b) A detailed description of the rules that apply to the pari-mutuel wager and the method of calculating payouts, including how money will be allocated to the seed pool;

(c) The days and hours of operation during which wagering on historical horse races will be offered;

(d) A detailed description of the proposed designated area and the terminal or terminals on which the pari-mutuel wagers will be made, including an architect's rendering of the proposed designated area which describes the size, construction, layout, capacity, number of terminals, and location of surveillance and other security equipment, and at least one (1) photograph of the designated area when construction is completed;

(e) The practices and procedures that will ensure the security, safety, and comfort of patrons in the designated area;

(f) The manufacturer, make, and model of the terminal, including a copy of all literature supplied by the manufacturer of the terminal;

(g) The maintenance and repair procedures that will ensure the integrity of the terminals;

(h) A complete list of individuals who are authorized to examine and repair the terminals for any reason; and

(i) A memorandum outlining the terms of the agreement between the association and the Kentucky Harness Horsemen's Association or the Kentucky Harness Association referenced in Section 6(2) of this administrative regulation.

(2)(a) Except as set forth in paragraph (b) of this subsection, each association that is approved by the commission to offer exotic wagering on an historical horse race shall request, in any application submitted for a license to conduct live horse racing pursuant to KRS 230.300 and 810 KAR 3:010[811 KAR 1:037]:

1. No less than 100 percent of the number of racing days initially requested by the association in its application to conduct standardbred racing for the 2010 racing year; and

2. No less than 100 percent of the number of races initially requested by the association in its application to conduct standardbred racing for the 2010 racing year.

(b) An association may apply for less than 100 percent of the number of racing days initially applied for by the association in its application to conduct standardbred racing for 2010, or the number of races initially applied for by the association in its application to conduct standardbred racing for 2010, if written approval is obtained from the commission and the Kentucky Harness Horsemen's Association or the Kentucky Harness Association.

Section 5. Terminals Used for Wagering on an Historical Horse Race.

(1) Wagering on historical horse races shall be conducted only on terminals approved by the commission as set forth in Sections 2(5) and 5(2) of this administrative regulation. The commission shall not require any particular make of terminal.

(2)(a) The commission shall require testing of each terminal used for wagering on historical horse races by an independent testing laboratory to ensure its integrity and proper working order.

(b) The independent testing laboratory shall be chosen by the commission and the expense of the testing shall be paid by the association offering the wagering on historical horse races.

(3) Each terminal for wagering on an historical horse race shall display odds or pool amounts that the patron will receive for a winning wager on each pari-mutuel wagering pool.

Section 6. Takeout.

(1) Each association conducting exotic wagering on historical horse races shall deduct a takeout, which shall not exceed the percentages set forth in KRS 230.750.

(2)(a) Each association shall enter into an agreement with the Kentucky Harness Horsemen's Association or the Kentucky Harness Association establishing the allocation of the takeout on all exotic wagers on historical horse races offered by the association. The agreement shall apply to all exotic wagers on historical horse races offered, or to be offered, by the association during the term of the agreement.

(b) The agreement shall include provisions allocating a percentage of the takeout to purses on live races run by the association.

(c) Each association shall provide a memorandum outlining the terms of the agreement to the commission.

Section 7. Severability. In the event that any provision or administrative regulation of this chapter is found to be invalid, the remaining provisions of this chapter shall not be affected nor diminished thereby.

FRANKLIN S. KLING JR., Chairman

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: February 13, 2020

FILED WITH LRC: February 14, 2020 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on April 22, 2020 at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. 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, 2020. 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: Jennifer Wolsing, General Counsel, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone +1 (859) 246-2040, fax +1 (859) 246-2039, email jennifer.wolsing@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Wolsing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation clarifies the process for licensed racing associations to request permission from the Kentucky Horse Racing Commission (the "commission") to offer exotic forms of pari-mutuel wagers on live and historical horse races. "Exotic wagers" are defined as "any pari-mutuel wager placed on a live or historical horse race, other than a win, place, or show wager placed on a live horse race." It includes a process for associations to request permission to offer pari-mutuel wagering on live and historical horse races and establishes criteria for the commission to evaluate such requests.

(b) The necessity of this administrative regulation: This regulation is necessary for the commission to regulate the integrity of pari-mutuel wagering in the Commonwealth.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) grants the commission the authority to regulate conditions under which standardbred racing and pari-mutuel wagering thereon shall be conducted in Kentucky. KRS 230.361(1) requires the commission to promulgate administrative regulations governing and regulating pari-mutuel wagering on horse races under the pari-mutuel system of wagering. This regulation establishes the procedures and regulations governing exotic forms of pari-mutuel wagering under KRS Chapter 230 and the commission's administrative regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 230.361 requires the commission to promulgate administrative regulations governing and regulating pari-mutuel wagering on horse races under the pari-mutuel system of wagering. This administrative regulation establishes the criteria for determining whether exotic wagers requested by licensed racing associations comply with the provisions of KRS Chapter 230 and the commission's 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 is necessary to update the text of the administrative regulation to reflect the current realities of standardbred racing and the founding of a new horsemen's association seeking to represent standardbred horsemen. Specifically, this amendment adds the Kentucky Harness Association as an entity with which a racing association may enter into an agreement concerning the allocation of the takeout to purses for live racing.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to include the Kentucky Harness Association as an entity with which a racing association may enter into an agreement concerning the allocation of the takeout to purses for live racing.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 230.215(2) grants the commission the authority to regulate conditions under which standardbred racing and pari-mutuel wagering thereon shall be conducted in Kentucky. KRS 230.361(1) requires the commission to promulgate

administrative regulations governing and regulating pari-mutuel wagering on horse races under the pari-mutuel system of wagering. This amendment adds to the procedures and regulations governing exotic forms of pari-mutuel wagering under KRS Chapter 230 and the commission's administrative regulations.

(d) How the amendment will assist in the effective administration of the statutes: KRS 230.361 requires the commission to promulgate administrative regulations governing and regulating pari-mutuel wagering on horse races under the pari-mutuel system of wagering. This amendment adds to the criteria for determining whether exotic wagers requested by licensed racing associations comply with the provisions of KRS Chapter 230 and the commission's administrative regulations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky's two (2) licensed standardbred race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the conduct of racing. In the year 2017, the commission licensed over 22,000 individuals to participate in horse racing. This number is consistent from year to year.

(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: The licensed racing associations will be required to follow the procedure outlined in the regulation to offer any exotic wager that has not been previously approved by the commission. The associations that offer pari-mutuel wagering on historical horse races will also be required to enter into an agreement with the Kentucky Harness Horsemen's Association or the Kentucky Harness Association regarding the allocation of the takeout between the association and the horsemen and file a memorandum with the commission outlining the terms of the agreement.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Licensed racing associations are already required to enter into an agreement with a harness horsemen's association to comply with certain aspect of this regulation. The amendment merely adds a second horsemen's group with whom the racing associations can enter into an agreement, and thus there should be no significant cost from complying with the amendment.

(c) As a result of compliance, what benefits will accrue to the entities: Licensed harness racing associations will have an option when entering into an agreement concerning the percentage of pari-mutuel wagering takeout to be applied to purses for live racing. Compliance puts the harness racing associations on a similar footing with thoroughbred racing associations, which also have two horsemen's groups with which they can enter into agreements.

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

(a) Initially: There is no initial administrative cost to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No significant funding will be necessary to implement and enforce this administrative regulation. Any minimal costs will be funded from the budget of the commission.

(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 additional fees or funding are necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Explain why or why not. Tiering was not applied because this amended regulation will apply to all similarly situated entities in an equal manner.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Horse Racing Commission 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 230.215, 230.225, 230.240, 230.260, 230.290, 230.310, 230.320, 230.370.

(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 will not generate revenue for state or local government for the first year.

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

(c) How much will it cost to administer this program for the first year? No funds will be required to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? No funds will be required to administer this 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 (+/-): Neutral
Expenditures (+/-): Neutral
Other Explanation: None

PUBLIC PROTECTION CABINET Department of Housing, Buildings and Construction Division of Plumbing (Amendment)

815 KAR 20:191. Minimum fixture requirements.

RELATES TO: KRS 58.200, 162.062, 318.160

STATUTORY AUTHORITY: KRS 198B.040(10), 318.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 318.130

requires the department[, after approval by the State Plumbing Code Committee,] to promulgate [an] administrative regulations[regulation] establishing the Kentucky State Plumbing Code regulating the construction, installation, and alteration of plumbing and plumbing fixtures and appliances, house sewers and private water supplies, and[including] the methods and materials that may be used in Kentucky. [KRS 58.200(2) requires newly-constructed public buildings to be equipped with twice the number of restroom facilities for use by women as is provided for use by men.] This administrative regulation establishes the minimum plumbing fixture requirements for buildings in Kentucky.

Section 1. [Definitions. (1) "Developed travel distance" means the length of a pathway measured along the center line of the path.

(2) "Mobile facility" means a vehicle licensed and registered with the Kentucky Department of Transportation that contains plumbing fixtures and is intended for temporary use with regard to

the structure it serves.

(3) "Modular" means a structure or component that is wholly or in substantial part fabricated in an off-site manufacturing facility for installation at the building site.

(4) "Temporary" means a period of time not to exceed thirty (30) days of intermittent or continual use within a twelve (12) month period on the same premises.

Section 2.] General Requirements.

(1) In a building accommodating males and females, it shall be presumed that the occupants will be equally divided between males and females, unless otherwise denoted on the plan application documents.

(2) The occupancy load factor used to determine the total number of plumbing fixtures required in a building shall be the load denoted in the Kentucky Building Code, incorporated by reference in 815 KAR 7:120.

(3) All types of buildings shall be provided with toilet rooms on each level or floor, unless:

(a) Separate facilities on each level or floor are unnecessary; and

(b) Toilet rooms on every other level or floor shall be sufficient.

(4) Unisex Facilities in Historic Buildings. A building or structure that is listed in the National Register of Historic Places or designated as historic under Kentucky statute may provide the required number of plumbing fixtures in unisex facilities if the overall occupant load is 100 persons or less, except as required in swimming pool bathhouses, park services buildings, and bathhouses in Group B, public garages in Group S-2, Group E buildings, dormitories in Group R-2, Group I-2 buildings, and Group I-3 buildings[Sections 7, 8, 9, 12, 13, 15, 16, and 17 of this administrative regulation].

(5) Unisex facilities in historic buildings permitted by this section shall not be required to provide [the] urinals.

(6) Toilet rooms for males, females, and unisex shall be clearly marked.

(7) Upon written request, the department shall permit the temporary use of a mobile facility in accordance with this administrative regulation. The written request shall be submitted to the division [of Plumbing] and shall include the:

(a) Name of the owner;

(b) Address of the location of the building being served by the mobile facilities; and

(c) Dates for which the mobile facilities are to be used.

(8) Water closet type. All water closets in public restrooms shall be of an elongated bowl type with a split open front seat.

(9) Service sinks. (a) One (1) service sink shall be required on each floor of a public building unless otherwise approved by the department.

(b) A request for exemption of a service sink shall be submitted in writing to the division.

(c) The division shall respond in writing to the requester either granting or denying the exemption request.

(10) Urinal Substitution. A urinal may be substituted for a water closet for males if the substituted urinals do not exceed one third (1/3) of the required number of water closets for males.

(11) Public Facilities.

(a) Sanitary facilities shall be provided for the public if the building contains 5,000 square feet or more.

(b) In a mall or shopping center, the required facilities, based on one (1) person per 100 square feet of total area, shall be installed in individual stores or in a central toilet room area or areas, if:

1. The distance from the main entrance of a store does not exceed 500 feet; and

2. The toilet room area is accessible to physically disabled persons.

Section 3. Toilet Floor Construction Requirements.

(1) Floors in toilet rooms shall be constructed of nonabsorbent materials.

(2) If a wood floor is used, the wood floor shall be covered by other nonabsorbent materials.

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(3) If two (2) or more fixtures that receive human waste are installed and a wood floor is not used, the toilet room shall have at least:

- (a) One (1) floor drain; and
- (b) One (1) accessible hose bibb.

Section 4. Fixture Requirements.

(1) The following chart shall provide the water closet, lavatory, drinking fountain, and urinal requirements for different occupancy groups.

Occupancy Group	Examples	Water Closet (males) ^a	Water Closet (females) ^a	Lavatories (male) ^a	Lavatories (female) ^a	Drinking Fountain ^b	Urinals (males) ^a
A-1	Theaters, movie theaters, and similar buildings	1 per up to 100; 2 for 101 to 200; 3 for 201 to 400; 1 per additional 500 afterwards	1 for up to 50; 2 for 51 to 100; 3 for 101 to 150; 4 for 151 to 200; 1 per additional 150 afterwards	1 for up to 100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	1 for up to 100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	1 per 500 on every floor	1 for 11 to 100; 2 for 101 to 300; 3 for 301 to 600; and 1 for each additional 300 afterward
A-2	Banquet halls, casinos, dance halls, night clubs, restaurants, cafeterias, taverns, and bars	1 per up to 200; 2 for 201 to 400; 1 per additional 200 afterwards	1 per up to 100; 2 for 101 to 200; 1 per additional 200 afterwards	1 per 200	1 per 200	1 per 100 unless water stations are provided	1 for 50 to 200; 1 per additional 150 afterwards
A-3	Libraries, museums, and art galleries	1 per 200	1 per 100	1 per 200	1 per 100	1 per 500	1 for 11 to 200; 2 for 201 to 400; 3 for 401 to 600; and 1 for each additional 300 afterward
	Assembly halls and similar buildings	1 per up to 100; 2 for 101 to 200; 3 for 201 to 400; 1 per additional 500 afterwards	1 for up to 50; 2 for 51 to 100; 3 for 101 to 150; 4 for 151 to 200; 1 per additional 150 afterwards	1 for up to 100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	1 for up to 100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	1 per 500 on every floor	1 for 11 to 100; 2 for 101 to 300; 3 for 301 to 600; and 1 for each additional 300 afterward
	Places of worship	1 per 300	1 per 150	1 per 200	1 per 200	1 per 400	1 for 50 to 150; 1 for each additional 150 afterwards
A-4	Structures for indoor sporting events and activities	1 for 100; 2 for 101 to 200; 3 for 201 to 400; 1 per additional 500 afterwards	1 for 50; 2 for 51 to 100; 3 for 101 to 150; 4 for 151 to 200; 1 per additional 150 afterwards	1 for up to 100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	1 for up to 100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	1 per 500 on every floor	1 for 11 to 100; 2 for 101 to 300; 3 for 301 to 600; and 1 for each additional 300 afterward
A-5	Stadiums and other structures for outdoor sporting events and activities	1 for 100; 2 for 101 to 200; 3 for 201 to 400; 1 per additional 500 afterwards	1 for 50; 2 for 51 to 100; 3 for 101 to 150; 4 for 151 to 200; 1 per additional 150 afterwards	1 for up to 100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	1 for up to 100; 2 for 101 to 200; 3 for 201 to 400; 4 for 401 to 750; 1 per each 500 afterwards	1 per 500 on every floor	1 for 11 to 100; 2 for 101 to 300; 3 for 301 to 600; and 1 for each additional 300 afterward
B	Swimming pool bathhouses	1 per 75	1 per 50	1 per 50	1 per 50	1 per 200	1 per 75
	Park service buildings or bathhouses	See subsections (11) and (12) of this section					
	Office buildings ^c	1 for 1 to 15; 2 for 16 to 35; 3 for 36 to 55; 4 for 56 to 80; 5 for 81 to 110; 6 for 111 to 150; 1 for each additional 40 afterwards		1 for 1 to 15; 2 for 16 to 35; 3 for 36 to 60; 4 for 61 to 90; 5 for 91 to 125; 1 for each additional 75 afterwards		1 per 75	Optional
	Schools of higher-	1 per 50	1 per 25	1 per 25	1 per 25	1 per 75	1 per 50

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	<u>education and similar educational facilities</u>						
E	<u>School buildings (not including higher-education facilities)</u>	1 for up to 25; 2 for 26 to 100; 1 for each 100 afterwards	2 for up to 25; 3 for 26 to 50; 6 for 51 to 100; 8 for 101 to 200; 10 for 201 to 300; 12 for 301 to 400; 14 for 401 to 500; 1 additional for each 40 afterwards	1 per 25 up to 50; 1 per 50 afterwards	1 per 25 up to 50; 1 per 50 afterwards	See subsection (10) of this section	1 for 1 to 25; 2 for 26 to 50; 4 for 51 to 100; 6 for 101 to 200; 8 for 201 to 300; 10 for 301 to 400; 12 for 401 to 500; 1 for each additional 50 afterwards
M	<u>Mercantile and retail food store</u>	1 per 150 up to 450; 1 per additional 500	1 per 100 up to 400; 1 per each additional 300	1 for 1 to 200; 2 for 201 to 400; 3 for 401 to 700; 1 for each additional 500	1 for 1 to 200; 2 for 201 to 400; 3 for 401 to 700; 1 for each additional 500	1 per 500 on each floor	1 for 50 to 200; 2 for 201 to 400; 3 for 401 to 600; 1 for additional 300 afterwards
R-1	<u>Transient lodging facilities (public service areas)</u>	1 per 25	1 per 15	1 per 25	1 per 25	1 per 75 on each floor	1 for 11 to 100; 1 for each additional 50 afterwards
	<u>Transient lodging facilities (without private bath)</u>	1 per 10; 1 per additional 25 afterwards	1 per 8; 1 per additional 20 afterwards	1 per 10	1 per 10	1 per 75 on each floor	1 for 11 to 100; 1 for each additional 50 afterwards
R-2 ^c	<u>Dormitories, fraternities, sororities, and rooming houses</u>	1 per 10		1 per 10		1 per 75	Optional
R-3 ^c	<u>Congregate living facilities with 16 or fewer persons</u>	1 per 10		1 per 10		1 per 75	Optional
R-4 ^c	<u>Congregate living facilities with 16 or fewer persons</u>	1 per 10		1 per 10		1 per 75	Optional
I-1	<u>Residential Care</u>	1 per 10	1 per 10	1 per 10	1 per 10	1 per 100 on each floor	1 for each 50
I-2	<u>Hospitals wards and nursing home wards</u>	1 per 10	1 per 10	1 per 10	1 per 10	1 per 100 on each floor	1 for each 50
	<u>Hospital individual rooms and nursing home individual rooms^c</u>	1 per room		1 per room		Optional	Optional
I-3	<u>Institutions, penal (Cells)^c</u>	1 prison-type water closet per cell		1 prison-type lavatory per cell		Optional	Optional
	<u>Institutions, penal (Day rooms and dorms)</u>	1 per 12	1 per 8	1 per 12	1 per 12	1 per floor	Optional
I-4	<u>Adult day care and child day care</u>	1 per 10	1 per 10	1 per 10	1 per 10	1 per 100 on each floor	1 for each 50
F-1 and F-2	<u>Workshops and factories</u>	1 for 25 to 100; 1 for each additional 30 afterwards	1 for 15 to 100; 1 for each additional 30 afterwards	1 for 25 to 100; 1 for each additional 50 afterwards	1 for 25 to 100; 1 for each additional 50 afterwards	1 for 50 to 100 on each floor; 1 for each additional 75 afterwards	1 for 11 to 50; 2 for 51 to 100; 1 for each additional 100 afterward
S-2	<u>Parking garages^d</u>	1	1	1	1	Optional	1

Notes: a. The ratio equals the number of fixtures per the number of male occupants or female occupants.

b. The ratio equals the number of fixtures per the total number of occupants.

c. Separate male and female water closets or male and female lavatories are not required in these occupancy types.

d. There are no minimum fixture requirements for Group S-1 or S-2 buildings except for the minimum fixture requirement for parking garages.

auditorium area.

(2) Facilities for Stages. (a)[(1)] A separate water closet and lavatory shall be provided for males and females in the stage area.

(b)[(2)] A drinking fountain shall be provided in the stage and

(3) Carry-out food service facilities. A carry-out food service operation shall be exempt from providing toilet facilities for the use of the carry-out food service facility's patrons.

(4) Licensed food establishments. In all food establishments licensed by the Cabinet for Health and Family Services, Department for Public Health, the requirements of this subsection shall be met.

(a) Handwashing sinks.

1. All handwashing sinks shall have a minimum hot water temperature of 100 degrees Fahrenheit and a maximum hot water temperature of 120 degrees Fahrenheit.

2. Self-closing faucets shall provide a flow of water for no less than fifteen (15) seconds from activation.

3. Placement of handwashing sinks shall be approved by the Cabinet for Health and Family Services, Department for Public Health pursuant to 902 KAR 45:005.

(b) A three (3) compartment sink used for washing utensils shall be required and shall drain by a direct connection with a minimum of a two (2) inch drain.

(c) Dishwashing or ware washing machines shall discharge indirectly through a three (3) inch open receptacle.

(d) Residential type dishwashing machines shall discharge:

1. Through an air gap device; or

2. Indirectly through a three (3) inch open receptacle.

(e) Sinks solely used for food preparation shall discharge by an indirect connection to a minimum three (3) inch trap.

(f) All hub drains, open receptacles, floor sinks, or other waste receptacles shall extend one (1) inch above the floor plane unless a full grate/strainer is installed flush with the floor.

(g) Mobile food units. Occupied mobile food units not located within an existing permitted food establishment shall:

1. Meet the requirements of this code.

2. Have a waste tank no less than fifty (50) percent larger than the freshwater tank;

3. Have a National Sanitary Foundation (NSF) approved freshwater tank for potable water; and

4. Have a minimum of a three (3) compartment sink and one (1) hand sink.

(5) A restaurant with an occupancy of one (1) to fifteen (15) persons shall:

(a) Comply with the requirements for Group A-2 buildings; or

(b) Provide at least one (1) unisex facility consisting of one (1) water closet and one (1) lavatory.

(6) Employee Facilities.

(a) Sanitary facilities within each building shall be provided for employees, unless an exception is approved by the division.

(b) If more than five (5) persons are employed, separate facilities for each sex shall be provided.

(c) For a tenant space within a building of 3,000 square feet or less of total gross floor area, employee facilities shall not be

required if adequate interior facilities are provided within a centralized toilet room area or accessible areas having a travel distance of not more than 500 feet within the building in which the tenant space is located.

(7) Residential private rooms. Residential facilities in Group R-1, Group R-2, Group R-3, and Group R-4 that have a private bath attached to a private room shall have one (1) water closet, one (1) lavatory, and one (1) bathtub or shower.

(8) Kitchen type sinks. An apartment unit or a condominium unit in Group R-2 or Group R-3 buildings shall have a kitchen type sink.

(9) Waiting rooms. Waiting rooms in Group I-2 buildings and Group I-3 buildings shall provide at least one (1) water closet and one (1) lavatory.

(10) School drinking fountains. (a) Group E (not including higher education facilities) buildings shall have the following:

1. A minimum of two (2) water bottle filling stations in each school;

2. A minimum of one (1) drinking fountain or water bottle filling station on each floor and wing of each school building; and

3. A minimum of one (1) drinking fountain or water bottle filling station for every seventy five (75) students projected to attend the school upon completion of the proposed construction.

(b) A drinking fountain shall be equipped with:

1. A protective cowl; and

2. The orifice, which shall be one (1) inch above the overflow rim of the fountain.

(11) Park Service Buildings or Bathhouses. A park service building or bathhouse shall comply with the requirements established in 902 KAR 15:020 and this subsection.

(a) Except for a self-contained recreational vehicle community, each park shall provide one (1) or more central service buildings containing the necessary toilet and other plumbing fixtures established in this section.

(b) Except for a self-contained recreational vehicle community, sanitary facilities shall be provided as follows:

1. If there are one (1) to fifteen (15) vehicle spaces, there shall be for:

a. Males: At least one (1) water closet, one (1) urinal, one (1) lavatory, and one (1) shower; and

b. Females: At least one (1) water closet, one (1) lavatory, and one (1) shower;

2. If there are sixteen (16) to thirty (30) vehicle spaces, there shall be for:

a. Males: At least one (1) water closet, one (1) urinal, two (2) lavatories, and two (2) showers; and

b. Females: At least two (2) water closets, two (2) lavatories, and two (2) showers;

3. If there are thirty-one (31) to forty-five (45) vehicle spaces, there shall be for:

a. Males: At least two (2) water closets, one (1) urinal, three (3) lavatories, and three (3) showers; and

b. Females: At least two (2) water closets, three (3) lavatories, and three (3) showers;

4. If there are forty-six (46) to sixty (60) vehicle spaces, there shall be for:

a. Males: At least two (2) water closets, two (2) urinals, three (3) lavatories, and three (3) showers; and

b. Females: At least three (3) water closets, three (3) lavatories, and three (3) showers;

5. If there are sixty-one (61) to eighty (80) vehicle spaces, there shall be for:

a. Males: At least three (3) water closets, two (2) urinals, four (4) lavatories, and four (4) showers; and

b. Females: At least four (4) water closets, four (4) lavatories, and four (4) showers;

6. If there are eighty-one (81) to 100 vehicle spaces, there shall be for:

a. Males: At least four (4) water closets, two (2) urinals, five (5) lavatories, and five (5) showers; and

b. Females: At least five (5) water closets, five (5) lavatories, and five (5) showers; and

7. If over 100 vehicle spaces are provided, there shall be provided at least:

a. One (1) additional water closet and one (1) additional lavatory for each sex per additional thirty (30) spaces or fraction thereof;

b. One (1) additional shower for each sex per additional forty (40) vehicle spaces or fraction thereof; and

c. One (1) additional urinal for males per additional 100 vehicle spaces or fraction thereof.

(12) Residential and Day Camp Sites. A residential or day camp site shall comply with the requirements established in 902 KAR 10:040 and this subsection.

(a) 1. Each residential camp site shall be provided with sanitary facilities for each sex as established in this subsection.

2. A day camp shall:

a. Not be required to provide shower facilities; and

b. Provide all other sanitary facilities for each sex as established in this section.

(b) Sanitary facilities shall be provided as follows:

1. If there are one (1) to eighteen (18) persons served, there shall be for:

a. Males: At least one (1) water closet, one (1) urinal, one (1) lavatory, and one (1) shower; and

b. Females: At least two (2) water closets, one (1) lavatory, and one (1) shower;

2. If there are nineteen (19) to thirty-three (33) persons

served, there shall be for:

a. Males: At least two (2) water closets, one (1) urinal, two (2) lavatories, and two (2) showers; and

b. Females: At least two (2) water closets, two lavatories, and two showers;

3. If there are thirty-four (34) to forty-eight (48) persons served, there shall be for:

a. Males: At least two (2) water closets, two (2) urinals, two (2) lavatories, and three (3) showers; and

b. Females: At least three (3) water closets, two (2) lavatories, and three (3) showers;

4. If there are forty-nine (49) to sixty-three (63) persons served, there shall be for:

a. Males: At least three (3) water closets, two (2) urinals, three (3) lavatories, and four (4) showers; and

b. Females: At least four (4) water closets, three (3) lavatories, and four (4) showers;

5. If there are sixty-four (64) to seventy-nine (79) persons served, there shall be for:

a. Males: At least three (3) water closets, three (3) urinals, three (3) lavatories, and five (5) showers; and

b. Females: At least five (5) water closets, three (3) lavatories, and five (5) showers;

6. If there are eighty (80) to ninety-five (95) persons served, there shall be for:

a. Males: At least four (4) water closets, three (3) urinals, four (4) lavatories, and six (6) showers; and

b. Females: At least six (6) water closets, four (4) lavatories, and six (6) showers; and

7. If over ninety-five (95) persons are served, there shall be provided at least:

a. One (1) additional water closet and one (1) additional lavatory for each twenty-five (25) persons or fraction thereof served;

b. One (1) additional shower for each twenty (20) persons or fraction thereof served; and

c. One (1) additional urinal for each additional fifty (50) males or fraction thereof.

(c) Coed day camps with equal number of males and females shall meet the fixture requirements of Group E school buildings (not including higher-education facilities) in the chart in subsection (1) of this section.

(d) Water closets may be substituted for urinals if facilities are to be used by both sexes.

Section 5. Fixture Alternatives.

(1) Lavatory alternatives.

(a) If a gang sink is installed, twenty four (24) inches of the gang sink shall equal one (1) lavatory.

(b) If a circular sink is installed, eighteen (18) inches of the circular sink basin shall equal one (1) lavatory.

(2) Urinal alternative. If a trough urinal is installed, twenty four (24) inches of the trough urinal shall equal one (1) urinal.

Section 6. Other Fixture Requirements.

(1) Modular Classrooms. If detached modular classrooms are used, sanitary facilities shall not be required, if:

(a) The entrance of the modular classroom for elementary grades through the fifth grade is within a developed travel distance not to exceed 100 feet from the accessible entrance to the main structure or an approved central modular restroom;

(b) The entrance of the modular classroom for sixth grade and above is within a developed travel distance not to exceed 200 feet, from the accessible entrance to the main structure or an approved central modular restroom;

(c) The travel path meets the accessibility requirements established in the Kentucky Building Code, 815 KAR 7:120; and

(d) There are sufficient fixtures in the main structure to serve the entire capacity of the school, including the modular classrooms.

(2) Laundry trays or clothes washers. Dormitories in Group R-2 shall have one (1) laundry tray or clothes washer for each fifty (50) persons or fraction thereof.

(3) Shower and bath requirements. Bathing fixtures requirements are as follows:

(a) Transient lodging facilities with private baths shall have one (1) bathtub or shower per room.

(b) Dormitories, fraternities, sororities, and rooming houses in Group R-2 shall have:

1. One (1) bathtub or shower for each eight (8) persons or fraction thereof up to 150 persons; and

2. If there are over 150 persons, one (1) additional bathtub or shower for each twenty (20) persons.

(c) Swimming pool bathhouses shall have one (1) shower per each fifty (50) persons or fraction thereof:

1. Showers shall be supplied with water at a temperature of not less than ninety (90) degrees Fahrenheit and at a flow rate of at least three (3) gallons per minute.

2. Thermostatic, tempering, or mixing valves shall be installed to prevent scalding of the bathers.

3. The requirement relating to bathhouse toilet room and shower facilities may be waived if the facilities are available to pool patrons within 150 feet from the pool.

(d) Groups F-1 and F-2 buildings shall provide one (1) shower for each fifteen (15) person or fraction thereof, exposed to skin contamination from irritating, infectious, or poisonous materials.

(e) Group I-2 buildings shall have at least one (1) bathtub or shower for each fifteen (15) persons or fraction thereof. [

Section 5. Theaters, Assembly Halls, and Similar Occupancies. Separate toilet rooms for males and females shall be provided as established in this section and in Sections 2 through 4 of this administrative regulation. (1) Water closets and urinals for males.

(a) Water closets for males shall be installed with at least:

1. One (1) water closet for each 100 males;

2. Two (2) water closets for 101 to 200 males;

3. Three (3) water closets for 201 to 400 males; and

4. If over 400 males, three (3) water closets plus one (1) additional water closet for each additional 500 males or fraction thereof.

(b) Urinals for males shall be installed with at least:

1. One (1) urinal for eleven (11) to 100 males;

2. Two (2) urinals for 101 to 300 males;

3. Three (3) urinals for 301 to 600 males; and

4. If over 600 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof.

(2) Water closets for females. Water closets for females shall be installed with at least: (a) One (1) water closet for each fifty (50) females;

(b) Two (2) water closets for fifty-one (51) to 100 females;

(c) Three (3) water closets for 101 to 150 females;

(d) Four (4) water closets for 151 to 200 females; and

(e) If over 200 females, four (4) water closets plus one (1) additional water closet for each additional 150 females or fraction thereof.

(3) Lavatories for Males or Females. Lavatories shall be installed with at least:

(a) One (1) lavatory for up to 100 persons;

(b) Two (2) lavatories for 101 to 200 persons;

(c) Three (3) lavatories for 201 to 400 persons;

(d) Four (4) lavatories for 401 to 750 persons; and

(e) If over 750 persons, four (4) lavatories plus one (1) additional lavatory for each additional 500 persons or fraction thereof.

(4) Sinks. There shall be at least one (1) service sink or slop sink on each floor.

(5) Number of fixtures. The number of fixtures shall be based upon the maximum seating capacity or fixed seats. If fixed seats are not provided, the basis for determining the capacity shall be one (1) person per each fifteen (15) square feet of area.

(6) Drinking fountain. At least one (1) drinking fountain shall be provided on each floor for each 500 persons or fraction thereof.

(7) Water closets in public restrooms shall be of the

elongated bowl type with a split open front seat. Section 6. Libraries, Museums, and Art Galleries. Separate toilet facilities for males and females shall be provided as established in this section and in Sections 2 through 4 of this administrative regulation:

(1) There shall be at least one (1) water closet and one (1) lavatory for each 100 females or fraction thereof.

(2) Except as established in subsection (7) of this section, there shall be at least one (1) water closet and one (1) lavatory for each 200 males or fraction thereof.

(3) There shall be at least:

(a) One (1) urinal for eleven (11) to 200 males;

(b) Two (2) urinals for 201 to 400 males;

(c) Three (3) urinals for 401 to 600 males; and

(d) If over 600 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof.

(4) There shall be at least one (1) service sink or slop sink on each floor.

(5) At least one (1) drinking fountain shall be provided for each 500 persons or fraction thereof.

(6) Number of fixtures. The number of fixtures shall be based upon the maximum seating capacity of fixed seats. If fixed seats are not provided, the basis for determining the capacity shall be one (1) person for each fifteen (15) square feet of area.

(7) Urinals may be substituted for water closets for males if:

(a) The substituted urinals do not exceed one-third (1/3) of the required total number of water closets; and

(b) The minimum number of urinals is installed.

(8) Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 7. School Buildings Not Including Higher-Education Facilities. A school building shall be in compliance with the requirements established in 702 KAR 4:170 and this section.

(1) Drinking fountains.

(a) At least one (1) drinking fountain shall be provided on each floor and wing of a building.

(b) At least one (1) additional drinking fountain shall be provided for each seventy-five (75) pupils or fraction thereof.

(c) The drinking fountains shall be equipped with:

1. A protective cowl; and

2. The orifice, which shall be one (1) inch above the overflow rim of the fountain.

(2) Elementary through secondary level school buildings shall be provided with the following:

(a) Water closets for males shall be installed with at least:

1. One (1) water closet for up to twenty-five (25) pupils;

2. Two (2) water closets for twenty-six (26) to 100 pupils; and

3. If over 100 pupils, two (2) water closets plus one (1) additional water closet for each additional 100 pupils or fraction thereof;

(b) Urinals for males shall be installed with at least:

1. One (1) urinal for up to twenty-five (25) pupils;

2. Two (2) urinals for twenty-six (26) to fifty (50) pupils;

3. Four (4) urinals for fifty-one (51) to 100 pupils;

4. Six (6) urinals for 101 to 200 pupils;

5. Eight (8) urinals for 201 to 300 pupils;

6. Ten (10) urinals for 301 to 400 pupils;

7. Twelve (12) urinals for 401 to 500 pupils; and

8. If over 500 pupils, twelve (12) urinals plus one (1) additional urinal for each additional fifty (50) pupils or fraction thereof in excess of 500;

(c) Water closets for females shall be installed with at least:

1. Two (2) water closets for up to twenty-five (25) pupils;

2. Three (3) water closets for twenty-six (26) to fifty (50) pupils;

3. Six (6) water closets for fifty-one (51) to 100 pupils;

4. Eight (8) water closets for 101 to 200 pupils;

5. Ten (10) water closets for 201 to 300 pupils;

6. Twelve (12) water closets for 301 to 400 pupils;

7. Fourteen (14) water closets for 401 to 500 pupils; and

8. If over 500 pupils, fourteen (14) water closets plus one (1) additional water closet for each additional forty (40) pupils or

fraction thereof; and

(d)1. Lavatories for male and female pupils shall be installed with at least:

a. One (1) lavatory for each twenty-five (25) pupils or fraction thereof; and

b. If over fifty (50) pupils, two (2) lavatories plus one (1) additional lavatory for each additional fifty (50) pupils or fraction thereof; and

2. Twenty-four (24) inches of sink or eighteen (18) inches of circular basin, if provided with water outlet for each space, shall be considered equivalent to one (1) lavatory.

(3) At least one (1) service sink or slop sink shall be installed on each floor of a building.

(4) If detached modular classrooms are used, sanitary facilities shall not be required, if:

(a) The entrance of the modular classroom for elementary grades through the fifth grade is within a developed travel distance not to exceed 100 feet from the accessible entrance to the main structure or an approved central modular restroom;

(b) The entrance of the modular classroom for sixth grade and above is within a developed travel distance not to exceed 200 feet, from the accessible entrance to the main structure or an approved central modular restroom;

(c) The travel path meets the accessibility requirements established in the Kentucky Building Code, 815 KAR 7:120; and

(d) There are sufficient fixtures in the main structure to serve the entire capacity of the school, including the modular classrooms.

(5) Water closets in a school building shall be of the elongated bowl type with a split open front seat.

Section 8. Schools of Higher Education and Similar Educational Facilities. (1)(a) Except as established in paragraph

(b) of this subsection, in a school of higher education or a similar education facility, there shall be installed at least:

1. One (1) water closet for each fifty (50) males and one (1) water closet for each twenty-five (25) females or fraction thereof;

2. One (1) lavatory for each fifty (50) persons or fraction thereof;

3. One (1) drinking fountain for each seventy-five (75) persons or fraction thereof; and

4. One (1) urinal for each fifty (50) males or fraction thereof.

(b) One (1) water closet less than the number specified in paragraph (a) of this subsection may be provided for each urinal installed except that the number of water closets in those cases shall not be reduced to less than two-thirds (2/3) of the minimum specified.

(2) Water closets in a school of higher education or a similar education facility shall be of the elongated bowl type with a split open front seat.

Section 9. Public Garages and Service Stations. (1) Separate toilet rooms for males and females shall be provided with at least:

(a) A water closet and lavatory for females; and

(b) A water closet, lavatory, and urinal for males.

(2) Water closets shall be of the elongated bowl type with a split open front seat.

Section 10. Churches. (1) Sanitary facilities shall be provided in a church with at least: (a) One (1) drinking fountain for each 400 persons or fraction thereof;

(b) One (1) water closet for each 150 females or fraction thereof;

(c) One (1) water closet for each 300 males or fraction thereof;

(d) One (1) urinal for fifty (50) to 150 males or fraction thereof;

(e) One (1) additional urinal for each additional 150 males or fraction thereof; and

(f) One (1) lavatory for each 150 persons or fraction thereof.

(2) Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 11. Transient Lodging Facilities. A transient lodging facility shall be in compliance with the requirements established in 902 KAR 10:040 and this section. (1) A hotel or motel with private rooms shall have at least one (1) water closet, one (1) lavatory, and one (1) bathtub or shower per room.

(2) In the public and service areas, there shall be at least:

(a) One (1) water closet for each twenty-five (25) males or fraction thereof;

(b) One (1) water closet for each fifteen (15) females or fraction thereof;

(c) One (1) lavatory for each twenty-five (25) persons or fraction thereof;

(d) One (1) urinal for eleven (11) to 100 males plus one (1) additional urinal for each additional fifty (50) males or fraction thereof;

(e) One (1) drinking fountain for each seventy-five (75) persons or fraction thereof on each floor; and

(f) One (1) service sink or slop sink on each floor.

(3) In residential type buildings, there shall be at least one (1) water closet, one (1) lavatory, and one (1) bathtub or shower for each ten (10) males and each ten (10) females or fraction thereof.

(4) In rooming houses with private baths, there shall be at least one (1) water closet, one (1) lavatory, and one (1) bathtub or shower per room.

(5) In rooming houses without private baths, there shall be at least: (a) One (1) water closet for one (1) to ten (10) males and one (1) for each additional twenty five (25) males or fraction thereof;

(b) One (1) water closet for one (1) to eight (8) females and one (1) for each additional twenty (20) females or fraction thereof;

(c) One (1) urinal for eleven (11) to 100 males and one (1) for each additional fifty (50) males or fraction thereof;

(d) One (1) lavatory for each ten (10) persons or fraction thereof; and

(e) One (1) bathtub or shower for each ten (10) persons or fraction thereof.

Section 12. Dormitories: School, Labor, or Institutional. [(1) Water closets. There shall be at least:

(a) One (1) water closet for up to ten (10) males plus one (1) additional water closet for each additional twenty-five (25) males or fraction thereof; and

(b) One (1) water closet for up to eight (8) females plus one (1) additional water closet for each additional twenty (20) females or fraction thereof.

(2) Urinals. (a) There shall be at least:

1. One (1) urinal for each twenty-five (25) males or fraction thereof up to 150 males; and

2. If there are over 150 males, one (1) additional urinal for each additional fifty (50) males or fraction thereof.

(b) If urinals are provided, a urinal may be substituted for a water closet, not to exceed one third (1/3) of the required total number of water closets.

(c) Trough urinals shall be figured on the basis of one (1) urinal for each twenty-four (24) inches of length.

(3) Lavatories. There shall be at least one (1) lavatory for one (1) to twelve (12) persons, with an additional one (1) lavatory for each additional twenty (20) males and fifteen (15) females or fraction thereof.

(4) Additional fixtures. There shall be at least:

(a) 1. One (1) bathtub or shower for each eight (8) persons or fraction thereof, up to 150 persons; and

2. If there are over 150 persons, one (1) additional bathtub or shower for each twenty (20) persons;

(b) One (1) drinking fountain for each seventy-five (75) persons or fraction thereof;

(c) One (1) laundry tray or clothes washer for each fifty (50) persons or fraction thereof; and

(d) One (1) service sink or slop sink for each 100 persons or fraction thereof.

(5) If the dormitory is located in a youth camp, the requirements of 902 KAR 10:040 shall apply in addition to the requirements established in this section.

Section 13. Hospitals, Nursing Homes, and Institutions. A hospital, nursing home, or institution shall comply with the requirements established in 902 KAR 20:031, 902 KAR 20:046, 902 KAR 20:056, and 902 KAR 9:010. Sanitary facilities shall be provided on each floor level and shall conform to this section.

(1) Hospitals. (a) Wards. There shall be at least:

1. One (1) water closet for each ten (10) patients or fraction thereof;

2. One (1) lavatory for each ten (10) patients or fraction thereof;

3. One (1) tub or shower for each fifteen (15) patients or fraction thereof; and

4. One (1) drinking fountain for each 100 patients or fraction thereof.

(b) Individual rooms. There shall be at least one (1) water closet, one (1) lavatory, and one (1) tub or shower.

(c) Waiting rooms. There shall be at least one (1) water closet and one (1) lavatory.

(2) Nursing homes and institutions (other than penal). There shall be at least:

(a) One (1) water closet for each twenty-five (25) males or fraction thereof;

(b) One (1) water closet for each twenty (20) females or fraction thereof;

(c) One (1) lavatory for each ten (10) persons or fraction thereof;

(d) One (1) urinal for each fifty (50) males or fraction thereof;

(e) One (1) tub or shower for each fifteen (15) persons or fraction thereof;

(f) One (1) drinking fountain on each floor; and

(g) One (1) service sink or slop sink on each floor.

(3) Institutions, penal. (a) Cell. There shall be at least:

1. One (1) prison-type water closet; and

2. One (1) prison-type lavatory.

(b) Day rooms and dormitories. 1. There shall be at least:

a. One (1) water closet for each eight (8) female inmates or fraction thereof and one (1) water closet for each twelve (12) male inmates or fraction thereof;

b. One (1) lavatory for each twelve (12) inmates or fraction thereof;

c. One (1) shower for each fifteen (15) inmates or fraction thereof;

d. One (1) drinking fountain per floor; and

e. One (1) service sink or slop sink per floor.

2. For males, one (1) urinal may be substituted for each water closet if the number of water closets is not reduced to less than one-half (1/2) the number required.

(c) Toilet facilities for employees shall be located in separate rooms from those in which fixtures for the use of inmates or patients are located.

(d) There shall be at least one (1) drinking fountain on each floor.

(e) There shall be at least one (1) service sink or slop sink per floor.

Section 14. Workshops, Factories, Mercantile, and Office Buildings. Separate toilet facilities shall be provided for males and females on each floor unless otherwise denoted.

(1) Workshops and factories: Sanitary facilities shall conform to the following:

(a) There shall be at least:

1. One (1) water closet for each twenty-five (25) males or fraction thereof, up to 100;

2. One (1) lavatory for each twenty-five (25) males or fraction thereof, up to 100;

3. One (1) urinal for eleven (11) to fifty (50) employees;

4. Two (2) urinals for fifty-one (51) to 100 employees;

5. One (1) lavatory for each twenty-five (25) females or fraction thereof up to 100; and

6. One (1) water closet for each fifteen (15) females or fraction thereof up to 100;

(b) If in excess of 100 persons, there shall be at least:

1. One (1) additional water closet for each additional thirty (30) males and each additional thirty (30) females or fraction thereof;

2. One (1) additional lavatory for each additional fifty (50) males and females or fraction thereof; and

3. One (1) additional urinal for each additional 100 males or fraction thereof;

(c) There shall be at least:

1. One (1) shower for each fifteen (15) persons or fraction thereof, exposed to skin contamination from irritating, infectious, or poisonous materials;

2.a. One (1) drinking fountain on each floor for each fifty (50) employees or fraction thereof, up to 100 employees; and

b. If there are more than 100 employees, there shall be an additional drinking fountain on each floor for each additional seventy-five (75) employees or fraction thereof; and

3. One (1) service sink or slop sink per floor; and

(d) 1. Individual sinks or wash troughs may be used in lieu of lavatories.

2. Twenty-four (24) inches of sink or trough, if provided with water, or eighteen (18) inches of circular basin shall be deemed the equivalent of one (1) lavatory.

(2) Mercantile. (a) Employees. 1. Except as provided in subparagraph 2 of this paragraph, sanitary facilities within each store shall be provided for employees. If more than five (5) persons are employed, separate facilities for each sex shall be provided.

2. For a store containing not more than 3,000 square feet of total gross floor area, employee facilities shall not be required if adequate interior facilities are provided within a centralized toilet room area or accessible areas having a travel distance of not more than 500 feet within the building in which the store is located.

(b) Customers.

1. Sanitary facilities shall be provided for customers if the building contains 5,000 square feet or more.

2. In a mall or shopping center, the required facilities, based on one (1) person per 100 square feet of total area, shall be installed in individual stores or in a central toilet room area or areas, if:

a. The distance from the main entrance of a store does not exceed 500 feet; and

b. The toilet room area is accessible to physically disabled persons.

(c) Sanitary facilities shall be provided as stated in this section and there shall be at least:

1. One (1) water closet for one (1) to 150 males;

2. Two (2) water closets for 151 to 300 males;

3. Three (3) water closets for 301 to 450 males;

4. If over 500 males, three (3) water closets plus one (1) additional water closet for each additional 500 males or fraction thereof;

5. One (1) urinal for fifty (50) to 200 males;

6. Two (2) urinals for 201 to 400 males;

7. Three (3) urinals for 401 to 600 males;

8. If over 300 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof;

9. One (1) water closet for one (1) to 100 females;

10. Two (2) water closets for 101 to 200 females;

11. Three (3) water closets for 201 to 400 females;

12. If over 400 females, three (3) water closets plus one (1) additional water closet for each additional 300 females or fraction thereof;

13. One (1) lavatory for one (1) to 200 persons;

14. Two (2) lavatories for 201 to 400 persons;

15. Three (3) lavatories for 401 to 700 persons;

16. If over 700 persons, three (3) lavatories plus one (1) additional lavatory for each additional 500 persons or fraction thereof; Three (3) lavatories plus one (1) lavatory for each 500 persons, or fraction thereof, in excess of 700;

17. One (1) drinking fountain on each floor for each 500 persons or fraction thereof; and

18. One (1) service sink or slop sink per floor.

(3) Office buildings. (a) Employees. 1. Except as established in subparagraph 2 of this paragraph, sanitary facilities within office buildings shall be provided for employees. If more than five (5) persons are employed, separate facilities for each sex shall be provided.

2. For an office building or space containing not more than 3,000 square feet of total gross floor area, employee facilities shall not be required if adequate interior facilities are provided within a centralized toilet room area or areas having a travel distance of not more than 500 feet within the same building.

(b) Customers. 1. Sanitary facilities shall be provided for customers if the office building or space contains 5,000 square feet or more.

2. In an office building, the required facilities, based on one (1) person per 100 square feet of total area, shall be installed within the individual offices, or in a central toilet room area or areas if:

a. The distance from the main entrance of an office space does not exceed 500 feet; and

b. The toilet room area is accessible to physically disabled persons.

(c) Separate sanitary facilities for each gender shall be provided as stated in this section. 1. For males and females there shall be at least:

a. One (1) water closet for one (1) to fifteen (15) persons;

b. Two (2) water closets for sixteen (16) to thirty-five (35) persons;

c. Three (3) water closets for thirty-six (36) to fifty-five (55) persons;

d. Four (4) water closets for fifty-six (56) to eighty (80) persons;

e. Five (5) water closets for eighty-one (81) to 110 persons;

f. Six (6) water closets for 111 to 150 persons;

g. If over 150 persons, six (6) water closets plus one (1) additional water closet for each additional forty (40) persons or fraction thereof;

h. One (1) lavatory for one (1) to fifteen (15) persons;

i. Two (2) lavatories for sixteen (16) to thirty-five (35) persons;

j. Three (3) lavatories for thirty-six (36) to sixty (60) persons;

k. Four (4) lavatories for sixty-one (61) to ninety (90) persons;

l. Five (5) lavatories for ninety-one (91) to 125 persons;

m. If over 125 persons, five (5) lavatories plus one (1) additional lavatory for each additional seventy-five (75) persons or fraction thereof; and

n. One (1) drinking fountain for each seventy-five (75) persons or fraction thereof.

2. For males, if urinals are provided, one (1) water closet less than the number specified may be provided for each urinal installed if the number of water closets is not reduced to less than seventy (70) percent of the minimum specified.

Section 15. Swimming Pool Bathhouses. A swimming pool bathhouse shall comply with the requirements established in 902 KAR 10:120 and this section.

(1) Bathhouses for public swimming pools shall be divided into two (2) parts separated by a tight partition, with one (1) part designated for "Males" or "Men" and the other part designated for "Females" or "Women."

(2) Sanitary facilities shall be provided in each bathhouse to serve the anticipated bather load, as defined in 902 KAR 10:120, and shall conform to the following:

(a) For swimming pools in which the total bather capacity is 200 persons or less, there shall be at least:

1. One (1) water closet for each seventy-five (75) males or fraction thereof;

2. One (1) water closet for each fifty (50) females or fraction thereof;

3. One (1) urinal for each seventy-five (75) males or fraction

thereof;

4. One (1) lavatory for each 100 persons or fraction thereof;
5. One (1) shower per each fifty (50) persons or fraction thereof; and

6. One (1) drinking fountain per each 200 persons or fraction thereof;

(b) For swimming pools in which the total bather capacity exceeds 200 persons, there shall be at least:

1. Five (5) water closets for 201 to 400 females, with one (1) additional water closet for each additional 250 females or fraction thereof;
2. Three (3) water closets for 201 to 400 males, with one (1) additional water closet for each additional 500 males or fraction thereof;
3. Three (3) urinals for 201 to 400 males, with one (1) additional urinal for each additional 500 males or fraction thereof;
4. One (1) lavatory for up to 150 persons;
5. Two (2) lavatories for 151 to 400 persons;
6. Three (3) lavatories for 401 to 750 persons;
7. If over 750 persons, three (3) lavatories plus one (1) additional lavatory for each additional 750 persons or fraction thereof;
8. One (1) shower per each fifty (50) persons or fraction thereof up to 150;
9. If over 150 persons, three (3) showers plus one (1) additional shower for each additional 500 persons or fraction thereof; and
10. One (1) drinking fountain per each 500 persons or fraction thereof.

(3) Fixture schedules shall be increased for pools at schools or similar locations where bather loads may reach peaks due to schedules of use. Pools used by groups or classes on regular time schedules of:

- (a) One (1) hour or less shall have at least one (1) shower for each six (6) swimmers; and
- (b) One (1) to two (2) hours shall have at least one (1) shower for each ten (10) swimmers.

(4) Shower facilities, including warm water and soap, shall be provided for each sex.

(a) Showers shall be supplied with water at a temperature of not less than ninety (90) degrees Fahrenheit and at a flow rate of at least three (3) gallons per minute.

(b) Thermostatic, tempering, or mixing valves shall be installed to prevent scalding of the bathers.

(5) The requirement relating to bathroom toilet room and shower facilities may be waived if the facilities are available to pool patrons within 150 feet from the pool.

Section 16. Park Service Buildings or Bathhouses. A park service building or bathhouse shall comply with the requirements established in 902 KAR 15:020, Section 8, and this section.

(1) Except for a self-contained recreational vehicle community, each park shall provide one (1) or more central service buildings containing the necessary toilet and other plumbing fixtures established in this section.

(2) Except for a self-contained recreational vehicle community, sanitary facilities shall be provided as follows:

(a) If there are one (1) to fifteen (15) vehicle spaces, there shall be for:

1. Males: At least one (1) water closet, one (1) urinal, one (1) lavatory, and one (1) shower; and
2. Females: At least one (1) water closet, one (1) lavatory, and one (1) shower;

(b) If there are sixteen (16) to thirty (30) vehicle spaces, there shall be for:

1. Males: At least one (1) water closet, one (1) urinal, two (2) lavatories, and two (2) showers; and
2. Females: At least two (2) water closets, two (2) lavatories, and two (2) showers;

(c) If there are thirty-one (31) to forty-five (45) vehicle spaces, there shall be for:

1. Males: At least two (2) water closets, one (1) urinal, three (3) lavatories, and three (3) showers; and

2. Females: At least two (2) water closets, three (3) lavatories, and three (3) showers;

(d) If there are forty-six (46) to sixty (60) vehicle spaces, there shall be for:

1. Males: At least two (2) water closets, two (2) urinals, three (3) lavatories, and three (3) showers; and

2. Females: At least three (3) water closets, three (3) lavatories, and three (3) showers;

(e) If there are sixty-one (61) to eighty (80) vehicle spaces, there shall be for:

1. Males: At least three (3) water closets, two (2) urinals, four (4) lavatories, and four (4) showers; and

2. Females: At least four (4) water closets, four (4) lavatories, and four (4) showers;

(f) If there are eighty-one (81) to 100 vehicle spaces, there shall be for:

1. Males: At least four (4) water closets, two (2) urinals, five (5) lavatories, and five (5) showers; and

2. Females: At least five (5) water closets, five (5) lavatories, and five (5) showers; and

(g) If over 100 vehicle spaces are provided, there shall be provided at least:

1. One (1) additional water closet and one (1) additional lavatory for each sex per additional thirty (30) spaces or fraction thereof;

2. One (1) additional shower for each sex per additional forty (40) vehicle spaces or fraction thereof; and

3. One (1) additional urinal for males per additional 100 vehicle spaces or fraction thereof.

Section 17. Residential and Day Camp Sites. A residential or day camp site shall comply with the requirements established in 902 KAR 10:040 and this section.

(1)(a) Each residential camp site shall be provided with sanitary facilities for each sex as established in this section.

(b) A day camp shall:

1. Not be required to provide shower facilities; and

2. Provide all other sanitary facilities for each sex as established in this section.

(2) Sanitary facilities shall be provided as follows:

(a) If there are one (1) to eighteen (18) persons served, there shall be for:

1. Males: At least one (1) water closet, one (1) urinal, one (1) lavatory, and one (1) shower; and

2. Females: At least two (2) water closets, one (1) lavatory, and one (1) shower;

(b) If there are nineteen (19) to thirty-three (33) persons served, there shall be for:

1. Males: At least two (2) water closets, one (1) urinal, two (2) lavatories, and two (2) showers; and

2. Females: At least two (2) water closets, two lavatories, and two showers;

(c) If there are thirty-four (34) to forty-eight (48) persons served, there shall be for:

1. Males: At least two (2) water closets, two (2) urinals, two (2) lavatories, and three (3) showers; and

2. Females: At least three (3) water closets, two (2) lavatories, and three (3) showers;

(d) If there are forty-nine (49) to sixty-three (63) persons served, there shall be for:

1. Males: At least three (3) water closets, two (2) urinals, three (3) lavatories, and four (4) showers; and

2. Females: At least four (4) water closets, three (3) lavatories, and four (4) showers;

(e) If there are sixty-four (64) to seventy-nine (79) persons served, there shall be for:

1. Males: At least three (3) water closets, three (3) urinals, three (3) lavatories, and five (5) showers; and

2. Females: At least five (5) water closets, three (3) lavatories, and five (5) showers;

(f) If there are eighty (80) to ninety-five (95) persons served, there shall be for:

1. Males: At least four (4) water closets, three (3) urinals, four

(4) lavatories, and six (6) showers; and

2. Females: At least six (6) water closets, four (4) lavatories, and six (6) showers; and

(g) If over ninety-five (95) persons are served, there shall be provided at least:

1. One (1) additional water closet and one (1) additional lavatory for each twenty-five (25) persons or fraction thereof served;

2. One (1) additional shower for each twenty (20) persons or fraction thereof served; and

3. One (1) additional urinal per fifty (50) additional males or fraction thereof.

(3) Coed day camps with equal number of males and females shall meet the fixture requirements of Section 6(2) of this administrative regulation, relating to elementary through secondary level school buildings.

(4) Water closets may be substituted for urinals if facilities are to be used by both sexes.

Section 18. Retail Food Stores and Restaurants. Sanitary facilities shall be provided for employees. A retail food store or restaurant shall comply with the requirements established in 902 KAR 10:020, 902 KAR 45:005, and this section.

(1) Food stores. (a) If more than five (5) persons of different sex are employed, separate sanitary facilities shall be provided for the employees.

(b)1. Separate sanitary facilities for each sex shall be provided for customers if the building contains 5,000 square feet or more.

2. In a mall or shopping center, the required facilities shall be:

a. Based on one (1) person per fifty (50) square feet; and

b. Installed in individual stores or in a central toilet room area or areas, if the distance from the main entrance of a store does not exceed 500 feet.

(c) There shall be at least:

1. One (1) water closet for one (1) to 100 persons;

2. Two (2) water closets for 101 to 200 persons;

3. Three (3) water closets for 201 to 400 persons;

4. If over 400 persons, three (3) water closets plus one (1) additional water closet for each additional 500 males or 300 females or fraction thereof;

5. One (1) urinal for eleven (11) to 200 males;

6. Two (2) urinals for 201 to 400 males;

7. Three (3) urinals for 401 to 600 males;

8. If over 600 males, three (3) urinals plus one (1) additional urinal for each additional 300 males or fraction thereof;

9. One (1) lavatory for one (1) to 200 persons;

10. Two (2) lavatories for 201 to 400 persons;

11. Three (3) lavatories for 401 to 700 persons;

12. If over 700 persons, three (3) lavatories plus one (1) additional lavatory for each additional 500 persons or fraction thereof;

13. One (1) drinking fountain on each floor for each 500 persons or fraction thereof; and

14. One (1) service sink, utility sink, or curbed mop basin per floor as required by the Cabinet for Health and Family Services.

(2) Restaurants. (a) If more than five (5) persons of different sex are employed, separate sanitary facilities for each sex shall be provided for the employees.

(b)1. Except as provided in subparagraph 3 of this paragraph, in a new establishment or an establishment that is extensively altered or changed from another type occupancy to a restaurant, toilet facilities for each sex shall be provided and readily accessible for the use of both patrons and employees.

2. Carryout-type food service operations shall be exempt from providing toilet facilities for the use of their patrons.

3. A restaurant with a business occupancy of one (1) to fifteen (15) persons shall:

a. Comply with the requirements in paragraphs (c) and (e) of this subsection; or

b. Provide at least one (1) unisex facility consisting of one (1) water closet and one (1) lavatory.

(c) There shall be at least:

1. Two (2) water closets for one (1) to 100 persons;

2. Three (3) water closets for 101 to 200 persons;

3. Four (4) water closets for 201 to 300 persons; and

4. If over 300 persons, four (4) water closets plus one (1) additional water closet for each additional 200 persons or fraction thereof.

(d) There shall be at least:

1. One (1) urinal for fifty (50) to 200 males; and

2. If over 200 males, one (1) urinal plus one (1) additional urinal for each additional 150 males or fraction thereof.

(e) There shall be at least:

1. One (1) lavatory for one (1) to 200 persons;

2. Two (2) lavatories for 201 to 400 persons;

3. Three (3) lavatories for 401 to 600 persons; and

4. If over 600 persons, three (3) lavatories plus one (1) additional lavatory for each additional 200 persons or fraction thereof.

(f) There shall be at least:

1. One (1) drinking fountain for one (1) to 100 persons; and

2. If over 100 persons, two (2) drinking fountains plus one (1) additional water fountain for each additional 400 persons or fraction thereof.

(g) If food is consumed indoors on the premises, water stations may be substituted for drinking fountains.

(h) There shall be one (1) service sink, utility sink, or curbed mop basin on each floor as required by the Cabinet for Health and Family Services.

(i) Lavatories for hand washing shall be provided in the kitchen area, readily accessible to the employees.

(3) Licensed food establishments. In all food establishments licensed by the Cabinet for Health and Family Services, Department for Public Health, the requirements in this subsection shall be met.

(a) Hand-washing sinks. 1. All hand-washing sinks shall have a minimum hot water temperature of 100 degrees Fahrenheit and a maximum of 120 degrees Fahrenheit.

2. Self-closing faucets shall provide a flow of water for no less than fifteen (15) seconds from activation.

3. Placement of hand-washing sinks shall be approved by the Cabinet for Health and Family Services, Department for Public Health pursuant to 902 KAR 45:005.

(b) A three (3) compartment sink used for washing utensils shall be required and shall drain by a direct connection with a minimum of a two (2) inch drain.

(c) Dishwashing or ware washing machines shall discharge indirectly through a three (3) inch open receptacle.

(d) Residential type dishwashing machines shall discharge:

1. Through an air gap device; or

2. Indirectly through a three (3) inch open receptacle.

(e) Sinks solely used for food preparation shall discharge by an indirect connection to a minimum three (3) inch trap.

(f) All hub drains, open receptacles, floor sinks, or other waste receptacles shall extend one (1) inch above the floor plane unless a full grate/strainer is installed flush with the floor.

(g) Occupied mobile food units not located within an existing permitted food establishment shall:

1. Meet the requirements of the Kentucky Plumbing Code, KRS Chapter 318 and 815 KAR Chapter 20;

2. Have a waste tank no less than fifty (50) percent larger than the freshwater tank;

3. Have a National Sanitary Foundation (NSF) approved freshwater tank for potable water; and

4. Have a minimum of a three (3) compartment sink and one (1) hand sink.]

J. DAVID MOORE, Acting Commissioner

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: February 11, 2020

FILED WITH LRC: February 12, 2020 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 28, 2020, at 10:00 a.m., EDT, at the Department of

Housing, Buildings and Construction, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2020 at 11:59 p.m.. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person:

CONTACT PERSON: Jonathon M. Fuller, Staff Attorney, Department of Housing, Buildings and Construction, 500 Mero Street, 1 SW, Frankfort, Kentucky 40601, phone 502-573-0365, fax 502-573-1057, max.fuller@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Jonathon M. Fuller

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the minimum plumbing fixture requirements for buildings in Kentucky.

The necessity of this administrative regulation: This administrative regulation is necessary to implement the Division of Plumbing's statutory duty to establish a state plumbing code regulating the construction, installation, and alteration of plumbing and plumbing fixtures and appliances, house sewers and private water supplies, including the number and type of fixtures to be used in connection with different types of occupancies.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 318.130 requires the department to promulgate an administrative regulation establishing the Kentucky State Plumbing Code regulating plumbing, which includes waste pipes for plumbing fixtures and appurtenances. KRS 198B.040(10) requires the department to promulgate administrative regulations for the safe installation and operation of plumbing and plumbing fixtures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists the department in establishing uniform standards for the number and type of fixtures to be installed in various types of buildings in Kentucky.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment changes the administrative regulation by reorganizing the administrative regulation in an easier to read chart, and aligns the plumbing occupancies with the occupancies defined by the 2018 Kentucky Building Code, incorporated by reference in 815 KAR 7:120. The amendment eliminates the requirements for an owner or a designer to install urinals in R-2 occupancy types and I-3 occupancy types, allowing the owner or designer additional flexibility. Additionally, the amendment allows an owner or a designer to request to not include a service sink on each floor where the service sink is unnecessary.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to make the administrative regulation more user-friendly and conform to the occupancy types in the 2018 Kentucky Building Code to simplify interpretation.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 318.130 requires the department to promulgate an administrative regulation establishing the Kentucky State Plumbing Code to regulate plumbing. This amendment directly relates to the permissible quality and type of

plumbing fixtures that must be used in Kentucky buildings.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will aid plumbers, owners, and design professionals by making it easier to interpret and understand the plumbing fixture requirements for buildings in Kentucky.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals engaged in plumbing activity within the Commonwealth, as well as all owners and operators of buildings in which the plumbing fixtures described in this regulation are required or otherwise installed.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: This amendment will not impose any additional requirements on any of the regulated entities identified in question (3).

(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 impose any additional costs on any of the regulated entities identified in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits will include that individuals to opt out of certain fixture requirements. Also, the administrative regulation is more user-friendly.

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

(a) Initially: There are no anticipated additional initial costs to administer these regulatory amendments.

(b) On a continuing basis: There are no anticipated additional costs on a continuing basis to administer these regulatory amendments.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of these amendments is anticipated to result in no additional costs to the Department. Any costs resulting from these administrative amendments will be met with existing agency funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This amendment will not necessitate an increase in fees or require funding from the Department for implementation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees established by this administrative regulation. There are no fees directly or indirectly increased by this administrative regulation amendment.

(9) TIERING: Is tiering applied? Tiering is not applied as all individuals in the plumbing industry and Department personnel are affected by the amended requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Housing, Buildings and Construction, Division of Plumbing 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. This administrative regulation is authorized by KRS 198B.040(10) and KRS 318.130.

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

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

counties, fire departments, or school districts) for the first year? This amendment is not anticipated to generate additional revenue for the 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 amendment is not anticipated to generate additional revenue for the state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? There are no anticipated additional costs to administer this regulatory amendment for the first year.

(d) How much will it cost to administer this program for subsequent years? There are no anticipated additional costs to administer this regulatory 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

DEPARTMENT OF AGRICULTURE
Office of the Consumer and Environmental Protection
(Repealer)

302 KAR 50:012. Repeal of 302 KAR 50:040 and 302 KAR 50:050.

RELATES TO: KRS Chapter 260

STATUTORY AUTHORITY: KRS 260.850-869

NECESSITY, FUNCTION, AND CONFORMITY: KRS 260.850-869 collectively authorizes the Kentucky Department of agriculture to establish and determine the rules and administrative regulations for hemp in Kentucky. This administrative regulation repeals 302 KAR 50:040 and 302 KAR 50:050 because the KDA is replacing this material with other filings.

Section 1. The following administrative regulations hereby repealed:

- (1) 302 KAR 50:040, Affiliated universities and colleges; and
- (2) 302 KAR 50:050, THC sampling and testing; post-testing actions.

RYAN F. QUARLES, Commissioner

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 13, 2020 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2020 at 11:00 a.m., at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2020. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, fax (502) 564-2133, email clint.quarles@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation repeals two other regulations.

(b) The necessity of this administrative regulation: This regulation repeals two other regulations that are no longer needed.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 260.862 commands the KDA to establish administrative regulations for hemp. This regulation repeals two other regulations that are no longer needed.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration by making hemp rules clear in Kentucky.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a repealer filing.

(b) The necessity of the amendment to this administrative regulation: This is a repealer filing.

(c) How the amendment conforms to the content of the authorizing statutes: This is a repealer filing.

(d) How the amendment will assist in the effective administration of the statutes: This is a repealer filing.

(3) List the type and number of individuals, businesses,

organizations, or state and local governments affected by this administrative regulation: The Kentucky Department of Agriculture, 978 growers, 17 Universities and 200 processors.

(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: Entities will be required to follow the instructions in the filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Likely no modification of current actions would be needed, so little to no costs would be incurred.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease on behalf of the KDA and clear guidance for entities.

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

(a) Initially: Expenses for the entire hemp program for 2019 were approximately \$1,156,000.

(b) On a continuing basis: Market forces will determine participation levels for 2020 and beyond. Ongoing costs will be a function of grower numbers and location modifications.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The hemp program is funded by the fees set for in 302 KAR 50:060.

(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 increases in funding are required currently.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This filing does not contain fees. The hemp program is funded by the fees set for in 302 KAR 50:060.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Department of Agriculture, and any agency that might concern hemp shall be affected 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 260.682

(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? Income for the entire hemp program for 2019 was approximately \$1,575,000.

(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? Even with a fixed fee structure, revenue is almost entirely determined by participation. Market forces will dictate revenue to a point the KDA cannot guess with any certainty.

(c) How much will it cost to administer this program for the first year? Expenses for the entire hemp program for 2019 were approximately \$1,156,000.

(d) How much will it cost to administer this program for subsequent years? The KDA expects this spending trendline to continue for the hemp program as a whole, but based on producer

participation.

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

Revenues (+/-): \$1,575,000

Expenditures (+/-): \$1,156,000.

Other Explanation:

**DEPARTMENT OF AGRICULTURE
Office of the Consumer and Environmental Protection
(New Administrative Regulation)**

302 KAR 50:055. Sampling and THC testing; post-testing actions; disposal of noncompliant harvests.

RELATES TO: KRS Chapter 217B, 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 a Hemp Licensing Program in the Commonwealth of Kentucky. KRS 260.862(1)(c) authorizes the department to license persons who wish to participate in a Hemp Licensing Program by cultivating, handling, processing, or marketing hemp. This administrative regulation establishes procedures and requirements for sampling and THC testing, and establishes procedures for the movement or disposal of hemp following the completion of THC testing.

Section 1. Definitions.

(1) "Acceptable Hemp THC Level" means the application of the Measurement of Uncertainty to the reported (decarboxylated) delta-9-THC concentration level on a dry weight basis to the 0.300% limit set forth in federal law and state law. For 2020, the Acceptable Hemp THC Level shall be 0.3999%.

(2) "Cannabis" means the plant that, depending on its THC concentration level, is defined as either "hemp" or "marijuana." Cannabis is a genus of flowering plants in the family Cannabaceae of which Cannabis sativa is a species, and Cannabis indica and Cannabis ruderalis are subspecies thereof. Cannabis includes all parts of the plant, whether growing or not, including its seeds, resin, compounds, salts, derivatives, and extracts; and does not include a "publicly marketable hemp product," as defined by this administrative regulation.

(3) "CBD" means cannabidiol.

(4) "Decarboxylated" means the completion of the chemical reaction that converts THC-acid into delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums delta-9-THC and eighty-seven and seven tenths (87.7) percent of THC-acid.

(5) "delta-9-THC" means delta-9-tetrahydrocannabinol concentration (the primary intoxicating component of cannabis). For compliance purposes, all delta-9-THC concentrations must be measured post-decarboxylation or by another method which shall include both delta-9-THC and delta-9-THCA also known as total THC).

(6) "Department" or "KDA" is defined by KRS 260.850(3).

(7) "Hemp" or "industrial hemp" is defined by KRS 260.850(5).

(8) "Inspector" means an employee or other representative of the department sent to collect samples and perform inspections.

(9) "Lot" means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of hemp throughout.

(10) "Measurement of Uncertainty" means the parameter, associated with the result of a measurement that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to the measurement. For samples collected in 2020, the Measurement of Uncertainty shall be 0.0999%.

(11) "Person" means an individual or business entity.

(12) "Post-harvest sample" means a sample taken from the harvested hemp from a particular lot's harvest in accordance with the procedures as established in 302 KAR 50:055. The entire lot's

harvest is in the same form (for example, intact-plant, flowers, ground materials, etc.), homogenous, and not mixed with non-hemp materials or hemp from another lot.

(13) "Pre-harvest sample" means a composite, representative portion from living plants in a hemp lot collected in accordance with the procedures as established in 302 KAR 50:055.

(14) "Program" means the department's Hemp Licensing Program.

(15) "Propagule" means a plant or plant part that can be utilized to grow a new plant.

(16) "UK DRS" means the Division of Regulatory Services at the University of Kentucky College of Agriculture, Food, and Environment.

Section 2. Procedures for Inspection and Sample-Collection Visits.

(1) No hemp plant shall be harvested from any lot before a department inspector completes an inspection and sample-collection visit.

(2) The licensed grower shall submit to the department a completed Harvest/Destruction Report form at least 15 days prior to the grower's expected harvest date.

(3) Upon receiving a completed Harvest/Destruction Report form, the department shall contact the licensed grower to schedule an inspection and sample-collection visit for a specific time on a date that is not later than the grower's expected harvest date.

(4) The licensed grower, or the grower's authorized representative, shall be present during the inspection and sample-collection visit.

(5) During the inspection and sample-collection visit, the licensed grower shall provide to the inspector complete and unrestricted access to all hemp and other cannabis plants, whether growing or harvested; all land, buildings, and other structures used for the cultivation and storage of hemp and other cannabis plants; and all locations listed in the Hemp Grower License.

(6) During the inspection and sample-collection visit, the inspector shall perform a visual inspection of each location listed in the Hemp Grower License in order to verify the GPS coordinates and look for evidence that hemp plants or other cannabis plants were harvested without authorization prior to the inspector's inspection and sample-collection visit.

(7) The licensed grower shall complete the harvest of the crop from a lot not more than 15 days following the date of the inspection and sample-collection visit, unless specifically authorized in writing by the department; provided, however, that such authorization shall not exceed an additional 5 days and shall not be granted by the department without its determination that the cause for delay was inclement weather or another circumstance beyond the licensed grower's control.

(8) If the licensed grower fails to complete the harvest of the crop from a lot within fifteen (15) days following the date of sample collection, then the licensed grower shall submit a new Harvest/Destruction Report and may be required to pay a secondary pre-harvest sample fee established in 302 KAR 50:060.

(9) Floral material shall not be moved outside the Commonwealth, nor moved beyond a processor, nor commingled, nor extracted, nor converted into a consumer-ready product, nor enter commerce, until the department releases the material in writing.

Section 3. Procedure for Collecting Samples.

(1) The inspector shall use the following equipment and supplies:

- (a) an "Inspection and Sample Collection" Form;
- (b) alcohol wipes;
- (c) pruning shears;
- (d) paper sample-collection bags;
- (e) a permanent marker;
- (f) security tape or a stapler;
- (g) a bucket;
- (h) a GPS unit, or a device with GPS-capable technology; and
- (i) nitrile disposable gloves.

(2) The inspector shall take cuttings from at least plants in

each lot to be sampled.

(3) The inspector shall select the individual plants to be sampled from each lot by selecting at random at least five plants that appear to be representative of the composition of the lot, and avoiding selecting plants that are close to the perimeter of the lot.

(4) From each individual plant selected for sampling, the inspector shall cut the highest 20 centimeters from the plant's primary stem of female flower. The inspector shall not remove seed, stem, or other material from the sample that is cut from the plant.

(5) The inspector shall place the cuttings from the lot into a paper sample-collection bag, shut the bag by folding over its top, and secure the fold with security tape or a stapler.

(6) Using a permanent marker, the inspector shall write on the sealed paper sample-collection bag the Sample ID consistent with the following format:

- (a) the last four digits of the Grower License number,
- (b) the date, in MMDDYY format; and
- (c) a two-digit sample number assigned by the inspector.

(d) Example: For Grower License 21_1234, with a sample collected on October 15, 2020, from the third lot sampled by the inspector on that date, the Sample ID is 1234-101520-03.

(7) The inspector shall complete the "Inspection and Sample Collection Form" by entering the following information:

- (a) the licensed grower's name and contact information;
- (b) the address where the lot is located;
- (c) the Grower License number;
- (d) the inspector's name;
- (e) the date of the inspection and sample collection visit; and
- (f) for each sample collected, the Location ID, the Sample ID, the hemp variety or strain name, and a description of the crop.

(8) Following the completion of the inspection and sample-collection visit, the inspector shall deliver the sealed sample-collection bag to the department's designated drying facility.

(9) The department shall not unseal sample-collection bags during the drying process.

Section 4. Procedure for THC Testing.

(1) THC testing shall be completed by the department's designated THC testing lab; the department's primary designated THC testing lab is UK DRS, as mandated in KRS 250.355. The department shall not use THC testing services of any lab without a DEA registration.

(2) Upon receipt of a sealed sample-collection bag from the department, UK DRS shall receive, prepare, and release hemp samples in accordance with the UK DRS SOP# HM-LB-001 (Procedures for Receiving, Preparing and Releasing Hemp Samples).

(3) Hemp material not used by UK DRS for delta-9-THC testing shall be stored as a retained sample.

(4) UK DRS shall measure delta-9-THC content, including both delta-9-THC and delta-9-THCA, on a dry weight basis in accordance with the UK DRS SOP# HMP-LB-002 (Procedures for Measuring Delta 9 THC Content in Industrial Hemp by Gas Chromatography with Flame Ionization Detection).

(5) The following material is incorporated by reference:

(a) UK DRS SOP# HMP-LB-002 (Procedures for Measuring Delta 9 THC Content in Industrial Hemp by Gas Chromatography with Flame Ionization Detection); and

(b) UK DRS SOP# HM-LB-001 (Procedures for Receiving, Preparing and Releasing Hemp Samples).

(6) No person shall be permitted to add to, amend, or in any way alter the composition of the retained sample.

Section 5. Post-testing Actions.

(1) Not later than 60 days after the date of the inspection and sample-collection visit, the department shall notify the licensed grower of the results of the THC test results and the grower's eligibility to move the harvested materials into commerce.

(2) For the purpose of determining whether a test result is compliant with the definition of hemp (0.3000% delta-9 THC on a dry-weight basis) set forth in federal law and state law, the department shall evaluate it against the Acceptable Hemp THC

Level that is applicable for the current year.

(3) A sample from a lot with a measured THC concentration not exceeding the Acceptable Hemp THC Level shall be deemed compliant (i.e., conforming to the legal definition of hemp).

(4) A sample from a lot with a measured THC concentration exceeding the Acceptable Hemp THC Level shall be deemed non-compliant.

(5) Within 7 days of receiving notice of a measured THC concentration that exceeds the Acceptable Hemp THC Level but is less than 1.000%, the Licensed Grower must consent to the destruction of all material and floral material, or he or she may request a post-harvest re-test in accordance with the procedures set forth in Section 6 of this administrative regulation.

(6) The retest fee shall in an amount established in 302 KAR 50:060.

(7) Samples with a measured THC concentration of 1.000% or greater shall not be eligible for a post-harvest retest.

Section 6. Procedure for Collecting Samples for Post-harvest Retests.

(1) The inspector shall use the following equipment and supplies:

- (a) an "Inspection and Sample Collection" Form;
- (b) alcohol wipes;
- (c) pruning shears;
- (d) paper sample-collection bags for wet samples;
- (e) plastic sample-collection bags for dry samples;
- (f) a permanent marker;
- (g) security tape or a stapler;
- (h) a bucket;
- (i) a GPS unit, or a device with GPS-capable technology; and
- (j) nitrile disposable gloves.

(2) The material selected for Post-Harvest Sampling from this lot will be determined by the inspector, not the grower.

(3) The inspector shall perform a visual inspection to verify that the harvested material is in a homogenous state (for example, in an intact-plant state or in a ground-up state, or in another state). If the harvested material is not in a homogenous state, then the inspector shall notify the Hemp Program Manager and convey any instructions the Hemp Program Manager may designate to undertake additional post-harvest processing activities to bring the entire harvest into a homogenous state. If the license holder refuses or fails to undertake such designated activities, he or she shall be deemed to have waived any right to request a post-harvest retest and the material shall be designated for disposal.

(4) Floral harvested material selected for Post-Harvest Sampling shall be taken in the state (for example, in an intact-plant state or in a ground-up state, or in another state) in which the license holder plans to sell or send the material to a processor, in accordance with the following instructions.

(a) For intact-plant post-harvest samples:

(i) Ensure that the entire harvest is accounted for and in the same form (i.e., intact plants).

(ii) Clip the top 20 cm of hemp plant, primary stem, including female floral material, without removing seed, stem, or other material.

(iii) Take cuttings from at least five (5) hemp plants within the harvest's storage/drying area at the discretion of the inspector.

iv) Place the complete sample in a paper bag.

(v) Seal the paper bag by folding over top once and stapling to keep closed.

(b) For ground plant or ground floral material Post-Harvest Samples:

(i) Ensure that the entire harvest is accounted for and in the same form (i.e., all harvested material whether whole plant or floral material only must be ground with no intact plants or whole flowers remaining from that harvest).

(ii) Sample material from bag or container without removing seed, stem, or other material.

(iii) Sample from a minimum of five locations within the containers from at least one cup of material from the lot.

(iv) Place the complete sample in a plastic sample container.

(v) Seal the plastic sample container.

(c) For Post-Harvest Samples in other forms (e.g., trimmed floral material, or floral material and stems):

(i) Ensure that the entire harvest is accounted for and in the same form (i.e., all harvested material whether whole plant or floral material only must be ground with no intact plants or whole flowers remaining from that harvest).

(ii) Sample material from bag or container without removing seed, stem, or other material.

(iii) Sample from a minimum of five locations within the containers from at least one cup of material from the lot.

(iv) Place the complete sample in a plastic sample container.

(v) Seal the plastic sample container.

(5) The inspector shall place the cuttings or composite sample from the lot into a sample-collection bag, and secure the bag with security tape or staples.

(6) Using a permanent marker, the inspector shall write on the sealed sample-collection bag the Sample ID consistent with the following format:

(a) the last four digits of the Grower License number,

(b) the date, in MMDDYY format; and

(c) a two-digit sample number assigned by the inspector.

(d) Example: For Grower License 21_1234, with a sample collected on October 15, 2020, from the third lot sampled by the inspector on that date, the Sample ID would be 1234-101520-03.

(7) The inspector shall complete the "Inspection and Sample Collection Form" by entering the following information:

(a) the licensed grower's name and contact information;

(b) the address where the lot was grown and where it is currently located;

(c) the Grower License number;

(d) the inspector's name;

(e) the date of the inspection and sample collection visit; and

(f) for each sample collected, the Location ID, the Sample ID, the hemp variety or strain name, and a description of the crop.

(8) Following the completion of the inspection and sample-collection visit, the inspector shall deliver the sealed sample-collection bag to the department's designated drying facility.

(9) The department shall not unseal sample-collection bags during the drying process.

(10) The procedure for THC testing used by UK DRS shall be the same for post-harvest retests as those set forth in Section 4 of this administrative regulation.

(11) A lot having a post-harvest sample with a measured THC concentration exceeding the Acceptable Hemp THC Level shall be deemed non-compliant.

Section 7. Disposal of non-compliant harvested materials.

(1) If a lot is designated for mandatory disposal, then the department shall ensure that all leaf material and floral material from that lot is disposed of using one of the procedures set forth in this Section of this administrative regulation. The costs of disposal, if any are incurred by the department, shall be charged to the license holder.

(2) Disposal by on-site destruction with department supervision. Without removing the harvested material from the license holder's premises (or other licensed premises where the harvested material is located), a department employee shall personally observe the harvested material's destruction (i.e., the act of rendering it into a useless and non-retrievable state) using one of these methods:

(a) by grinding it up and incorporating it (by plowing or disking) into the soil; or

(b) by controlled incineration.

(3) Disposal by on-farm transfer to a person who is registered or authorized by the department to accept controlled substances for the purposes of destruction. At the premises of the license holder (or other licensed premises where the harvested material is located), a department employee shall load, or observe the loading, of the harvested material until the transfer is complete.

(4) Disposal by vehicle transport to a department-approved location.

(a) Prior to the transport: At the premises of the license holder (or other licensed premises where the harvested material is

located), a department employee shall load, or observe the loading, of the harvested material until the material is completely secured on or in the vehicle.

(b) During the transport: A department employee shall accompany the harvested material as it moves in a vehicle directly to a department-approved location. The vehicle shall constantly move towards its final destination without unnecessary stops, stops for reasons unrelated to the transport task, or stops of an extended duration.

(c) After the transport: Upon arrival at the department-approved location, a department employee shall unload, or observe the unloading, of the harvested material until the material is completely removed from the vehicle.

(d) Following the material's removal from the vehicle, a department employee shall personally observe the harvested material's destruction (i.e., the act of rendering it into a useless and non-retrievable state) using one of these methods:

(i) by grinding it up and incorporating it (by plowing or disking) into the soil; or

(ii) by controlled incineration.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) UK DRS SOP# HMP-LB-002 (Procedures for Measuring Delta 9 THC Content in Industrial Hemp by Gas Chromatography with Flame Ionization Detection), July 2019 edition; and

(b) SOP# HM-LB-001 (Procedures for Receiving, Preparing and Releasing Hemp Samples), August 2019 edition.

(2) These materials may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Agriculture, Office of Agricultural Marketing, 105 Corporate Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. These materials may also be obtained at www.kyagr.com.

RYAN F. QUARLES, Commissioner

APPROVED BY AGENCY: February 12, 2020

FILED WITH LRC: February 13, 2020 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2020 at 11:00 a.m., at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2020. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, fax (502) 564-2133, email clint.quarles@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes sample and testing rules for hemp activities in Kentucky.

(b) The necessity of this administrative regulation: This regulation establishes sample and testing rules for hemp activities in Kentucky, to ensure statutory compliance.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 260.862 commands the KDA to establish administrative regulations for hemp.

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

making hemp sample and testing rules very clear in Kentucky.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Department of Agriculture, 978 growers, 17 Universities and 200 processors.

(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: Entities will be required to follow the instructions in the filing.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Likely no modification of current actions would be needed, so little to no costs would be incurred.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Administrative ease on behalf of the KDA and clear guidance for entities.

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

(a) Initially: Expenses for the entire hemp program for 2019 were approximately \$1,156,000.

(b) On a continuing basis: Market forces will determine participation levels for 2020 and beyond. Ongoing costs will be a function of grower numbers and location modifications.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The hemp program is funded by the fees set for in 302 KAR 50:060.

(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 increases in funding are required currently.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This filing does not contain fees. The hemp program is funded by the fees set for in 302 KAR 50:060.

(9) TIERING: Is tiering applied? No. All regulated entities have the same requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Kentucky Department of Agriculture, and any agency that might concern hemp shall be affected 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 260.682

(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? Income for the entire hemp program for 2019 was approximately \$1,575,000.

(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? Even with a fixed fee structure, revenue is almost entirely determined by participation. Market forces will dictate revenue to a point the KDA cannot guess with any certainty.

(c) How much will it cost to administer this program for the first year? Expenses for the entire hemp program for 2019 were approximately \$1,156,000.

(d) How much will it cost to administer this program for subsequent years? The KDA expects this spending trendline to continue for the hemp program as a whole, but based on producer participation.

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

Revenues (+/-): \$1,575,000

Expenditures (+/-): \$1,156,000.

Other Explanation:

PUBLIC PROTECTION CABINET Kentucky Horse Racing Commission (New Administrative Regulation)

810 KAR 8:070. Bisphosphonates.

RELATES TO: KRS 230.215, 230.225, 230.240, 230.260, 230.265, 230.290, 230.320, 230.370

STATUTORY AUTHORITY: KRS 230.215(2), 230.225, 230.240(2), 230.260(8), 230.320, 230.370

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2), 230.260(8), and 230.320 authorize the Kentucky Horse Racing Commission to promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in Kentucky. KRS 230.240(2) requires the commission to promulgate administrative regulations restricting or prohibiting the administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race. This administrative regulation establishes requirements and controls in the administration of certain drugs, medications, and substances to horses, governs certain prohibited practices, and establishes trainer responsibilities relating to the health and fitness of horses.

Section 1. Horses Under Four (4) Years of Age.

(1) A horse under four (4) years of age shall not be administered a bisphosphonate.

(2) If a bisphosphonate is detected in an out-of-competition or post-race sample from a horse under four (4) years of age:

(a) The trainer, owner, or responsible person shall be in violation of this administrative regulation; and

(b) The horse shall be placed on the Veterinarian's List for a minimum of six (6) months from the date of sampling.

Section 2. Horses Four (4) Years of Age or Older.

(1) A bisphosphonate may be administered to a horse four (4) years of age or older if the bisphosphonate is:

(a) Approved by the Food and Drug Administration for use in the horse;

(b) Administered according to the label requirements; and

(c) Used for the treatment of navicular disease that has been diagnosed by a licensed veterinarian.

(2) The commission shall be notified within twenty-four (24) hours of the administration of any bisphosphonate to a horse.

(3) If a horse is administered a bisphosphonate, the horse shall be placed on the Veterinarian's List for a minimum of six (6) months after the last administration.

(4) If a bisphosphonate is detected in an out-of-competition or post-race sample from a horse four (4) years of age or older and the commission has not received a timely notification of an administration under subsection (2) of this section or the administration of the bisphosphonate does not meet the requirements of subsection (1) of this section:

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(a) The trainer, owner, or responsible person shall be in violation of this administrative regulation; and

(b) The horse shall be placed on the Veterinarian's List for a minimum of six (6) months from the date of sampling.

FRANKLIN S. KLING JR., Chairman

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: February 13, 2020

FILED WITH LRC: February 14, 2020 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 10:00 AM on April 22, 2020 at 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. 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, 2020. 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: Jennifer Wolsing, General Counsel, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone +1 (859) 246-2040, fax +1 (859) 246-2039, email jennifer.wolsing@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jennifer Wolsing

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for the use of bisphosphonates in horses that will race at licensed racing associations in the Commonwealth. The regulation establishes a prohibition concerning the use of bisphosphonates in horses under the age of four (4), and imposes reporting requirements on the use of bisphosphonates in horses aged four (4) or older. The regulations also requires horses that have been administered bisphosphonates to be placed on the Veterinarian's List.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to clearly establish requirements and prohibitions concerning the use of bisphosphonates in race horses.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. KRS 230.240(2) authorizes the commission to promulgate administrative regulations restricting or prohibiting the use and administration of drugs or stimulants or other improper acts to horses prior to horses participating in a race. This administrative regulation establishes the requirements, prohibitions, and procedures pertaining to the use of bisphosphonates in horses that will race at horse race meetings in Kentucky.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures that bisphosphonates are used appropriately in horses that will race in Kentucky and in a manner that is consistent with the integrity of racing.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Horse Racing Commission is affected by this administrative regulation. In addition, Kentucky's licensed thoroughbred and standardbred race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the use of medication in horse racing. In the year 2017, the commission licensed over 22,000 individuals to participate in horse racing. This number is consistent from year to year.

(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: Participants in horse racing, and especially owners, trainers and veterinarians, will be required to adhere to the requirements and rules set forth in this administrative regulation pertaining to the use of bisphosphonates in horse racing. In particular, those participants will be required not to use bisphosphonates in horses under age four (4) and to report the use of bisphosphonates to the commission when used in horses aged four (4) and above.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: No new costs are anticipated to comply with this administrative regulation, as Kentucky's licensees have operated in accordance with similar requirements for other medications for many years. At present, bisphosphonates are FDA approved only for use in horses aged four (4) and above. The commission already tests out-of-competition and post-race samples for various medications, drugs, and other substances.

(c) As a result of compliance, what benefits will accrue to the entities: Participants in racing will benefit from clearly defined rules that enhance the integrity and safety of racing.

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

(a) Initially: There is no initial administrative cost to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Kentucky's racing associations are required by KRS 230.240(2) to pay for the cost of testing for prohibited medications. The Kentucky Horse Racing Commission covers other costs of implementing and enforcing this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional fees or funding are necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering was not applied because this administrative regulation will apply to all similarly situated entities in an equal manner.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Horse Racing Commission 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 230.215, 230.225, 230.240, 230.260, KRS 230.290, KRS 230.300.

(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 will not generate revenue for state or local government for the first year.

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

(c) How much will it cost to administer this program for the first year? No funds will be required to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? No funds will be required to administer this 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 (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of February 10, 2020

Call to Order and Roll Call

The February meeting of the Administrative Regulation Review Subcommittee was held on Monday, February 10, at 1:00 p.m. In Room 149 of the Capitol Annex. Senator West, Co-Chair, called the meeting to order, the roll call was taken. The minutes of the January 2020 were approved.

Present were:

Members: Senators Alice Forgy Kerr and Stephen West. Representatives Deanna Frazier, David Hale, and Tommy Turner.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Klaber.

Guests: Rosemary Holbrook, Donna Shelton, Personnel Cabinet; Beau Barnes, Teachers; Retirement, Jeremy Branham, Richard Dobson, Gary Morris, Department of Revenue; Carrie Bass, Victoria Hale, Katherine Rupinen, Kentucky Retirement Systems; Anthony Gray, Larry Hadley, Board of Pharmacy, Brian Clark, Eric Gibson, Rich Storm, Department of Fish and Wildlife Resources; Melissa Duff, Department for Environmental Protection; Amy Barker, Parole Board; Doug Gott, Dale Hamblin, Robert Swisher, Department of Workers' Claims; DJ Wasson, Department of Insurance; Max Fuller, David Moore, Benjamin Siegel, Department of Housing, Buildings, and Construction; Julie Brooks, Ron Horseman, Department for Public Health; Jonathan Scott, Department for Medicaid Services; Douglas Beard, Laura Begin, Department for Community Based Services.

The Administrative Regulation Review Subcommittee met on Monday, February 10, 2020, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

PERSONNEL CABINET: Classified

101 KAR 2:120 & E. Incentive programs. Rosemary Holbrook, assistant general counsel, and Donna Shelton, executive director, represented the cabinet.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to incorporate by reference the Employee Suggestion Form. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Kentucky Teachers' Retirement System: General Rules

102 KAR 1:125. Omitted contributions. Beau Barnes, deputy executive secretary and general counsel, represented the system.

In response to questions by Co-Chair West, Mr. Barnes stated that this administrative regulation allowed a member who had missed a payment to pay subsequently and allowed a member to reinstate a refunded account. The agency amendments consisted of technical corrections.

At the January 13, 2020 meeting of the Administrative Regulation Review Subcommittee, a motion was made and seconded to approve the following amendments: to amend the TITLE and 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.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE and the RELATES TO paragraph to make technical corrections; and (2) to delete Section 3 in its entirety. Without objection, and with agreement of the agency, the amendments were approved.

Department of Revenue: Sales and Use Tax; Service and Professional Occupations

103 KAR 26:080. Dentists and dental laboratories. Jeremy Branham, tax policy and research consultant, Division of Sales and Use Tax; Richard Dobson, executive director, Office of Sales and Excise Taxes; and Gary Morris, executive director, Office of Tax Policy, represented the department.

103 KAR 26:120. Advertising agencies.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 3 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.

Sales and Use Tax; Miscellaneous Retailer Occupations

103 KAR 27:020. Blueprints and copies.

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 requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 27:120. Photographers, photo finishers, and x-ray labs.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY paragraph and Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Selective Excise Tax; Motor Fuels

103 KAR 43:101. Repeal of 103 KAR 043:100.

In response to questions by Co-Chair West, Mr. Dobson stated that 103 KAR 43:100 was being repealed because the statutory provisions were sufficient without an administrative regulation. This action was not removing tax deductions for farmers.

Kentucky Retirement Systems: General Rules

105 KAR 1:149 & E. Quasi-governmental employer cessation window. Carrie Bass, staff attorney supervisor; Victoria Hale, staff attorney; and Katherine Rupinen, interim executive director, Office of Legal Services, represented the systems. 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 4, 6, 10, 12, 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.

105 KAR 1:250. Participation of county attorney employees.

In response to questions by Co-Chair Hale, Ms. Hale stated that the authorizing statute gave the county attorney, based upon the revenue source for a given employee, the initial authority to determine which system was appropriate for the employee. The systems had ultimate auditing authority, which served as oversight to this process. The change of systems for an employee would be based on changes to duties or funding status.

In response to a question by Co-Chair West, Ms. Hale stated that it was uncommon for employees to transfer among systems.

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 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

105 KAR 1:445. Electronic ballots in Trustee elections.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs 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.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:020. Examination. Anthony Gray, general counsel, and Larry Hadley, executive director, represented the board.

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

301 KAR 2:251. Hunting and trapping seasons and limits for furbearers. Brian Clark, deputy commissioner; Eric Gibson, director of law enforcement; and Rich Storm, commissioner, represented the department.

In response to a question by Co-Chair West, Mr. Storm stated that the underlying administrative regulation provided more opportunities for hunters commensurate with similar opportunities in other states. Hunters had requested these changes.

In response to a question by Co-Chair West, Representative Turner stated that the subcommittee substitute changed provisions from a .243 caliber to a 6.5 mm rifle, because that was the more common firearm for hunting coyotes. The subcommittee substitute also deleted the requirement for written permission from landowners for hunting on private land. This change was the result of concerns about practicality and liability.

In response to a question by Senator Kerr, Co-Chair West stated that there were liability concerns for landowners regarding written permission for hunting on private land. Representative Turner stated that it could also be difficult to obtain written permission from a landowner for hunting on private land. For example, a landowner might be absent. Representative Turner thanked the department for making these revisions.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 13 and 14 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 7 to modify the caliber of rifle allowed and remove the requirement that hunters hunting on private land carry written permission from the landowner. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT CABINET: Division for Air Quality: Permits, Registrations, and Prohibitory Rules

401 KAR 52:100. Public, affected state, and U.S. EPA review. Melissa Duff, director, represented the division.

In response to questions by Co-Chair West, Ms. Duff stated that this administrative regulation established provisions for public notice regarding Title V Permits. The proposed amendment allowed public notice via the cabinet's Web site in lieu of publication in a newspaper; however, public notice through newspaper was not prohibited. This proposal was based on a federal change and was expected to save the cabinet money.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 through 10 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: Kentucky Parole Board

501 KAR 1:071E. Repeal of 501 KAR 001:070. Amy Barker, assistant general counsel, represented the board.

LABOR CABINET: Department of Workers' Claims

803 KAR 25:260. Treatment guidelines. Doug Gott, chief administrative law judge; Dale Hamblin, Jr., general counsel; and Robert Swisher, commissioner, represented the department.

In response to a question by Co-Chair West, Mr. Swisher stated that this administrative regulation pertained to medical treatment for workplace injuries and occupational disease. House Bill 2 from the 2018 Regular Session of the General Assembly required this administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 3 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clarify that nothing in this administrative regulation shall affect the right of an employer to participate in a managed health care system. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Insurance: Health Insurance Contracts

806 KAR 17:480. Uniform evaluation and reevaluation of providers. D. J. Wasson, executive advisor, represented the department.

In response to a question by Co-Chair West, Ms. Wasson stated that this administrative regulation incorporated a form that unnecessarily required photographic identification to be submitted in person. That portion of the form was revised.

A motion was made and seconded to approve the following amendments: (1) to amend material incorporated by reference and Sections

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2 and 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend material incorporated by reference to make technical changes. Without objection, and with agreement of the agency, the amendments were approved.

Department of Housing, Buildings, and Construction: Plumbing

815 KAR 20:010. Definitions for 815 KAR Chapter 020. Max Fuller, staff attorney; David Moore, commissioner; and Benjamin Siegel, general counsel, represented the department.

In response to a question by Co-Chair West, Mr. Fuller stated that most of the changes to administrative regulations in this package were technical, including repealing and reorganizing requirements. Mr. Moore stated that substantive changes to the plumbing code included adding tracer wires to water services in order to find those lines in the future and adding drain pans to water heaters on wood floors and attics that were above drop ceilings in order to protect structures.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 1 to add a definition for “water heater.” Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:020. Parts or materials list.

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.

815 KAR 20:030. Plumbing licenses.

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.

815 KAR 20:050. Installation permits.

A motion was made and seconded to approve the following amendments: (1) to incorporate the Plan Application Form by reference; and (2) to amend Sections 2 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:055. Water heating devices.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1, 4, and 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.

815 KAR 20:060. Quality, weight, installation, and storage of materials.

A motion was made and seconded to approve the following amendments: to amend Sections 1, 2, 5 through 7, 9, and 21 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:070. Plumbing fixtures.

A motion was made and seconded to approve the following amendments: to amend Sections 5, 6, 11, and 12 for clarity and to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:080. Waste pipe size.

815 KAR 20:090. Soil, waste, and vent systems, traps, and clean-outs.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 6, 9, 11, 15, 18, 24, 28, 34, 35, and 38 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:111. Repeal of 815 KAR 020:071, 815 KAR 020:072, 815 KAR 020:073, 815 KAR 020:074, 815 KAR 020:078, 815 KAR 020:084, 815 KAR 020:100, and 815 KAR 020:110.

815 KAR 20:120. Water supply and distribution.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:130. House sewers and storm water piping; methods of installation.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 22 and 23 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:150. Inspection and tests.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:170. Manufactured home and mobile home community waste system distribution and connections.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

815 KAR 20:180. Special connections.

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815 KAR 20:195. Medical gas piping installations.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Division of Administration and Financial Management: Local Health Departments

902 KAR 8:070. Recruitment, examination, and certification of eligible applications for local health departments. Julie Brooks, regulation coordinator, and Ron Horseman, branch manager, represented the division.

In response to questions by Co-Chair West, Mr. Horseman stated that 902 KAR 8:070 and 8:090 created some ability to establish market-based wage increases for nurses for local health department recruiting and retention. Ms. Brooks stated that 902 KAR 8:060, which was considered at a previous subcommittee meeting, gave local health department's authority to make salary adjustments for recruitment and retention. Mr. Horseman stated that that process involved requesting, in five (5) percent increments, increases to the standard pay grade based on the inability to fill a position, retain employees, or receive applications for employment. Approval of the request was based on comparable salaries at other facilities. Increments were made by five (5) percent, but multiple increments could be requested at one (1) time.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to incorporate a form by reference. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 8:090. Promotion, transfer, and demotion of local health department employees.

902 KAR 8:096. Local health department employee performance evaluation program.

902 KAR 8:120. Leave provisions applicable to employees of local health departments.

A motion was made and seconded to approve the following amendment: to amend Section 9 to authorize the appointing authority to approve sick leave without pay in certain circumstances, instead of requiring the appointing authority to do so. Without objection, and with agreement of the agency, the amendment was approved.

902 KAR 8:140. Appointment of a health officer or a public health department director of a local health department.

Department for Medicaid Services: Division of Fiscal Management: Hospital Service Coverage and Reimbursement

907 KAR 10:840 & E. Hospital Rate Improvement Program. Jonathan Scott, regulatory and legislative advisor, represented the division.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Section 3 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 2 to align adjustment procedures with KRS 205.6406. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Division of Family Support: Supplemental Nutrition Assistance Program

921 KAR 3:050. Claims and additional administrative provisions. Douglas Beard, division director, and Laura Begin, regulation coordinator, represented the division.

In response to questions by Co-Chair West, Ms. Begin and Mr. Beard stated that the program had been using one (1) form for all notices regarding overpayment of a benefit. That form included information on hearing rights; however, notices after the initial notice should not have referenced hearings because the deadlines would have passed. The program created a subsequent notice form that did not include information on hearing rights.

The following administrative regulations were deferred or removed from the February 10, 2020, subcommittee agenda:

COUNCIL ON POST SECONDARY EDUCATION: Interstate Reciprocity Agreements

13 KAR 4:010. State Authorization Reciprocity Agreement.

STATE BOARD OF ELECTIONS: Forms and Procedures

31 KAR 4:120. Additional and emergency precinct officers.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:095. Pharmacist interns.

Board of Dentistry

201 KAR 8:550. Anesthesia and sedation.

Board of Veterinary Examiners

201 KAR 16:500. Code of ethical conduct for veterinarians.

201 KAR 16:510. Fees for veterinarians.

201 KAR 16:512. Fees for veterinary technicians.

201 KAR 16:514. Fees for animal control agencies and animal euthanasia specialists.

201 KAR 16:516. Fees – other fees.

201 KAR 16:520. Approved veterinary colleges; approved programs for veterinary technicians.

201 KAR 16:530. Examination requirements for veterinarians and veterinary technicians.

201 KAR 16:540. Application requirements for veterinarians and veterinary technicians.

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201 KAR 16:550. Authorization for animal control agencies to apply for a restricted controlled substances certificate from DEA.

201 KAR 16:560. Certification as an animal euthanasia specialist.

201 KAR 16:570. License renewal for veterinarians and veterinary technicians.

201 KAR 16:572. License renewal for registered animal control agencies and animal euthanasia specialists; renewal notice.

201 KAR 16:580. Board issued licenses and certificates, inactive and retired statuses.

201 KAR 16:590. Continuing education requirements, veterinarians and veterinary technicians.

201 KAR 16:600. Prescription and dispensation of drugs for animal use.

201 KAR 16:610. Procedures for grievances, investigations, and administrative charges.

201 KAR 16:700. Material incorporated by reference.

Real Estate Appraisers

201 KAR 30:130. Education provider, instructor, and course.

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

301 KAR 2:185. Hunter education.

DEPARTMENT OF AGRICULTURE: Office of the State Veterinarian: Livestock, Poultry, and Fish

302 KAR 22:010. Authority to inspect, test, identify, remove and dispose of livestock, poultry, and fish.

302 KAR 22:020. Restriction of transportation of livestock, poultry, and fish.

302 KAR 22:040. Carcass transport and composting.

302 KAR 22:070. Restrictions on biological materials in Kentucky.

302 KAR 22:080. Feed restrictions.

ENERGY AND ENVIRONMENT CABINET: Department for Environmental Protection: Division of Water: Water Quality

401 KAR 5:091. Repeal of 401 KAR 005:090.

Division of Air Quality: General Standards of Performance

401 KAR 63:010. Fugitive emissions.

JUSTICE AND PUBLIC SAFETY: Asset Forfeiture

500 KAR 9:011. Repeal of 500 KAR 009:010, 500 KAR 009:020, 500 KAR 009:030, and 500 KAR 009:040.

Motorcycle Safety Education Commission

500 KAR 15:010 & E. Motorcycle safety education program.

Parole Board

501 KAR 1:040 & E. Parole revocation hearing procedures.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Driver Licensing: Administration

601 KAR 2:030E. Ignition interlock.

COMMUNITY AND TECHNICAL COLLEGE SYSTEM: Kentucky Fire Commission

739 KAR 2:140. Fire department reporting requirements.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department for Technical Education: Management of the Kentucky TECH System

780 KAR 2:060. Discipline of students.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Healthcare: Health Services and Facilities

902 KAR 20:036. Operation and services; personal care homes.

Division of Audits and Investigations: Controlled Substances

902 KAR 55:130. Electronic prescribing of controlled substances.

Department for Medicaid Services: Division of Provider Integrity

907 KAR 5:005. Health Insurance Premium Payment (HIPP) Program.

Office of Human Resource Management: Division of Employee Management: Administration

920 KAR 1:070. Deaf and hard of hearing services.

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Division of Child Care: Day Care

922 KAR 2:090. Child-care center licensure.

922 KAR 2:100. Certification of family child-care homes.

The subcommittee adjourned at 1:45 p.m. The next meeting of the subcommittee is tentatively scheduled for March 9, 2020, 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 FAMILY
SERVICES
Meeting of February 12, 2020**

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 February 12, 2020 having been referred to the Committee on February 5, 2020, pursuant to KRS 13A.290(6):

900 KAR 002:050
902 KAR 008:040
902 KAR 008:060
902 KAR 008:080
902 KAR 008:100
902 KAR 008:110
902 KAR 020:450
922 KAR 001:330 & E

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 12, 2020 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

CUMULATIVE SUPPLEMENT

Unless otherwise noted, information contained in these indexes relates only to administrative regulations printed in this, the 46th year of the *Administrative Register of Kentucky*, from July 2019 through June 2020.

Locator Index - Effective Dates

I - 2

The Locator Index lists all administrative regulations published during this *Register* year. It also lists the page number on which each regulation is published, the effective date of the regulation after it has completed the review process, and other actions that may affect the regulation. NOTE: Regulations listed under REGISTER YEAR 45 are regulations that were originally published in last year's issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the *Register* year ended.

KRS Index

I - 15

A cross-reference of statutes to which administrative regulations relate. These statute numbers are derived from the RELATES TO line of each regulation submitted for publication during this *Register* year.

Certifications Index

I - 29

A list of administrative regulations for which certification letters have been filed pursuant to KRS 13A.3104 during this *Register* year. Additionally, this index includes information regarding regulations that had letters that stated a regulation shall be amended within 18 months.

Technical Amendment Index

I - 37

A list of administrative regulations that have had technical, non-substantive amendments made during this *Register* year. 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*; however, they are usually available for a short time on the Legislative Research Commission's Web site.

Subject Index

I - 38

A general index of administrative regulations published during this *Register* year, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	45 Ky.R. Page No.	Effective Date	Regulation Number	45 Ky.R. Page No.	Effective Date
REGISTER YEAR 45					
The administrative regulations listed under VOLUME 45 are those administrative regulations that were originally published in Volume 45 (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:					
* Statement of Consideration not filed by deadline			31 KAR 004:120		
** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))			Amended	2152	
*** Withdrawn before being printed in Register			101 KAR 002:034		
IJC Interim Joint Committee			Amended	2955	
(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.			As Amended	3390	7-5-2019
			101 KAR 002:180		
			Amended	3443	
			101 KAR 002:190	3592	
			101 KAR 003:045		
			Amended	2960	
			As Amended	3394	7-5-2019
			102 KAR 001:060		
			Amended	2404	
			As Amended	3398	7-5-2019
			103 KAR 015:050		
			Amended	3445	
			103 KAR 015:060		
			Repealed	3594	9-6-2019
			103 KAR 015:061(r)	3594	9-6-2019
			103 KAR 017:120		
			Repealed	3595	9-6-2019
			103 KAR 017:121(r)	3595	9-6-2019
			200 KAR 003:020	2528	
			Am Comments	3190	
			200 KAR 014:200	3596	11-1-2019
			201 KAR 014:201(r)	3596	11-1-2019
			201 KAR 001:290	2802	
			As Amended	3399	7-5-2019
			201 KAR 001:300		
			Amended	2964	
			As Amended	3401	7-5-2019
			201 KAR 001:310	2804	
			As Amended	3403	7-5-2019
			201 KAR 002:010		
			Amended	3447	
			201 KAR 002:090		
			Amended	3449	
			201 KAR 002:095		
			Amended	3450	
			201 KAR 002:100		
			Amended	3451	
			201 KAR 002:116		
			Amended	3453	
			201 KAR 002:165		
			Amended	3454	11-1-2019
			201 KAR 002:225		
			Amended	3456	
			201 KAR 002:240		
			Amended	3458	
			201 KAR 002:270		
			Amended	3460	
			201 KAR 002:310		
			Amended	3461	
			201 KAR 002:340		
			Amended	3462	
			201 KAR 006:030		
			Amended	3464	
			201 KAR 006:040		
			Amended	3466	
			201 KAR 008:581		
			Amended	3244	9-11-2019
			201 KAR 013:040		
			Amended	3246	
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 1:010E	3382	5-15-2019			
Replaced	405	9-6-2019			
9 KAR 1:040E	3383	5-15-2019			
Replaced	405	9-6-2019			
200 KAR 3:020E	2304	1-4-2019			
Replaced	28	8-2-2019			
500 KAR 15:010E	3011	4-5-2019			
601 KAR 2:030E	2310	1-8-2019			
Withdrawn		8-7-2019			
803 KAR 025:270E	2316	12-27-2018			
Withdrawn		7-2019			
907 KAR 1:604E	3015	3-15-2019			
Replaced	937	10-4-2019			
921 KAR 2:015E	2322	12-28-2018			
Replaced	3232	7-5-2019			
921 KAR 2:055E	1501	11-1-2018			
Replaced	2925	5-31-2019			
922 KAR 1:310E	3019	4-1-2019			
Replaced	521	9-9-2019			
922 KAR 1:350E	3033	4-1-2019			
Replaced	535	9-9-2019			
922 KAR 1:495E	3042	4-1-2019			
Replaced	944	9-9-2019			
ORDINARY ADMINISTRATIVE REGULATIONS:					
009 KAR 001:010					
Amended	3439				
009 KAR 001:040					
Amended	3440				
011 KAR 005:145					
Amended	3239	8-2-2019			
016 KAR 003:010					
Repealed	2801	7-5-2019			
016 KAR 003:011(r)	2801				
As Amended	3387	7-5-2019			
016 KAR 003:020					
Repealed	2801	7-5-2019			
016 KAR 003:030					
Repealed	2801	7-5-2019			
016 KAR 003:040					
Repealed	2801	7-5-2019			
016 KAR 003:050					
Repealed	2801	7-5-2019			
016 KAR 003:090	2250				
As Amended	3387	7-5-2019			
016 KAR 8:030					
Amended	3240				

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	45 Ky.R. Page No.	Effective Date	Regulation Number	45 Ky.R. Page No.	Effective Date
201 KAR 013:050			302 KAR 016:070		
Amended	3249	8-19-2019	Amended	3506	8-22-2019
201 KAR 013:055			302 KAR 016:091		
Amended	3251		Amended	3507	8-22-2019
201 KAR 013:060			302 KAR 016:101		
Amended	3253		Amended	3509	8-22-2019
201 KAR 020:370			302 KAR 016:111		
Amended	3469		Amended	3510	
201 KAR 020:506			302 KAR 016:121		
Amended	3471	8-19-2019	Amended	3511	
201 KAR 022:135			302 KAR 016:131		
Amended	3258	7-19-2019	Amended	3513	
201 KAR 023:150	1459		302 KAR 078:020		
Withdrawn		7-30-2019	Repealed	3598	9-6-2019
201 KAR 025:062(r)	3597		302 KAR 078:021(r)	3598	9-6-2019
Withdrawn		7-2-2019	302 KAR 101:010	3599	
201 KAR 025:090			401 KAR 5:010		
Amended	3472		Amended	3514	
201 KAR 041:020			401 KAR 008:030		
Amended	3475	9-6-2019	Amended	3516	11-1-2019
201 KAR 041:030			401 KAR 008:050		
Amended	3477		Amended	3519	11-1-2019
201 KAR 041:040			401 KAR 011:001		
Amended	3478		Amended	3522	
201 KAR 041:060			401 KAR 011:030		
Amended	3480	9-6-2019	Amended	3524	
201 KAR 041:065			401 KAR 011:040		
Amended	3482		Amended	3527	
201 KAR 041:070			401 KAR 011:050		
Amended	3483		Amended	3531	
201 KAR 041:080			401 KAR 011:060		
Amended	3486		Amended	3535	
201 KAR 046:010			405 KAR 010:001		
Amended	2967		Amended	2979	
As Amended	3403	7-5-2019	405 KAR 010:015		
201 KAR 046:020			Amended	2982	
Amended	2970	7-5-2019	500 KAR 009:011(r)	3354	
201 KAR 046:030			500 KAR 0015:010	3355	
Amended	2971	7-5-2019	601 KAR 002:030		
201 KAR 046:040			Withdrawn		8-7-2019
Amended	2972	7-5-2019	704 KAR 003:303		
201 KAR 046:045			Amended	2987	
Amended	2975	7-5-2019	As Amended	3410	7-5-2019
201 KAR 046:081			704 KAR 008:060	2810	
Amended	2976	7-5-2019	Am Comments	3193	
202 KAR 003:010			As Amended	3410	7-5-2019
Amended	3259	9-6-2019	803 KAR 002:180		
202 KAR 007:520			Amended	2989	6-7-2019
Amended	2760		Amended	2522	
As Amended	3405	7-5-2019	803 KAR 025:270	2534	
202 KAR 007:560			Am Comments	2928	
Amended	3489		804 KAR 007:020		
202 KAR 007:575	2805		Amended	3262	
As Amended	3409	7-5-2019	804 KAR 007:030		
301 KAR 002:030			Repealed	3360	8-2-2019
Amended	3260		804 KAR 007:031(r)	3360	8-2-2019
301 KAR 002:221			805 KAR 003:100		
Amended	3491	8-20-2019	Amended	2991	
301 KAR 002:222			As Amended	3410	7-5-2019
Amended	3493	8-20-2019	805 KAR 003:110		
301 KAR 002:300			Amended	3538	
Amended	3498	8-20-2019	806 KAR 009:001		
301 KAR 003:090			Amended	3264	
Repealed	2996	7-5-2019	Withdrawn		9-3-2019
301 KAR 003:091(r)	2996	7-5-2019	806 KAR 009:020		
302 KAR 016:010			Amended	3265	
Amended	3502		806 KAR 009:030		
302 KAR 016:020			Amended	3539	
Amended	3503		806 KAR 009:060		
302 KAR 016:040			Repealed	3361	1-3-2020
Amended	3504		806 KAR 009:061(r)	3361	1-3-2020

LOCATOR INDEX - EFFECTIVE DATES

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806 KAR 009:070			Amended	3314	9-9-2019
Amended	3267		902 KAR 045:110		
Withdrawn		9-3-2019	Amended	3568	
806 KAR 009:110			Withdrawn		6-28-2019
Amended	3541	1-3-2020	902 KAR 045:120		
806 KAR 009:190			Amended	3571	8-19-2019
Amended	3542	1-3-2020	902 KAR 050:100		
806 KAR 009:200			Repealed	3364	7-19-2019
Amended	3543	1-3-2020	902 KAR 050:101(r)	3364	7-19-2019
806 KAR 009:310			902 KAR 050:110		
Amended	3269	1-3-2020	Amended	3316	7-19-2019
806 KAR 009:320			907 KAR 001:022		
Repealed	3362	1-3-2020	Amended	2784	
806 KAR 009:321(r)	3362	1-3-2020	Am Comments	3419	8-2-2019
806 KAR 009:340			907 KAR 001:330		
Repealed	3362	1-3-2020	Amended	2790	8-2-2019
806 KAR 009:341(r)	3600	1-3-2020	907 KAR 001:340		
806 KAR 009:350			Amended	2793	8-2-2019
Amended	3545	1-3-2020	907 KAR 001:441 (r)	2813	8-2-2019
806 KAR 010:030			907 KAR 001:436		
Amended	1824		Repealed	2813	8-2-2019
Am Comments	2716		907 KAR 001:604		
As Amended	3411	7-5-2019	Amended	3318	10-4-2019
806 KAR 010:050			907 KAR 001:755		
Repealed	3363	8-2-2019	Amended	2796	8-2-2019
806 KAR 010:051(r)	3363	8-2-2019	907 KAR 005:005		
806 KAR 015:080			Amended	2496	
Repealed	3601	10-4-2019	As Amended	3412	7-5-2019
806 KAR 015:081(r)	3601	10-4-2019	908 KAR 001:340		
806 KAR 047:010			Repealed	2538	8-19-2019
Amended	2993		908 KAR 001:341(r)	2538	8-19-2019
806 KAR 047:020	2997		908 KAR 001:370		
Repealed	2997	9-6-2019	Amended	2500	
806 KAR 047:021(r)	2997	9-6-2019	Am Comments	3195	
806 KAR 047:030	2997		908 KAR 001:372	2539	
Repealed	2997	9-6-2019	Am Comments	3215	
807 KAR 005:056			908 KAR 001:374	2546	
Amended	3272		Am Comments	3222	
808 KAR 001:180	2266		910 KAR 002:020		
815 KAR 007:120			Amended	3322	
Amended	3274	8-2-2019	910 KAR 002:040		
815 KAR 007:125			Amended	3573	
Amended	3277	8-2-2019	911 KAR 001:010	2814	
831 KAR 001:010			Am Comments	3425	
Amended	3546		911 KAR 001:020	2819	
831 KAR 001:020			Am Comments	3430	7-19-2019
Amended	3549	9-6-2019	911 KAR 001:060	2823	
831 KAR 001:030			Am Comments	3434	7-19-2019
Amended	3551		911 KAR 001:070		
902 KAR 002:070			Repealed	2828	7-19-2019
Amended	3279		911 KAR 001:071(r)	2828	7-19-2019
902 KAR 004:030			911 KAR 001:080		
Amended	3553	8-19-2019	Repealed	2828	7-19-2019
902 KAR 004:035			921 KAR 001:380		
Amended	3557	8-19-2019	Amended	3583	
902 KAR 007:010			921 KAR 002:015		
Amended	3560		Amended	2520	
902 KAR 009:010			Am Comments	3232	7-5-2019
Amended	3564		922 KAR 001:310		
902 KAR 015:010			Amended	3326	
Amended	3281		922 KAR 001:350		
902 KAR 020:036			Amended	3340	
Amended	3286		922 KAR 001:470		
902 KAR 020:111			Amended	3587	
Amended	2781		922 KAR 001:495		
Am Comments	3416	7-19-2019	Amended	3350	
902 KAR 045:065			922 KAR 001:510		
Amended	3294		Amended	3589	
902 KAR 045:070					
Amended	3304				
902 KAR 045:075					

SYMBOL KEY:

* Statement of Consideration not filed by deadline

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	45 Ky.R. Page No.	Effective Date	Regulation Number	45 Ky.R. Page No.	Effective Date
**	Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))				an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.
***	Withdrawn before being printed in Register				
IJC	Interim Joint Committee				
(r)	Repealer regulation: KRS 13A.310(3)-on the effective date of				

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	46 Ky.R. Page No.	Effective Date	Regulation Number	46 Ky.R. Page No.	Effective Date
REGISTER YEAR 46					
SYMBOL KEY:			Replaced	1573	12-9-2019
* Statement of Consideration not filed by deadline			ORDINARY ADMINISTRATIVE REGULATIONS		
** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))			009 KAR 001:010		
*** Withdrawn before being printed in Register			As Amended	405	9-6-2019
IJC Interim Joint Committee			009 KAR 001:040		
(r) Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.			As Amended	405	9-6-2019
			013 KAR 001:020		
			Amended	550	
			Am Comments	1430	
			As Amended	1791	1-3-2020
			013 KAR 004:010		
			Amended	1913	
			Am Comments	2458	
			016 KAR 005:020		
			Amended	2487	
			016 KAR 006:031(r)	1376	
			016 KAR 008:030		
			As Amended	26	8-2-2019
			016 KAR 009:060		
			Amended	2100	
			016 KAR 009:071(r)	2160	
			030 KAR 008:005	2349	
			032 KAR 001:060		
			Repealed	281	10-4-2019
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SYMBOL KEY:

- * Statement of Consideration not filed by deadline
- ** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))
- *** Withdrawn before being printed in Register
- IJC Interim Joint Committee
- (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.

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138.146	103 KAR 041:031		103 KAR 026:110
	103 KAR 041:100		103 KAR 026:120
	103 KAR 041:220		103 KAR 027:220
138.155	103 KAR 041:110		103 KAR 030:261
138.195	103 KAR 041:031		103 KAR 030:270
	103 KAR 041:040		103 KAR 031:020
	103 KAR 041:220		103 KAR 031:111
138.210	103 KAR 043:010	139.280	103 KAR 026:120
138.220	103 KAR 043:010		103 KAR 030:270
138.250	103 KAR 043:051		103 KAR 031:111
138.344	103 KAR 043:101	139.290	103 KAR 026:090
138.450	103 KAR 027:100		103 KAR 027:220
138.460	103 KAR 027:100		103 KAR 030:270
139.010	103 KAR 025:050		103 KAR 031:090
	103 KAR 025:060		103 KAR 031:111
	103 KAR 026:010	139.300	103 KAR 031:111
	103 KAR 026:030	139.310	103 KAR 026:070
	103 KAR 026:080		103 KAR 026:110
	103 KAR 026:090		103 KAR 026:120
	103 KAR 026:110		103 KAR 027:220
	103 KAR 026:120		103 KAR 030:261
	103 KAR 027:020		103 KAR 030:270
	103 KAR 027:080		103 KAR 031:090
	103 KAR 027:100	139.330	103 KAR 026:110
	103 KAR 027:120		103 KAR 026:120
	103 KAR 027:140		103 KAR 027:220
	103 KAR 027:180		103 KAR 030:261
	103 KAR 027:220		103 KAR 030:270
	103 KAR 028:010	139.340	103 KAR 025:050
	103 KAR 028:090		103 KAR 026:070
	103 KAR 030:170	139.430	103 KAR 031:111
	103 KAR 030:270	139.440	103 KAR 031:111
	103 KAR 031:020	139.470	103 KAR 026:050
	103 KAR 031:030		103 KAR 027:100
	103 KAR 031:080		103 KAR 027:180
	103 KAR 031:090		103 KAR 028:010
	103 KAR 031:111		103 KAR 030:170
	103 KAR 031:200		103 KAR 030:270
139.200	103 KAR 025:050	139.480	103 KAR 026:050
	103 KAR 025:060		103 KAR 026:090
	103 KAR 026:010		103 KAR 026:110
	103 KAR 026:090		103 KAR 027:220
	103 KAR 026:110		103 KAR 028:010
	103 KAR 026:120		103 KAR 030:261
	103 KAR 027:020		103 KAR 030:270
	103 KAR 027:080	139.482	103 KAR 028:010
	103 KAR 027:100	139.485	103 KAR 027:180
	103 KAR 027:220		103 KAR 027:220
	103 KAR 028:010	139.495	103 KAR 028:010

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139.518	103 KAR 031:200		301 KAR 002:195
139.540	103 KAR 026:110		301 KAR 002:300
	103 KAR 030:261		301 KAR 004:090
	103 KAR 031:030	150.015	301 KAR 002:185
139.550	103 KAR 025:060	150.025	301 KAR 002:090
	103 KAR 026:110	150.092	301 KAR 002:049
	103 KAR 030:261		301 KAR 002:300
	103 KAR 031:030	150.170	301 KAR 001:152
139.590	103 KAR 025:131		301 KAR 001:201
	103 KAR 026:110		301 KAR 001:410
	103 KAR 031:030		301 KAR 002:049
139.620	103 KAR 031:020		301 KAR 002:251
139.660	103 KAR 025:060		301 KAR 002:300
	103 KAR 031:030		301 KAR 003:100
139.710	103 KAR 026:070	150.175	301 KAR 001:152
	103 KAR 031:030		301 KAR 001:201
139.720	103 KAR 026:110		301 KAR 001:410
	103 KAR 027:180		301 KAR 002:300
	103 KAR 031:020		301 KAR 003:100
	103 KAR 031:030		301 KAR 004:090
	103 KAR 031:200	150.180	301 KAR 002:195
139.730	103 KAR 026:070		301 KAR 002:251
139.760	103 KAR 031:111		301 KAR 004:090
139.980	103 KAR 025:131	150.183	301 KAR 002:195
139.990	103 KAR 025:131		301 KAR 004:090
	103 KAR 031:111	150.235	301 KAR 001:410
140.100	103 KAR 002:005	150.290	301 KAR 002:195
141.011	103 KAR 016:250	150.305	301 KAR 002:090
141.120	103 KAR 016:400		301 KAR 002:195
141.121	103 KAR 016:400		301 KAR 004:090
141.200	103 KAR 016:200	150.320	301 KAR 002:195
	103 KAR 016:250	150.330	301 KAR 002:090
141.201	103 KAR 016:250		301 KAR 002:195
141.202	103 KAR 016:250		301 KAR 004:090
	103 KAR 016:400	150.340	301 KAR 001:201
141.330	103 KAR 018:150	150.360	301 KAR 002:090
142.303	907 KAR 010:830		301 KAR 002:195
	907 KAR 010:840	150.370	301 KAR 002:049
142.406	300 KAR 001:010		301 KAR 002:251
146/080 – 146.115	416 KAR 001:010		301 KAR 004:090
146.200 – 146.360	401 KAR 010:001	150.399	301 KAR 002:049
	401 KAR 010:026		301 KAR 002:251
	401 KAR 010:029	150.411	301 KAR 004:090
	401 KAR 010:030	150.415	301 KAR 002:251
	401 KAR 010:031	150.416	301 KAR 002:251
	405 KAR 008:010	150.445	301 KAR 001:152
146.410 – 146.535	401 KAR 010:001		301 KAR 001:410
	401 KAR 010:026	150.450	301 KAR 001:152
	401 KAR 010:029	150.470	301 KAR 001:185
	401 KAR 010:030	150.620	301 KAR 001:201
	401 KAR 010:031		301 KAR 001:410
146.550 – 146.570	401 KAR 010:001	150.722	301 KAR 004:090
	401 KAR 010:026	150.990	301 KAR 001:152
	401 KAR 010:029		301 KAR 001:185
	401 KAR 010:030		301 KAR 001:201
	401 KAR 010:031		301 KAR 001:410
146.600 – 146.619	401 KAR 010:001		301 KAR 002:049
	401 KAR 010:026		301 KAR 002:185
	401 KAR 010:029		301 KAR 002:251
	401 KAR 010:030		301 KAR 002:300
	401 KAR 010:031		301 KAR 004:090
146.990	401 KAR 010:001	150.995	301 KAR 002:049
	401 KAR 010:026		301 KAR 002:251
	401 KAR 010:029	151	401 KAR 005:091
	401 KAR 010:030	151.100	405 KAR 016:100
	401 KAR 010:031		405 KAR 018:100
148.522	300 KAR 001:010	151.125	405 KAR 007:050
148.525	300 KAR 001:010	151.250	405 KAR 016:100
150.010	301 KAR 001:152		405 KAR 018:100
	301 KAR 001:201	151.297	405 KAR 007:050
	301 KAR 001:410	156.029	702 KAR 003:130
	301 KAR 002:049		704 KAR 007:090
	301 KAR 002:090	156.035	704 KAR 007:090
	301 KAR 002:185	156.070	702 KAR 007:065

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	704 KAR 003:303		702 KAR 003:130
	704 KAR 008.080	161.545	102 KAR 001:036
156.076	702 KAR 003:130	161.560	102 KAR 001:125
156.160	702 KAR 003:130		702 KAR 003:130
	702 KAR 005:080	161.580	102 KAR 001:135
	704 KAR 003:303	161.605	102 KAR 001:032
	704 KAR 007:090		102 KAR 001:035
	704 KAR 008.080	161.675	102 KAR 001:100
156.200	702 KAR 003:130	161.677	102 KAR 001:032
156.290	702 KAR 003:130	161.700	102 KAR 001:032
156.496	922 KAR 001:565	161.705	102 KAR 001:135
156.557	704 KAR 003:370	161.740	704 KAR 003:370
156.800	704 KAR 003:370	161.770	701 KAR 005:090
156.802	780 KAR 002:040	161.790	701 KAR 005:090
	780 KAR 002:060	161.5465	102 KAR 001:036
157	922 KAR 002:090	162.062	815 KAR 020:191
157.320	702 KAR 007:125	163.500	920 KAR 001:070
157.350	702 KAR 007:125	163.506	920 KAR 001:070
157.360	702 KAR 007:125	164.020	013 KAR 001:020
158.030	702 KAR 007:125	164.020(23)	013 KAR 004:010
	922 KAR 002:090	164.945	013 KAR 001:020
	922 KAR 002:100	164.946	013 KAR 001:020
158.031	703 KAR 005:140		013 KAR 004:010
158.070	702 KAR 007:125	164.947	013 KAR 001:020
158.100	702 KAR 007:125		013 KAR 004:010
158.150	780 KAR 002:060	164.992	013 KAR 001:020
158.240	702 KAR 007:125		013 KAR 004:010
158.1411	704 KAR 008.080	165A.320	013 KAR 001:020
158.1413	704 KAR 008.080		013 KAR 004:010
158.444	780 KAR 002:060	165A.450	013 KAR 004:010
158.645	703 KAR 005:270	176.050	603 KAR 005:150
	704 KAR 008.080	176.430	401 KAR 010:030
158.6451	703 KAR 005:240	177.047	603 KAR 005:150
	703 KAR 005:270	177.103	603 KAR 005:150
	704 KAR 003:303	177.106	603 KAR 005:150
	704 KAR 008.080	186.010	601 KAR 002:030E
158.6453	703 KAR 005:140		601 KAR 009:130
	703 KAR 005:240	186.018	922 KAR 002:100
	703 KAR 005:270	186.020	922 KAR 002:100
	703 KAR 005:280	186.050	601 KAR 009:130
	704 KAR 003:303	186.053	601 KAR 009:130
	704 KAR 008.080	186.162	601 KAR 009:130
158.6455	703 KAR 005:240	186.172	601 KAR 009:130
	703 KAR 005:270	186.174	601 KAR 009:130
	703 KAR 005:280	186.411	601 KAR 013:090
158.782	703 KAR 005:280		601 KAR 013:100
159.010	702 KAR 007:125	186.440	601 KAR 002:030E
159.030	702 KAR 007:125		601 KAR 013:100
159.035	702 KAR 007:125	186.442	601 KAR 002:030E
159.140	702 KAR 007:125	186.444	601 KAR 013:090
	922 KAR 001:330		601 KAR 013:100
159.170	702 KAR 007:125	186.480	601 KAR 002:030E
160	702 KAR 003:130	186.531	601 KAR 002:030E
160.290	704 KAR 003:303	186.560	601 KAR 002:030E
	704 KAR 008.080	186.570	601 KAR 002:030E
160.346	703 KAR 005:280		601 KAR 013:090
160.380	702 KAR 007:065		601 KAR 013:100
160.445	702 KAR 007:065	186A.060	601 KAR 009:130
161.011	702 KAR 005:080	186A.070	601 KAR 009:130
161.020	016 KAR 005:020	186A.120	601 KAR 009:130
161.028	016 KAR 005:020	189.010	103 KAR 027:100
	016 KAR 009:060	189.125	922 KAR 002:100
161.030	016 KAR 005:020	189A.005	601 KAR 002:030E
	016 KAR 009:060	189A.010	601 KAR 002:030E
161.048	016 KAR 005:020	189A.040	601 KAR 002:030E
	016 KAR 009:060	189A.070	601 KAR 002:030E
161.049	016 KAR 009:060	189A.085	601 KAR 002:030E
161.200	702 KAR 007:125	189A.090	601 KAR 002:030E
161.220	102 KAR 001:036	189A.103	601 KAR 002:030E
	102 KAR 001:037	189A.105	601 KAR 002:030E
161.420	102 KAR 001:032	189A.107	601 KAR 002:030E
161.440	102 KAR 001:135	189A.200	601 KAR 002:030E
161.500	102 KAR 001:035	189A.240	601 KAR 002:030E
161.540	102 KAR 001:032	189A.250	601 KAR 002:030E

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189A.340	601 KAR 002:030E		907 KAR 003:170
189A.345	601 KAR 002:030E		907 KAR 010:830
189A.400	601 KAR 002:030E		907 KAR 015:005
189A.410	601 KAR 002:030E	205.520	895 KAR 001:002E
189A.420	601 KAR 002:030E		902 KAR 021:020
189A.440	601 KAR 002:030E		907 KAR 015:010
189A.500	601 KAR 002:030E		907 KAR 015:015
189.540	702 KAR 005:080		907 KAR 015:020
194A	921 KAR 002:015		907 KAR 015:022
194A.005	920 KAR 001:070		907 KAR 015:025
	922 KAR 001:320	205.559	907 KAR 003:170
	922 KAR 001:330	205.560	806 KAR 017:480
	922 KAR 001:565		907 KAR 003:170
194A.025	907 KAR 015:005	205.565	907 KAR 010:830
194A.030	920 KAR 001:070		907 KAR 010:840
	922 KAR 001:320	205.637	907 KAR 010:830
194A.050	902 KAR 008:110		907 KAR 010:840
	902 KAR 045:065	205.638	907 KAR 010:830
	902 KAR 045:070		907 KAR 010:840
	922 KAR 001:330	205.639	907 KAR 010:830
	922 KAR 001:565		907 KAR 010:840
	922 KAR 002:100	205.640	907 KAR 010:830
194A.060	907 KAR 003:170		907 KAR 010:840
	920 KAR 001:070	205.641	907 KAR 010:830
	922 KAR 001:560	205.6405	907 KAR 010:840
194A.125	907 KAR 003:170	205.6406	907 KAR 010:840
196	501 KAR 006:020	205.6407	907 KAR 010:840
	501 KAR 006:060	205.6408	907 KAR 010:840
	501 KAR 006:110	205.712	601 KAR 002:030E
	501 KAR 006:140	205.8451	907 KAR 015:005
196.035	501 KAR 006:280	209.020	921 KAR 002:015
196.700 – 196.705	500 KAR 010:050		922 KAR 001:320
196.700 – 196.736	500 KAR 010:001	209.550	902 KAR 002:065
	500 KAR 010:020	209.552	902 KAR 002:065
	500 KAR 010:030	209A.020	922 KAR 001:320
	500 KAR 010:040	210.005	902 KAR 020:430
197	501 KAR 006:020	211.005	902 KAR 045:065
	501 KAR 006:060		902 KAR 045:070
	501 KAR 006:110	211.015	902 KAR 008:040
	501 KAR 006:140		902 KAR 045:065
197.020	501 KAR 006:280		902 KAR 045:070
197.105	500 KAR 010:050	211.025	902 KAR 045:065
198B.050	815 KAR 020:195		902 KAR 045:070
198B.260	902 KAR 020:280	211.090	902 KAR 002:065
	902 KAR 020:430		902 KAR 008:096
199.011	922 KAR 001:320		902 KAR 008:100
	922 KAR 001:560	211.170	902 KAR 008:040
	922 KAR 001:565		902 KAR 008:060
	922 KAR 002:090		902 KAR 008:070
	922 KAR 002:100		902 KAR 008:080
199.462	922 KAR 001:565		902 KAR 008:090
199.470 - 199.590	922 KAR 001:565		902 KAR 008:096
199.480	922 KAR 001:560		902 KAR 008:100
199.505	922 KAR 001:560		902 KAR 008:110
199.555	101 KAR 002:120		902 KAR 008:120
	922 KAR 001:320		902 KAR 008:140
199.557	922 KAR 001:320	211.180	902 KAR 002:065
199.892	922 KAR 002:090	211.684	922 KAR 001:330
199.894	922 KAR 002:090	211.760	902 KAR 045:065
	922 KAR 002:100	211.892	805 KAR 001:060
199.895	922 KAR 002:090	211.893	805 KAR 001:060
	922 KAR 002:100	211.1751	902 KAR 008:040
199.8951	922 KAR 002:100		902 KAR 008:060
199.896 - 199.898	922 KAR 002:090		902 KAR 008:070
	922 KAR 002:100		902 KAR 008:090
199.8982	922 KAR 002:100		902 KAR 008:096
199.990	922 KAR 001:560		902 KAR 008:100
200.080-120	505 KAR 001:160	211.1752	902 KAR 008:060
200.503	902 KAR 020:430	211.1755	902 KAR 008:060
202A.011	921 KAR 002:015		902 KAR 008:090
	922 KAR 001:330		902 KAR 008:110
205.211	922 KAR 001:565	212.040	902 KAR 008:080
205.245	921 KAR 002:015	212.170	902 KAR 008:040
205.510	902 KAR 020:430		902 KAR 008:060

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	902 KAR 008:070		201 KAR 008:540
	902 KAR 008:090	223.170	401 KAR 006:211
	902 KAR 008:096	223.180	401 KAR 006:211
	902 KAR 008:100	223.190	401 KAR 006:211
	902 KAR 008:110	223.210	401 KAR 006:211
	902 KAR 008:120	223.400	401 KAR 006:001
	902 KAR 008:140	223.400-223.460	401 KAR 006:001
231.230	902 KAR 008:140		401 KAR 006:310
212.850	902 KAR 008:080		401 KAR 006:320
212.870	902 KAR 008:040		401 KAR 006:350
	902 KAR 008:060	223.991	401 KAR 006:001
	902 KAR 008:070		401 KAR 006:310
	902 KAR 008:080		401 KAR 006:320
	902 KAR 008:090		401 KAR 006:350
	902 KAR 008:096	224	401 KAR 005:091
	902 KAR 008:100	224.071	405 KAR 007:050
	902 KAR 008:110	224.01-300	103 KAR 030:261
	902 KAR 008:120	224.1-310	103 KAR 030:261
	902 KAR 008:140	224.1-010	401 KAR 010:001
214.010	902 KAR 002:065		401 KAR 010:026
	922 KAR 002:090		401 KAR 010:029
	922 KAR 002:100		401 KAR 010:030
214.036	922 KAR 001:330		401 KAR 010:031
	922 KAR 002:090	224.1-300	103 KAR 008:170
	922 KAR 002:100	224.1-310	103 KAR 008:170
214.540	902 KAR 021:020	224.1-400	401 KAR 010:001
214.542	902 KAR 021:020		401 KAR 010:026
214.543	902 KAR 021:020		401 KAR 010:029
216.380	907 KAR 010:830		401 KAR 010:030
	907 KAR 010:840		401 KAR 010:031
216.510	900 KAR 002:050	224.1-405	401 KAR 006:350
	902 KAR 002:065	224.10-010	401 KAR 006:320
216.515	902 KAR 002:065	224.10-100	401 KAR 006:320
216.525	900 KAR 002:050		401 KAR 058:005
216.530	902 KAR 002:065		401 KAR 052:100
	921 KAR 002:015	224.10-110	401 KAR 006:211
216.555	900 KAR 002:050	224.10-410	400 KAR 001:110
216.557	900 KAR 002:050	224.10-410 – 224.10-470	401 KAR 006:320
	921 KAR 002:015	224.16-050	401 KAR 010:001
216.560	900 KAR 002:050		401 KAR 010:026
216.750	921 KAR 002:015		401 KAR 010:029
216.765	921 KAR 002:015		401 KAR 010:030
216.875	902 KAR 020:280		401 KAR 010:031
216.880	902 KAR 020:280	224.16-070	401 KAR 010:001
216.885	902 KAR 020:280		401 KAR 010:026
216B	921 KAR 002:015		401 KAR 010:029
216B.010	900 KAR 006:075		401 KAR 010:030
216B.015	900 KAR 002:050		401 KAR 010:031
	900 KAR 006:075	224.20	401 KAR 063:010
216B.020	902 KAR 020:370	224.10-100	401 KAR 063:010
216B.040	900 KAR 006:075	224.20-100	401 KAR 051:010
216B.042	902 KAR 020:450		401 KAR 052:100
216B.050	902 KAR 020:430		401 KAR 058:005
216B.062	900 KAR 006:075	224.20-110	401 KAR 051:010
216B.090	900 KAR 006:075		401 KAR 052:100
216B.095	900 KAR 006:075		401 KAR 058:005
216B.105	902 KAR 020:430	224.20-120	401 KAR 051:010
216B.115	900 KAR 006:075		401 KAR 052:100
216B.155	806 KAR 017:480		401 KAR 058:005
216B.455	900 KAR 006:075	224.20-300	401 KAR 058:005
216B.990	900 KAR 006:075	224.20-310	401 KAR 058:005
217.005 – 217.215	902 KAR 045:090	224.20-320	401 KAR 058:005
217.290	902 KAR 045:090	224.43-010 – 224.43-815	401 KAR 006:350
217.992	902 KAR 045:090	224.46-012 – 224.46-870	401 KAR 006:350
217B	302 KAR 031:040	224.60-100 – 224.60-160	401 KAR 006:350
	302 KAR 050:020	224.70-100 – 224.70-140	401 KAR 010:001
	302 KAR 050:055		401 KAR 010:026
	302 KAR 050:060		401 KAR 010:029
217B.555	902 KAR 045:090		401 KAR 010:030
217B.990	902 KAR 045:090		401 KAR 010:031
217C.010	902 KAR 050:005	224.71-100 – 224.71-145	401 KAR 010:001
217C.070	902 KAR 050:003		401 KAR 010:026
218A.182	902 KAR 055:130		401 KAR 010:029
218A.205	201 KAR 002:020		401 KAR 010:030

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224.73-100 – 224.30-120	401 KAR 010:031	257.020	302 KAR 022:050	
	401 KAR 010:001		302 KAR 021:011	
	401 KAR 010:026		302 KAR 022:010	
	401 KAR 010:029		302 KAR 022:020	
	401 KAR 010:030		302 KAR 022:030	
224.73-100 – 224.30-120	401 KAR 010:031	257.030	302 KAR 022:070	
	416 KAR 001:010		302 KAR 022:080	
	224.99-010		401 KAR 058:005	302 KAR 022:130
	227.550		103 KAR 027:100	302 KAR 022:150
	230.210 – 230.375		811 KAR 001:250	302 KAR 021:011
230.215	810 KAR 004:030	257.080	302 KAR 022:010	
	810 KAR 005:060		302 KAR 022:030	
	810 KAR 005:070		302 KAR 022:040	
	810 KAR 007:040		302 KAR 022:130	
	810 KAR 008:010		302 KAR 022:150	
230.225	810 KAR 008:030	257.160	302 KAR 021:011	
	810 KAR 008:070		302 KAR 022:030	
	810 KAR 008:010		302 KAR 022:130	
	810 KAR 008:070		302 KAR 022:150	
	230.240		810 KAR 004:030	302 KAR 022:040
230.240	810 KAR 005:070	260	302 KAR 010:011	
	810 KAR 007:040	260.010	302 KAR 050:012	
	810 KAR 008:010	260.020	302 KAR 037:010	
	810 KAR 008:030	260.030	302 KAR 045:010	
	810 KAR 008:070	260.580	302 KAR 010:025	
230.260	810 KAR 005:060	260.620	302 KAR 010:015	
230.265	810 KAR 008:010	260.850 – 260.869	302 KAR 010:100	
	810 KAR 008:030		302 KAR 050:020	
	810 KAR 008:070		302 KAR 050:030	
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	810 KAR 008:010		302 KAR 050:055	
230.280	810 KAR 008:030	261	302 KAR 050:060	
	810 KAR 008:070		302 KAR 020:014	
	810 KAR 008:030		302 KAR 022:050	
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	810 KAR 008:030		300 KAR 001:010	
230.300	810 KAR 004:030	273.161 – 273.405	807 KAR 005:056	
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	810 KAR 008:030		808 KAR 001:170	
	810 KAR 004:030		808 KAR 001:170	
	810 KAR 005:070		808 KAR 001:170	
230.310	810 KAR 008:030	278.548	808 KAR 001:170	
	810 KAR 004:030		808 KAR 001:170	
	810 KAR 005:070		808 KAR 001:170	
	810 KAR 008:030		808 KAR 001:170	
	810 KAR 008:070		808 KAR 001:170	
230.320	810 KAR 008:030	286.4	808 KAR 001:170	
	810 KAR 008:070		808 KAR 001:170	
	810 KAR 008:030		808 KAR 001:170	
	810 KAR 008:070		808 KAR 001:170	
	810 KAR 008:030		808 KAR 001:170	
230.361	810 KAR 008:070	286.8-010	808 KAR 001:170	
	810 KAR 008:070		808 KAR 001:170	
	810 KAR 007:040		808 KAR 001:170	
	810 KAR 007:040		808 KAR 001:170	
	810 KAR 007:040		808 KAR 001:170	
230.770	810 KAR 007:040	286.8-020	808 KAR 001:170	
	810 KAR 007:040		808 KAR 001:170	
	810 KAR 007:040		808 KAR 001:170	
	810 KAR 007:040		808 KAR 001:170	
	810 KAR 007:040		808 KAR 001:170	
230.802	810 KAR 007:040	286.8-030	808 KAR 001:170	
	810 KAR 007:040		808 KAR 001:170	
	810 KAR 007:040		808 KAR 001:170	
	810 KAR 007:040		808 KAR 001:170	
	810 KAR 007:040		808 KAR 001:170	
230.990	811 KAR 001:250	286.8-034	808 KAR 001:170	
	902 KAR 008:100		808 KAR 001:170	
	902 KAR 008:100		808 KAR 001:170	
	804 KAR 010:040		808 KAR 001:170	
	804 KAR 010:040		808 KAR 009:050	
237.109	804 KAR 010:040	286.8-036	808 KAR 001:170	
	103 KAR 040:050		808 KAR 001:170	
	103 KAR 040:050		808 KAR 001:170	
	103 KAR 040:091		808 KAR 001:170	
	103 KAR 040:050		808 KAR 001:170	
243.200	103 KAR 040:010	286.8-032	808 KAR 001:170	
	302 KAR 045:010		808 KAR 001:170	
	302 KAR 015:020		808 KAR 001:170	
	302 KAR 015:030		808 KAR 001:170	
	302 KAR 045:010		808 KAR 009:050	
246.030	302 KAR 045:010	286.8-032	808 KAR 009:050	
	302 KAR 045:010		808 KAR 001:170	
	302 KAR 045:010		808 KAR 001:170	
	302 KAR 045:010		808 KAR 001:170	
	302 KAR 034:011		808 KAR 001:170	
246.650	302 KAR 035:011	286.8-034	808 KAR 001:170	
	302 KAR 036:011		808 KAR 009:050	
	302 KAR 015:010		808 KAR 001:170	
	302 KAR 020:011		808 KAR 009:050	
	302 KAR 020:012		808 KAR 001:170	
246.660	302 KAR 020:013	286.8-036	808 KAR 009:050	
	302 KAR 020:013		808 KAR 001:170	
	30		808 KAR 009:050	
	30		808 KAR 009:050	
	30		808 KAR 009:050	

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304.17A-500	806 KAR 017:480	314.011	907 KAR 015:005
304.17A-545	806 KAR 017:480		922 KAR 002:090
304.17A-575	806 KAR 017:480		922 KAR 002:100
304.17A-576	806 KAR 017:480	314.041	902 KAR 020:280
304.2-110	806 KAR 010:061		902 KAR 020:370
304.2-140	806 KAR 047:010	314.042	902 KAR 020:430
304.4-010	806 KAR 009:025	314.051	902 KAR 020:370
	806 KAR 009:221	314.404-314.416	201 KAR 020:600
	806 KAR 009:265		201 KAR 020:610
304.5-070	806 KAR 005:060		201 KAR 020:620
304.5-140	806 KAR 005:025		201 KAR 020:630
304.7-010 - 304.7-350	806 KAR 007:021		201 KAR 020:640
304.7-361	806 KAR 007:031		201 KAR 020:650
304.9-030	806 KAR 009:221		201 KAR 020:660
304.9-105	806 KAR 009:025		201 KAR 020:670
	806 KAR 009:221		201 KAR 020:680
304.9-130	806 KAR 009:025		201 KAR 020:690
304.9-150	806 KAR 009:025	314A.110	201 KAR 029:015
304.9-160	806 KAR 009:025	314A.112	201 KAR 029:015
	806 KAR 009:221	314A.215	201 KAR 029:015
304.9-190	806 KAR 009:221	314A.220	201 KAR 029:015
304.9-230	806 KAR 009:025	315.010	201 KAR 002:230
	806 KAR 009:221	315.020	201 KAR 002:230
304.9-270	806 KAR 009:025	315.035	201 KAR 002:230
304.9-295	806 KAR 009:025	315.050	201 KAR 002:020
	806 KAR 009:221	315.191	201 KAR 002:230
304.9-320	806 KAR 009:221	316	201 KAR 015:010
304.9-430	806 KAR 009:025	316.010	201 KAR 015:110
	806 KAR 009:221	316.030	201 KAR 015:040
304.9-505	806 KAR 009:221		201 KAR 015:050
	806 KAR 009:265		201 KAR 015:110
304.10-030	806 KAR 010:061	316.125	201 KAR 015:030
304.10-040	806 KAR 010:061		201 KAR 015:110
304.10-140	806 KAR 010:061	316.127	201 KAR 015:110
304.12-090 - 304.12-110	806 KAR 013:101	316.130	201 KAR 015:030
304.13-051 - 304.13-065	806 KAR 013:101		201 KAR 015:110
304.13-057	806 KAR 013:120	316.132	201 KAR 015:030
304.13-121	806 KAR 013:040	316.140	201 KAR 015:030
304.13-151	806 KAR 013:071		201 KAR 015:120
304.13-167	806 KAR 013:120	316.150	201 KAR 015:080
304.13-400 – 304.13-420	806 KAR 013:120	316.165	201 KAR 015:125
304.14-010	806 KAR 013:101	316.170	201 KAR 015:015
304.14-120	806 KAR 014:061	316.210	201 KAR 015:015
	806 KAR 015:090	316.260	201 KAR 015:110
304.14-642	806 KAR 009:221	317A.020	201 KAR 012:030
304.15-075	806 KAR 015:090		201 KAR 012:082
304.15-700	806 KAR 009:221	317A.050	201 KAR 012:030
304.20-400 - 304.20-450	806 KAR 013:101		201 KAR 012:082
304.17A-257	902 KAR 021:020		201 KAR 012:260
304.47-010	806 KAR 047:010	317A.060	201 KAR 012:030
304.47-020	806 KAR 047:010		201 KAR 012:060
304.47-040	806 KAR 047:010		201 KAR 012:140
304.47-050	806 KAR 047:010	317A.062	201 KAR 012:260
304.47-080	806 KAR 047:010	317A.090	201 KAR 012:082
304.99-020	806 KAR 003:230		201 KAR 012:140
309.080	907 KAR 015:005	317A.130	201 KAR 012:100
309.130	902 KAR 020:430	317B.020	201 KAR 012:060
	907 KAR 015:005	318	815 KAR 020:010
309.300 - 309.319	920 KAR 001:070		815 KAR 020:080
311.530-311.620	201 KAR 009:270		815 KAR 020:111
311.571	902 KAR 020:280	318.010	815 KAR 020:020
311.646	922 KAR 002:100		815 KAR 020:030
311.840	907 KAR 015:005		815 KAR 020:070
311.860	902 KAR 020:430		815 KAR 020:130
311.990	201 KAR 009:270		815 KAR 020:180
311A.015	202 KAR 007:020		815 KAR 020:195
311A.020	202 KAR 007:020	318.015	815 KAR 020:020
311A.030	202 KAR 007:555		815 KAR 020:070
311A.145	202 KAR 007:020		815 KAR 020:090
311A.190	202 KAR 007:555		815 KAR 020:130
313.021	201 KAR 008:590	318.020	815 KAR 020:030
313.035	201 KAR 008:550	318.030	815 KAR 020:030
313.060	201 KAR 008:540		815 KAR 020:050

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318.040	815 KAR 020:030		201 KAR 016:700
318.050	815 KAR 020:030	321.441	201 KAR 016:512
318.054	815 KAR 020:030		201 KAR 016:520
318.060	815 KAR 020:030		201 KAR 016:530
318.080	815 KAR 020:030		201 KAR 016:540
318.090	815 KAR 020:150		201 KAR 016:570
318.130	815 KAR 020:020		201 KAR 016:580
	815 KAR 020:060		201 KAR 016:590
	815 KAR 020:090	322	401 KAR 006:320
	815 KAR 020:120	322.010	405 KAR 008:010
	815 KAR 020:130	322.340	405 KAR 008:010
	815 KAR 020:150	322A	401 KAR 006:320
	815 KAR 020:170	323A.040	201 KAR 010:050
	815 KAR 020:180	323A.050	201 KAR 010:050
318.134	815 KAR 020:050	323A.060	201 KAR 010:050
	815 KAR 020:150	323A.070	201 KAR 010:050
	815 KAR 020:195	323A.100	201 KAR 010:050
318.140	815 KAR 020:150		201 KAR 010:080
318.150	815 KAR 020:020	323A.210	201 KAR 010:080
	815 KAR 020:060	324.010	201 KAR 011:011
	815 KAR 020:070		201 KAR 011:121
	815 KAR 020:090		201 KAR 011:170
	815 KAR 020:120		201 KAR 011:210
	815 KAR 020:130		201 KAR 011:220
	815 KAR 020:170	324.020	201 KAR 011:210
318.160	815 KAR 020:050		201 KAR 011:220
	815 KAR 020:150	324.040	201 KAR 011:210
	815 KAR 020:191	324.045	201 KAR 011:190
318.165	815 KAR 020:120		201 KAR 011:210
318.170	815 KAR 020:150	324.046	201 KAR 011:011
318.200	815 KAR 020:020		201 KAR 011:170
	815 KAR 020:055		201 KAR 011:190
	815 KAR 020:070		201 KAR 011:210
	815 KAR 020:130	324.085	201 KAR 011:170
319	907 KAR 015:010		201 KAR 011:210
319.050	902 KAR 020:430	324.090	201 KAR 011:170
319.053	907 KAR 015:005		201 KAR 011:210
319.056	902 KAR 020:430	324.111	201 KAR 011:011
	907 KAR 015:005		201 KAR 011:121
319.064	902 KAR 020:430	324.121	201 KAR 011:121
	907 KAR 015:005	324.117	201 KAR 011:011
319A.010	902 KAR 020:280		201 KAR 011:105
319C.010	902 KAR 020:430	324.141	201 KAR 011:210
	907 KAR 015:005	324.150	201 KAR 011:190
321	201 KAR 016:012	324.151	201 KAR 011:190
321.181	201 KAR 016:600	324.160	201 KAR 011:011
321.193	201 KAR 016:510		201 KAR 011:105
	201 KAR 016:520		201 KAR 011:121
	201 KAR 016:530		201 KAR 011:170
	201 KAR 016:540		201 KAR 011:190
	201 KAR 016:570		201 KAR 011:210
321.201	201 KAR 016:516	324.170	201 KAR 011:190
321.207	201 KAR 016:514	324.200	201 KAR 011:190
	201 KAR 016:550	324.281	201 KAR 011:121
	201 KAR 016:560		201 KAR 011:170
	201 KAR 016:572		201 KAR 011:190
	201 KAR 016:580		201 KAR 011:210
321.211	201 KAR 016:510	324.282	201 KAR 011:002
	201 KAR 016:570		201 KAR 011:105
	201 KAR 016:580	324.287	201 KAR 011:210
	201 KAR 016:590	324.310	201 KAR 011:121
321.221	201 KAR 016:540		201 KAR 011:210
	201 KAR 016:590	324.330	201 KAR 011:210
321.235	201 KAR 016:590	324.360	201 KAR 011:121
	201 KAR 016:610	324.395	201 KAR 011:220
	201 KAR 016:700	324.410	201 KAR 011:011
321.240	201 KAR 016:510	324.420	201 KAR 011:011
	201 KAR 016:512	324.990	201 KAR 011:210
	201 KAR 016:516	324A	201 KAR 030:010
321.351	201 KAR 016:500	324A.020	201 KAR 030:190
	201 KAR 016:610	324A.015	201 KAR 030:021
	201 KAR 016:700		201 KAR 030:040
321.353	201 KAR 016:610	324A.020	201 KAR 030:070
321.360	201 KAR 016:610		201 KAR 030:110

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324A.030	201 KAR 030:190	349.120	805 KAR 001:050
	201 KAR 030:330		805 KAR 001:140
324A.035	201 KAR 030:040		805 KAR 001:170
	201 KAR 030:110		805 KAR 001:200
	201 KAR 030:130		805 KAR 009:011
	201 KAR 030:190	349.155	805 KAR 001:140
	201 KAR 030:330		805 KAR 001:170
324A.040	201 KAR 030:110		805 KAR 009:011
	201 KAR 030:190	350	405 KAR 010:001
324A.045	201 KAR 030:110		405 KAR 026:011
	201 KAR 030:190	350.010	400 KAR 001:110
324A.047	201 KAR 030:110		405 KAR 005:002
324A.050	201 KAR 030:040		405 KAR 005:032
	201 KAR 030:070		405 KAR 026:011
324A.052	201 KAR 030:070	350.020	405 KAR 007:050
	201 KAR 030:190		405 KAR 008:010
324A.065	201 KAR 030:110		405 KAR 010:050
	201 KAR 030:190		405 KAR 026:011
324A.075	201 KAR 030:190	350.028	400 KAR 001:110
324A.152	201 KAR 030:330		405 KAR 026:011
324A.154	201 KAR 030:330	350.050	405 KAR 007:040
324A.155	201 KAR 030:330		405 KAR 026:011
324A.163	201 KAR 030:330	350.055	405 KAR 008:010
325.240	201 KAR 001:100		405 KAR 026:011
325.261	201 KAR 001:190	350.057	405 KAR 007:040
325.270	201 KAR 001:190		405 KAR 026:011
325.330	201 KAR 001:100	350.060	405 KAR 007:040
327.010	902 KAR 020:280		405 KAR 008:010
327.300	201 KAR 022:170		405 KAR 008:030
334A.020	902 KAR 020:280		405 KAR 010:050
335.080	902 KAR 020:430		405 KAR 026:011
	907 KAR 015:005	350.062	405 KAR 026:011
335.090	902 KAR 020:280	350.064	405 KAR 010:050
335.100	902 KAR 020:430		405 KAR 026:011
	907 KAR 015:005	350.070	400 KAR 001:110
335.300	902 KAR 020:430		405 KAR 008:010
	907 KAR 015:005		405 KAR 026:011
335.500	201 KAR 036:060	350.085	405 KAR 008:010
	902 KAR 020:430		405 KAR 026:011
	907 KAR 015:005	350.090	400 KAR 001:110
335.505	201 KAR 036:060		405 KAR 007:050
335.525	201 KAR 036:060		405 KAR 008:010
337	902 KAR 008:040		405 KAR 026:011
	902 KAR 008:120	350.093	400 KAR 001:110
338.015	803 KAR 002:180		405 KAR 010:050
338.121	803 KAR 002:180		405 KAR 016:210
338.161	803 KAR 002:180		405 KAR 018:220
342.020	803 KAR 025:260		405 KAR 026:011
	803 KAR 025:271E	350.095	405 KAR 010:050
342.035	803 KAR 025:260		405 KAR 016:210
	803 KAR 025:271E		405 KAR 018:220
342.640	702 KAR 003:130		405 KAR 026:011
342.0011	803 KAR 025:260	350.100	405 KAR 016:100
	803 KAR 025:271E		405 KAR 016:210
343	787 KAR 003:010		405 KAR 018:100
344.030	101 KAR 002:102		405 KAR 018:220
	101 KAR 003:015		405 KAR 020:040
344.500	920 KAR 001:070		405 KAR 026:011
349.015	805 KAR 001:030	350.110	405 KAR 026:011
	805 KAR 001:140	350.113	405 KAR 026:011
	805 KAR 001:170	350.130	400 KAR 001:110
	805 KAR 009:011		405 KAR 005:032
349.035	805 KAR 001:140		405 KAR 008:010
	805 KAR 009:011		405 KAR 010:050
349.040	805 KAR 001:140	350.131	405 KAR 010:050
	805 KAR 009:011	350.135	405 KAR 008:010
349.075	805 KAR 001:140		405 KAR 026:011
	805 KAR 009:011	350.151	405 KAR 010:050
349.335	805 KAR 001:080		405 KAR 018:100
349.045	805 KAR 001:020		405 KAR 018:220
349.105	805 KAR 001:170		405 KAR 026:011
349.110	805 KAR 001:020	350.240	405 KAR 005:002
	805 KAR 009:011		405 KAR 005:032
349.115	805 KAR 001:030	350.255	400 KAR 001:110

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350.300	405 KAR 005:002	353.590	805 KAR 001:030
	405 KAR 005:032		805 KAR 001:050
350.405	405 KAR 016:210		805 KAR 001:110
	405 KAR 020:040		805 KAR 001:140
350.410	405 KAR 007:040		805 KAR 001:170
	405 KAR 016:210		805 KAR 001:190
	405 KAR 018:220	353.5901	805 KAR 001:140
350.415	405 KAR 020:040		805 KAR 001:170
350.420	405 KAR 007:050		805 KAR 001:190
	405 KAR 016:100	353.592	805 KAR 001:140
	405 KAR 018:100		805 KAR 001:170
350.445	405 KAR 026:011	353.595	805 KAR 001:170
350.450	405 KAR 007:040	353.597	805 KAR 001:170
	405 KAR 008:010	353.610	805 KAR 001:140
	405 KAR 016:210	353.651	805 KAR 001:140
	405 KAR 018:220		805 KAR 001:170
	405 KAR 020:040	353.652	805 KAR 001:140
	405 KAR 026:011		805 KAR 001:170
350.455	405 KAR 016:100	353.656	805 KAR 001:160
	405 KAR 018:100	353.6601 - 353.6606	805 KAR 001:140
350.465	400 KAR 001:110		805 KAR 001:170
	405 KAR 008:010	353.730	805 KAR 001:140
	405 KAR 008:030		805 KAR 001:170
	405 KAR 010:050	353.735 - 353.747	805 KAR 001:200
	405 KAR 016:100	353.737	805 KAR 001:030
	405 KAR 016:210		805 KAR 001:140
	405 KAR 018:100		805 KAR 001:170
	405 KAR 018:220	353.745	805 KAR 001:190
	405 KAR 020:040	353.990	805 KAR 001:060
	405 KAR 026:011	353.991	805 KAR 001:140
350.500 - 350.521	405 KAR 008:010		805 KAR 001:170
350.990	400 KAR 001:110		805 KAR 001:190
	405 KAR 026:011	353.992	805 KAR 001:110
350.0301	400 KAR 001:110	363.410	302 KAR 081:010
351.315	400 KAR 001:110	363.510	302 KAR 075:130
351.330	805 KAR 004:050		302 KAR 076:100
331.335	805 KAR 004:050		302 KAR 080:010
331.360	805 KAR 004:050		302 KAR 081:010
351.345	400 KAR 001:110	363.610	302 KAR 081:010
351.350	400 KAR 001:110	363.710	302 KAR 076:100
352.340	805 KAR 007:101	363.720	302 KAR 075:130
353.050	805 KAR 001:140	363.730	302 KAR 075:130
353.060	805 KAR 001:140	363.770	302 KAR 076:100
353.120	805 KAR 001:060	363.780	302 KAR 076:100
353.160	805 KAR 001:190	363.800	302 KAR 076:100
353.170	805 KAR 001:060	365.650	103 KAR 025:060
353.180	805 KAR 001:060	365.665	103 KAR 025:060
	805 KAR 001:110	365.680	103 KAR 025:060
	805 KAR 001:140	369.101 - 369.120	907 KAR 015:010
	805 KAR 001:170	369.102	601 KAR 009:130
353.500	805 KAR 001:080	369.107	601 KAR 009:130
	805 KAR 001:160	383.085	902 KAR 045:065
	805 KAR 001:190		902 KAR 045:070
353.500 - 353.730	805 KAR 001:001	387	922 KAR 001:565
353.510	805 KAR 001:110	387.010	902 KAR 045:065
	805 KAR 001:140		902 KAR 045:070
	805 KAR 001:170	401	105 KAR 001:149
353.520	805 KAR 001:020	402	105 KAR 001:149
	805 KAR 001:080	403	105 KAR 001:149
	805 KAR 001:110	403.270 - 403.355	922 KAR 001:565
	805 KAR 001:120	405.024	922 KAR 001:565
	805 KAR 001:140	416.120	921 KAR 002:015
	805 KAR 001:170	416.212	921 KAR 002:015
353.540	805 KAR 001:080	416.2030	921 KAR 002:015
353.550	805 KAR 001:030	416.2095	921 KAR 002:015
	805 KAR 001:060	416.2096	921 KAR 002:015
	805 KAR 001:080	416.2099	921 KAR 002:015
	805 KAR 001:110	422.317	201 KAR 008:540
	805 KAR 001:180		907 KAR 003:170
	805 KAR 001:200	423	030 KAR 008:005
353.560	805 KAR 001:080	424	805 KAR 001:140
353.561 - 353.564	805 KAR 001:140	424.110 - 424.120	405 KAR 008:010
	805 KAR 001:170	424.260	702 KAR 003:130
353.570	805 KAR 001:110	431.600	922 KAR 001:330

KRS SECTION	REGULATION	KRS SECTION	REGULATION
434.840 – 434.860	907 KAR 003:170	620.170	922 KAR 001:565
439	501 KAR 006:020	620.180	922 KAR 001:320
	501 KAR 006:060		922 KAR 001:330
	501 KAR 006:110	620.230	922 KAR 001:320
	501 KAR 006:140	620.350	922 KAR 001:330
	501 KAR 006:160	620.363	922 KAR 001:320
436.265	501 KAR 006:280	620.990	922 KAR 001:330
439.315	501 KAR 001:040	625.065	922 KAR 001:560
439.330	501 KAR 001:040	2019 RS HB220	806 KAR 003:240
	501 KAR 001:071	7 C.F.R.	405 KAR 008:030
439.331	501 KAR 006:280		405 KAR 010:001
439.340	501 KAR 001:071		921 KAR 003:050
439.341	501 KAR 001:040		922 KAR 002:100
	501 KAR 001:071	12 C.F.R.	201 KAR 030:040
439.346	501 KAR 001:040		201 KAR 030:190
	501 KAR 001:071	16 C.F.R.	201 KAR 030:330
439.348	501 KAR 006:280		201 KAR 015:110
439.390	501 KAR 001:040		922 KAR 002:100
439.430	501 KAR 001:040	20 C.F.R.	921 KAR 002:015
	501 KAR 001:071	21 C.F.R.	902 KAR 045:090
439.440	501 KAR 001:040		902 KAR 055:120
439.480	501 KAR 006:280	24 C.F.R.	201 KAR 011:121
439.3101	501 KAR 006:280	26 C.F.R.	102 KAR 001:032
439.3104	501 KAR 006:280		105 KAR 001:390
439.3105	501 KAR 006:280		921 KAR 003:050
439.3401	902 KAR 020:430	27 C.F.R.	405 KAR 008:010
	902 KAR 020:450	28 C.F.R.	201 KAR 011:210
439.3406	501 KAR 001:040		902 KAR 045:065
446.010	501 KAR 006:280		902 KAR 045:070
503.110	922 KAR 001:330		920 KAR 001:070
514	921 KAR 002:015	29 C.F.R.	101 KAR 002:102
527.070	922 KAR 002:100		101 KAR 003:015
527.100	922 KAR 001:565		202 KAR 007:555
527.110	922 KAR 001:565		803 KAR 002:180
529.010	922 KAR 001:330		902 KAR 008:040
532.043	501 KAR 001:040		902 KAR 008:120
	501 KAR 001:071		902 KAR 045:065
532.045	922 KAR 001:330		902 KAR 045:070
532.060	501 KAR 001:071	30 C.F.R.	400 KAR 001:110
532.400	501 KAR 001:040		405 KAR 008:010
600.010	922 KAR 001:330		405 KAR 008:030
600.020	922 KAR 001:320		405 KAR 010:001
	922 KAR 001:330		405 KAR 010:050
	922 KAR 001:565		405 KAR 016:100
	922 KAR 002:090		405 KAR 016:210
	922 KAR 002:100		405 KAR 018:100
600 - 645	505 KAR 001:160		405 KAR 018:220
605.090	922 KAR 001:320	40 C.F.R.	302 KAR 031:040
	922 KAR 001:330		401 KAR 010:001
605.120	922 KAR 001:565		401 KAR 010:029
605.130	922 KAR 001:330		401 KAR 051:010
	922 KAR 001:565		401 KAR 052:100
605.150	922 KAR 001:330		401 KAR 058:005
	922 KAR 001:565		405 KAR 008:030
610.010	922 KAR 001:330		405 KAR 010:001
610.110	922 KAR 001:320		805 KAR 001:110
	922 KAR 001:565		805 KAR 001:190
620.010 - 620.050	922 KAR 001:330	42 C.F.R.	900 KAR 002:050
620.020	922 KAR 001:320		902 KAR 002:065
	922 KAR 001:560		902 KAR 020:450
	922 KAR 001:565		907 KAR 003:170
	922 KAR 002:090		907 KAR 005:005
	922 KAR 002:100		907 KAR 010:830
620.030	902 KAR 020:280		907 KAR 010:840
	922 KAR 002:090		907 KAR 015:005
	922 KAR 002:100		907 KAR 015:010
620.070	922 KAR 001:330		907 KAR 015:020
620.072	922 KAR 001:330	44 C.F.R.	201 KAR 011:121
620.090	922 KAR 001:565	45 C.F.R.	902 KAR 020:370
620.140	922 KAR 001:320		902 KAR 020:430
	922 KAR 001:565		902 KAR 020:450
620.142	922 KAR 001:320		907 KAR 015:010
	922 KAR 001:565		907 KAR 015:020
620.157	922 KAR 001:320		920 KAR 001:070

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	922 KAR 001:320		902 KAR 021:020
	922 KAR 002:090		907 KAR 005:005
	922 KAR 002:100		907 KAR 010:830
49 C.F.R.	302 KAR 031:040		907 KAR 010:840
	702 KAR 005:080		907 KAR 015:010
	805 KAR 001:190		907 KAR 015:015
	922 KAR 002:100		907 KAR 015:020
7 U.S.C.	302 KAR 050:050		907 KAR 015:022
8 U.S.C.	921 KAR 002:015		907 KAR 015:025
9 U.S.C.	202 KAR 006:010		920 KAR 001:070
	202 KAR 006:050		921 KAR 002:015
	202 KAR 006:080		922 KAR 001:320
	202 KAR 006:090		922 KAR 001:330
12 U.S.C.	201 KAR 030:010		922 KAR 001:565
	201 KAR 030:040		922 KAR 002:090
	201 KAR 030:110		922 KAR 002:100
	201 KAR 030:130	47 U.S.C.	202 KAR 006:010
	201 KAR 030:190		202 KAR 006:020
15 U.S.C.	201 KAR 030:330		202 KAR 006:030
	806 KAR 003:230		202 KAR 006:050
16 U.S.C.	405 KAR 008:010		202 KAR 006:060
	405 KAR 008:030		202 KAR 006:070
18 U.S.C.	501 KAR 006:160		202 KAR 006:080
	601 KAR 002:030E		202 KAR 006:090
20 U.S.C.	013 KAR 001:020		202 KAR 006:100
	702 KAR 007:065		302 KAR 045:010
	703 KAR 005:270	50 C.F.R.	920 KAR 001:070
	703 KAR 005:280	Pub.L. 104-191	920 KAR 001:070
	704 KAR 007:090	Pub.L. 110-325	
	902 KAR 020:430		
	907 KAR 015:010		
	907 KAR 015:020		
	922 KAR 002:100		
21 U.S.C.	902 KAR 045:090		
26 U.S.C.	102 KAR 001:032		
	105 KAR 001:149		
	105 KAR 001:390		
	301 KAR 003:100		
	907 KAR 005:005		
29 U.S.C.	101 KAR 002:102		
	101 KAR 003:015		
	201 KAR 015:110		
	902 KAR 008:040		
	902 KAR 008:120		
	902 KAR 020:430		
	907 KAR 005:005		
	907 KAR 015:005		
	907 KAR 015:010		
	907 KAR 015:020		
	920 KAR 001:070		
30 U.S.C.	400 KAR 001:110		
	401 KAR 010:030		
	405 KAR 008:010		
	405 KAR 008:030		
	405 KAR 010:050		
	405 KAR 016:100		
	405 KAR 016:210		
	405 KAR 018:100		
	405 KAR 018:220		
31 U.S.C.	045 KAR 001:050		
33 U.S.C.	401 KAR 010:029		
38 U.S.C.	902 KAR 008:096		
42 U.S.C.	201 KAR 008:540		
	202 KAR 006:050		
	401 KAR 051:010		
	401 KAR 052:100		
	401 KAR 063:010		
	704 KAR 007:090		
	805 KAR 001:110		
	815 KAR 020:060		
	900 KAR 002:050		
	902 KAR 020:370		
	902 KAR 020:430		
	902 KAR 020:450		

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	Letter Filed Date	Action
004 KAR 001:020	01-27-2020	Remain in Effect As Is
004 KAR 001:030	01-27-2020	Remain in Effect As Is
009 KAR 001:050	01-28-2020	Remain in Effect As Is
012 KAR 001:120	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 001:125	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 001:130	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 001:160	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 001:170	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 001:175	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:080	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:090	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:100	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:110	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:120	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:130	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:140	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:160	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 004:170	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 005:010	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 005:020	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 005:030	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 005:040	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 005:050	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 005:060	06-06-2019	To be amended, filing deadline 12-10-20
012 KAR 005:070	06-06-2019	To be amended, filing deadline 12-10-20
013 KAR 002:025	02-06-2020	Remain in Effect As Is
013 KAR 002:070	02-06-2020	Remain in Effect As Is
013 KAR 002:080	02-06-2020	Remain in Effect As Is
013 KAR 002:100	02-06-2020	To be amended, Filing deadline 8-6-21
013 KAR 003:010	02-04-2020	To be amended, filing deadline 8-4-21
013 KAR 003:020	02-04-2020	To be amended, filing deadline 8-4-21
013 KAR 003:030	02-04-2020	To be amended, filing deadline 8-4-21
013 KAR 003:040	02-04-2020	To be amended, filing deadline 8-4-21
013 KAR 003:050	02-04-2020	To be amended, filing

Regulation Number	Letter Filed Date	Action
		deadline 8-4-21
013 KAR 003:060	02-04-2020	To be amended, filing deadline 8-4-21
020 KAR 001:010	06-07-2019	Remain in Effect As Is
020 KAR 001:020	06-07-2019	Remain in Effect As Is
020 KAR 001:030	06-07-2019	Remain in Effect As Is
020 KAR 001:040	06-07-2019	Remain in Effect As Is
020 KAR 001:050	06-07-2019	Remain in Effect As Is
020 KAR 001:060	06-07-2019	Remain in Effect As Is
020 KAR 001:070	06-07-2019	Remain in Effect As Is
020 KAR 001:080	06-07-2019	Remain in Effect As Is
020 KAR 001:090	06-07-2019	Remain in Effect As Is
032 KAR 001:080	09-27-2019	Remain in Effect As Is
032 KAR 001:090	09-27-2019	Remain in Effect As Is
032 KAR 001:100	09-27-2019	To be amended, filing deadline 3-27-21.
032 KAR 001:190	09-27-2019	To be amended, filing deadline 3-27-21.
032 KAR 002:020	09-27-2019	Remain in Effect As Is
032 KAR 002:030	09-27-2019	Remain in Effect As Is
032 KAR 002:040	09-27-2019	Remain in Effect As Is
032 KAR 002:050	09-27-2019	Remain in Effect As Is
032 KAR 002:060	09-27-2019	Remain in Effect As Is
032 KAR 002:070	09-27-2019	Remain in Effect As Is
032 KAR 002:080	09-27-2019	Remain in Effect As Is
032 KAR 002:100	09-27-2019	Remain in Effect As Is
032 KAR 002:110	09-27-2019	Remain in Effect As Is
032 KAR 002:130	09-27-2019	Remain in Effect As Is
032 KAR 002:170	09-27-2019	Remain in Effect As Is
032 KAR 002:180	09-27-2019	Remain in Effect As Is
032 KAR 002:190	09-27-2019	Remain in Effect As Is
032 KAR 002:200	09-27-2019	Remain in Effect As Is
032 KAR 002:210	09-27-2019	Remain in Effect As Is
032 KAR 002:220	09-27-2019	Remain in Effect As Is
040 KAR 001:010	08-23-2019	Remain in Effect As Is
040 KAR 001:020	08-23-2019	Remain in Effect As Is
040 KAR 001:030	08-23-2019	Remain in Effect As Is
040 KAR 005:010	08-23-2019	Remain in Effect As Is
045 KAR 001:060	06-10-2019	Remain in Effect As Is
045 KAR 001:080	06-10-2019	Remain in Effect As Is
101 KAR 002:140	02-13-2020	Remain in Effect As Is
101 KAR 002:150	02-13-2020	Remain in Effect As Is
101 KAR 002:221	02-13-2020	Remain in Effect As Is
102 KAR 001:010	07-03-2019	Remain in Effect As Is
102 KAR 001:030	07-03-2019	Remain in Effect As Is
102 KAR 001:038	07-03-2019	Remain in Effect As Is
102 KAR 001:039	07-03-2019	Remain in Effect As Is
102 KAR 001:045	07-03-2019	Remain in Effect As Is
102 KAR 001:050	07-03-2019	Remain in Effect As Is
102 KAR 001:057	07-03-2019	Remain in Effect As Is
102 KAR 001:060	07-03-2019	Remain in Effect As Is
102 KAR 001:070	07-03-2019	Remain in Effect As Is
102 KAR 001:100	07-03-2019	Remain in Effect As Is
102 KAR 001:105	07-03-2019	Remain in Effect As Is
102 KAR 001:110	07-03-2019	Remain in Effect As Is
102 KAR 001:130	07-03-2019	Remain in Effect As Is
102 KAR 001:140	07-03-2019	Remain in Effect As Is
102 KAR 001:145	07-03-2019	Remain in Effect As Is
102 KAR 001:150	07-03-2019	Remain in Effect As Is

CERTIFICATION LETTER SUMMARIES

Regulation Number	Letter Filed Date	Action
105 KAR 001:430	06-28-2019	Remain in Effect As Is
105 KAR 001:440	06-11-2019	Remain in Effect As Is
200 KAR 003:010	02-10-2020	Remain in Effect As Is
200 KAR 003:045	02-10-2020	Remain in Effect As Is
200 KAR 005:076	02-10-2020	Remain in Effect As Is
200 KAR 005:302	02-12-2020	Remain in Effect As Is
200 KAR 005:305	02-10-2020	Remain in Effect As Is
200 KAR 005:306	02-12-2020	Remain in Effect As Is
200 KAR 005:307	02-12-2020	Remain in Effect As Is
200 KAR 005:309	02-12-2020	Remain in Effect As Is
200 KAR 005:310	02-12-2020	Remain in Effect As Is
200 KAR 005:311	02-12-2020	Remain in Effect As Is
200 KAR 005:312	02-12-2020	Remain in Effect As Is
200 KAR 005:314	02-12-2020	Remain in Effect As Is
200 KAR 005:315	02-12-2020	Remain in Effect As Is
200 KAR 005:340	11-16-1999	Remain in Effect As Is
200 KAR 005:350	02-10-2020	Remain in Effect As Is
200 KAR 005:375	01-21-2005	Remain in Effect As Is
200 KAR 005:380	07-06-2009	Remain in Effect As Is
200 KAR 005:390	12-05-2008	Remain in Effect As Is
200 KAR 005:400	02-04-2011	Remain in Effect As Is
200 KAR 006:015	02-10-2020	Remain in Effect As Is
200 KAR 006:040	02-10-2020	Remain in Effect As Is
200 KAR 006:060	02-10-2020	Remain in Effect As Is
200 KAR 006:070	02-10-2020	Remain in Effect As Is
200 KAR 012:020	02-10-2020	Remain in Effect As Is
200 KAR 012:030	02-10-2020	Remain in Effect As Is
200 KAR 026:010	02-10-2020	Remain in Effect As Is
200 KAR 038:040	02-10-2020	Remain in Effect As Is
200 KAR 038:050	02-10-2020	Remain in Effect As Is
200 KAR 038:060	02-10-2020	Remain in Effect As Is
200 KAR 038:070	02-10-2020	Remain in Effect As Is
201 KAR 002:061	01-29-2020	To be amended, filing deadline 7-29-21
201 KAR 002:205	01-29-2020	To be amended, filing deadline 7-29-21
201 KAR 008:520	12-03-2010	To be amended, filing deadline 6-3-21
201 KAR 008:540	04-18-2019	To be amended. Amendment filed 06-14-19.
201 KAR 008:550	07-29-2019	To be amended, filing deadline 1-29-21.
201 KAR 008:581	04-08-2019	To be amended. Amendment filed 04-15-19, effective 9-9-2019.
201 KAR 010:010	01-16-2020	Remain in Effect As Is
201 KAR 010:030	01-16-2020	Remain in Effect As Is
201 KAR 010:040	01-16-2020	Remain in Effect As Is
201 KAR 010:050	01-16-2020	Remain in Effect As Is
201 KAR 010:070	01-16-2020	Remain in Effect As Is
201 KAR 018:010	02-14-2020	Remain in Effect As Is
201 KAR 018:020	02-14-2020	Remain in Effect As Is
201 KAR 018:030	02-14-2020	Remain in Effect As Is
201 KAR 018:040	02-14-2020	Remain in Effect As Is
201 KAR 018:060	02-14-2020	Remain in Effect As Is
201 KAR 018:072	02-14-2020	Remain in Effect As Is
201 KAR 018:080	02-14-2020	Remain in Effect As Is
201 KAR 018:092	02-14-2020	Remain in Effect As Is
201 KAR 018:104	02-14-2020	Remain in Effect As Is
201 KAR 018:115	02-14-2020	Remain in Effect As Is
201 KAR 018:120	02-14-2020	Remain in Effect As Is
201 KAR 018:142	02-14-2020	Remain in Effect As Is
201 KAR 018:150	02-14-2020	Remain in Effect As Is
201 KAR 018:170	02-14-2020	Remain in Effect As Is
201 KAR 018:180	02-14-2020	Remain in Effect As Is
201 KAR 018:192	02-14-2020	Remain in Effect As Is

Regulation Number	Letter Filed Date	Action
201 KAR 018:196	02-14-2020	Remain in Effect As Is
201 KAR 018:200	02-14-2020	Remain in Effect As Is
201 KAR 018:210	02-14-2020	Remain in Effect As Is
201 KAR 018:220	02-14-2020	Remain in Effect As Is
201 KAR 021:001	12-11-2019	To be amended, filing deadline 6-11-21
201 KAR 021:015	12-11-2019	To be amended, filing deadline 6-11-22
201 KAR 021:025	12-11-2019	To be amended, filing deadline 6-11-23
201 KAR 021:035	12-11-2019	To be amended, filing deadline 6-11-24
201 KAR 021:041	12-11-2019	To be amended, filing deadline 6-11-25
201 KAR 021:042	12-11-2019	To be amended, filing deadline 6-11-26
201 KAR 021:045	12-11-2019	To be amended, filing deadline 6-11-27
201 KAR 021:051	12-11-2019	To be amended, filing deadline 6-11-28
201 KAR 021:052	12-11-2019	To be amended, filing deadline 6-11-29
201 KAR 021:053	12-11-2019	To be amended, filing deadline 6-11-30
201 KAR 021:054	12-11-2019	To be amended, filing deadline 6-11-31
201 KAR 021:055	12-11-2019	To be amended, filing deadline 6-11-32
201 KAR 021:060	12-11-2019	To be amended, filing deadline 6-11-33
201 KAR 021:065	12-11-2019	To be amended, filing deadline 6-11-34
201 KAR 021:070	12-11-2019	To be amended, filing deadline 6-11-35
201 KAR 021:075	12-11-2019	To be amended, filing deadline 6-11-36
201 KAR 021:080	01-16-2020	Remain in Effect As Is
201 KAR 021:085	12-11-2019	To be amended, filing deadline 6-11-37
201 KAR 021:090	12-11-2019	To be amended, filing deadline 6-11-38
201 KAR 021:095	12-11-2019	To be amended, filing deadline 6-11-39
201 KAR 021:100	12-11-2019	To be amended, filing deadline 6-11-40
201 KAR 023:020	06-21-2019	Remain in Effect As Is
201 KAR 023:050	06-21-2019	To be amended, filing deadline 12-21-20
201 KAR 023:060	06-21-2019	Remain in Effect As Is
201 KAR 023:080	06-21-2019	Remain in Effect As Is
201 KAR 023:120	06-21-2019	Remain in Effect As Is
201 KAR 023:140	06-21-2019	Remain in Effect As Is
201 KAR 026:115	09-05-2019	To be amended, filing deadline 3-5-21
201 KAR 026:121	09-05-2019	Remain in Effect As Is
201 KAR 026:125	09-05-2019	Remain in Effect As Is
201 KAR 026:130	09-05-2019	Remain in Effect As Is
201 KAR 026:140	09-05-2019	Remain in Effect As Is
201 KAR 026:145	09-05-2019	Remain in Effect As Is
201 KAR 026:155	09-05-2019	Remain in Effect As Is
201 KAR 026:160	09-05-2019	Remain in Effect As Is
201 KAR 026:165	09-05-2019	Remain in Effect As Is
201 KAR 026:171	09-05-2019	Remain in Effect As Is
201 KAR 026:175	09-05-2019	Remain in Effect As Is
201 KAR 026:180	09-05-2019	Remain in Effect As Is
201 KAR 026:185	09-05-2019	Remain in Effect As Is
201 KAR 026:190	09-05-2019	To be amended, filing deadline 3-5-21
201 KAR 026:200	09-05-2019	To be amended, filing

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Regulation Number	Letter Filed Date	Action
		deadline 3-5-21
201 KAR 026:215	09-05-2019	Remain in Effect As Is
201 KAR 026:225	09-05-2019	Remain in Effect As Is
201 KAR 026:230	09-05-2019	To be amended, filing deadline 3-5-21
201 KAR 026:250	09-05-2019	To be amended, filing deadline 3-5-21
201 KAR 026:270	09-05-2019	Remain in Effect As Is
201 KAR 026:280	09-05-2019	Remain in Effect As Is
201 KAR 026:290	09-05-2019	Remain in Effect As Is
201 KAR 026:300	09-05-2019	To be amended, filing deadline 3-5-21
201 KAR 026:310	09-05-2019	To be amended, filing deadline 3-5-21
201 KAR 029:010	12-06-2019	Remain in Effect As Is
201 KAR 029:015	12-06-2019	Remain in Effect As Is
201 KAR 029:040	12-06-2019	Remain in Effect As Is
201 KAR 029:070	12-06-2019	Remain in Effect As Is
201 KAR 030:130	08-06-2019	Remain in Effect As Is
201 KAR 030:160	08-06-2019	Remain in Effect As Is
201 KAR 030:170	08-06-2019	Remain in Effect As Is
201 KAR 041:020	12-11-2019	Remain in Effect As Is
201 KAR 041:030	12-11-2019	Remain in Effect As Is
201 KAR 041:040	12-11-2019	Remain in Effect As Is
201 KAR 041:060	12-11-2019	Remain in Effect As Is
201 KAR 041:065	12-11-2019	Remain in Effect As Is
201 KAR 041:070	12-11-2019	Remain in Effect As Is
201 KAR 041:080	12-11-2019	Remain in Effect As Is
201 KAR 041:090	12-11-2019	Remain in Effect As Is
201 KAR 041:100	12-11-2019	Remain in Effect As Is
202 KAR 007:330	02-12-2020	Remain in Effect As Is
202 KAR 007:540	02-12-2020	Remain in Effect As Is
300 KAR 001:010	02-12-2020	Remain in Effect As Is
300 KAR 002:010	02-12-2020	Remain in Effect As Is
300 KAR 002:020	02-12-2020	Remain in Effect As Is
300 KAR 002:030	02-12-2020	Remain in Effect As Is
300 KAR 002:040	02-12-2020	Remain in Effect As Is
300 KAR 005:010	02-12-2020	Remain in Effect As Is
300 KAR 006:020	02-12-2020	Remain in Effect As Is
300 KAR 007:010	02-12-2020	Remain in Effect As Is
301 KAR 001:010	11-08-2019	Remain in Effect As Is
301 KAR 001:012	11-19-2019	To be amended, filing deadline 5-19-21
301 KAR 001:016	11-19-2019	To be amended, filing deadline 5-19-21
301 KAR 001:018	11-19-2019	To be amended, filing deadline 5-19-21
301 KAR 001:019	11-19-2019	To be amended, filing deadline 5-19-21
301 KAR 001:031	11-19-2019	To be amended, filing deadline 5-19-21
301 KAR 001:035	11-08-2019	Remain in Effect As Is
301 KAR 001:050	11-19-2019	To be amended, filing deadline 5-19-21
301 KAR 001:058	11-08-2019	Remain in Effect As Is
301 KAR 001:060	11-08-2019	Remain in Effect As Is
301 KAR 001:080	11-08-2019	Remain in Effect As Is
301 KAR 001:082	11-19-2019	To be amended, filing deadline 5-19-21
301 KAR 001:110	11-08-2019	Remain in Effect As Is
301 KAR 001:120	11-19-2019	To be amended, filing deadline 5-19-21
301 KAR 001:125	11-19-2019	To be amended, filing deadline 5-19-21
301 KAR 001:140	11-19-2019	To be amended, filing deadline 5-19-21
301 KAR 001:150	02-05-2020	Remain in Effect As Is
301 KAR 001:171	11-08-2019	Remain in Effect As Is

Regulation Number	Letter Filed Date	Action
301 KAR 001:180	11-08-2019	Remain in Effect As Is
301 KAR 001:210	11-19-2019	To be amended, filing deadline 5-19-21
301 KAR 001:400	11-19-2019	To be amended, filing deadline 5-19-21
301 KAR 002:015	11-19-2019	To be amended, filing deadline 5-19-21
301 KAR 002:041	11-19-2019	To be amended, filing deadline 5-19-22
301 KAR 002:050	11-19-2019	To be amended, filing deadline 5-19-23
301 KAR 002:082	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 002:084	11-19-2019	To be amended, filing deadline 5-19-24
301 KAR 002:111	11-19-2019	To be amended, filing deadline 5-19-25
301 KAR 002:130	02-05-2020	Remain in Effect As Is
301 KAR 002:142	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 002:224	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 002:230	11-19-2019	To be amended, filing deadline 5-19-26
301 KAR 002:260	11-19-2019	To be amended, filing deadline 5-19-27
301 KAR 003:010	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 003:012	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 003:026	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 003:027	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 003:030	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 003:040	12-13-2019	Remain in Effect As Is
301 KAR 003:061	12-13-2019	Remain in Effect As Is
301 KAR 003:110	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 004:001	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 004:010	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 004:020	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 004:040	12-13-2019	Remain in Effect As Is
301 KAR 004:050	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 004:061	12-13-2019	Remain in Effect As Is
301 KAR 004:070	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 004:100	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 004:110	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 005:001	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 005:030	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 005:050	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 005:100	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 006:001	02-05-2020	To be amended. Filing deadline 8-5-21
301 KAR 006:010	02-05-2020	Remain in Effect As Is
301 KAR 006:020	02-05-2020	Remain in Effect As Is
301 KAR 006:030	02-05-2020	Remain in Effect As Is

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Regulation Number	Letter Filed Date	Action
301 KAR 006:040	02-05-2020	Remain in Effect As Is
301 KAR 006:060	02-05-2020	Remain in Effect As Is
301 KAR 006:070	02-05-2020	To be amended. Filing deadline 8-5-21
302 KAR 029:070	06-27-2019	Remain in Effect As Is
303 KAR 001:005	02-12-2020	To be amended. Filing deadline 8-12-21
303 KAR 001:010	02-12-2020	To be amended. Filing deadline 8-12-21
303 KAR 001:015	02-12-2020	To be amended. Filing deadline 8-12-21
303 KAR 001:075	02-12-2020	To be amended. Filing deadline 8-12-21
303 KAR 001:080	02-12-2020	To be amended. Filing deadline 8-12-21
303 KAR 001:090	02-12-2020	To be amended. Filing deadline 8-12-21
303 KAR 001:100	02-12-2020	To be amended. Filing deadline 8-12-21
304 KAR 001:010	02-12-2020	Remain in Effect As Is
304 KAR 001:020	02-12-2020	Remain in Effect As Is
304 KAR 001:030	02-12-2020	Remain in Effect As Is
304 KAR 001:040	02-12-2020	Remain in Effect As Is
304 KAR 001:050	02-12-2020	Remain in Effect As Is
304 KAR 001:080	02-12-2020	Remain in Effect As Is
401 KAR 058:005	07-30-2018	To be amended. Amendment filed 06-14-19, effective 6-14-2019.
420 KAR 001:010	02-05-2020	Remain in Effect As Is
420 KAR 001:020	02-05-2020	Remain in Effect As Is
420 KAR 001:030	02-05-2020	Remain in Effect As Is
420 KAR 001:040	02-05-2020	Remain in Effect As Is
420 KAR 001:050	02-05-2020	Remain in Effect As Is
500 KAR 010:001	12-03-2010	To be amended. Amendment filed 12-3-2019.
500 KAR 010:020	12-03-2010	To be amended. Amendment filed 12-3-2019.
500 KAR 010:030	12-03-2010	To be amended. Amendment filed 12-3-2019.
500 KAR 010:040	12-03-2010	To be amended. Amendment filed 12-3-2019.
501 KAR 001:040	10-21-2019	To be amended. Amendment filed 10-21-2019.
600 KAR 005:010	12-04-2019	Remain in Effect As Is
601 KAR 001:005	11-26-2019	Remain in Effect As Is
601 KAR 001:020	11-26-2019	Remain in Effect As Is
601 KAR 001:040	11-26-2019	Remain in Effect As Is
601 KAR 001:080	09-09-2019	Remain in Effect As Is
601 KAR 001:140	09-09-2019	Remain in Effect As Is
601 KAR 001:200	09-09-2019	Remain in Effect As Is
601 KAR 002:030	02-10-2020	Remain in Effect As Is
601 KAR 003:030	11-26-2019	Remain in Effect As Is
601 KAR 004:055	11-26-2019	Remain in Effect As Is
601 KAR 009:040	11-26-2019	Remain in Effect As Is
601 KAR 009:045	11-26-2019	Remain in Effect As Is
601 KAR 009:115	09-09-2019	Remain in Effect As Is

Regulation Number	Letter Filed Date	Action
601 KAR 009:140	09-25-2019	Remain in Effect As Is
601 KAR 011:040	11-26-2019	Remain in Effect As Is
601 KAR 014:010	11-12-2019	Remain in Effect As Is
601 KAR 035:060	11-26-2019	Remain in Effect As Is
601 KAR 035:060	03-18-2019	Remain in Effect As Is
601 KAR 040:020	11-26-2019	Remain in Effect As Is
603 KAR 003:030	03-18-2019	Remain in Effect As Is
603 KAR 005:066	11-26-2019	Remain in Effect As Is
603 KAR 005:071	11-26-2019	Remain in Effect As Is
603 KAR 005:320	11-29-2019	Remain in Effect As Is
603 KAR 007:020	11-26-2019	Remain in Effect As Is
603 KAR 040:020	03-18-2019	Remain in Effect As Is
702 KAR 003:100	06-28-2019	Remain in Effect As Is
702 KAR 003:110	06-28-2019	Remain in Effect As Is
702 KAR 003:120	06-28-2019	Remain in Effect As Is
702 KAR 003:220	06-28-2019	Remain in Effect As Is
702 KAR 004:160	02-11-2020	To be amended. Filing deadline 8-11-21
702 KAR 005:030	06-28-2019	Remain in Effect As Is
702 KAR 005:110	06-28-2019	Remain in Effect As Is
702 KAR 006:110	06-28-2019	Remain in Effect As Is
703 KAR 005:140	06-28-2019	Remain in Effect As Is
704 KAR 003:095	12-09-2019	Remain in Effect As Is
704 KAR 007:160	12-09-2019	Remain in Effect As Is
704 KAR 019:002	12-09-2019	Remain in Effect As Is
705 KAR 002:140	06-28-2019	Remain in Effect As Is
707 KAR 001:002	06-28-2019	Remain in Effect As Is
707 KAR 001:310	06-28-2019	Remain in Effect As Is
707 KAR 001:340	06-28-2019	Remain in Effect As Is
725 KAR 001:010	01-28-2020	To be amended, filing deadline 7-28-21
725 KAR 001:020	01-28-2020	To be amended, filing deadline 7-28-21
725 KAR 001:025	01-28-2020	To be amended, filing deadline 7-28-21
725 KAR 001:030	01-28-2020	To be amended, filing deadline 7-28-21
725 KAR 001:040	01-28-2020	To be amended, filing deadline 7-28-21
725 KAR 001:050	01-28-2020	To be amended, filing deadline 7-28-21
725 KAR 001:061	01-28-2020	To be amended, filing deadline 7-28-21
725 KAR 002:015	01-28-2020	To be amended, filing deadline 7-28-21
725 KAR 002:040	01-28-2020	Remain in Effect As Is
725 KAR 002:060	01-28-2020	To be amended, filing deadline 7-28-21
725 KAR 002:070	01-28-2020	Remain in Effect As Is
725 KAR 002:080	01-28-2020	To be amended, filing deadline 7-28-21
740 KAR 001:010	02-05-2020	Remain in Effect As Is
740 KAR 001:020	02-05-2020	Remain in Effect As Is
740 KAR 001:030	02-05-2020	Remain in Effect As Is
740 KAR 001:040	02-05-2020	Remain in Effect As Is
740 KAR 001:050	02-05-2020	Remain in Effect As Is
740 KAR 001:060	02-05-2020	Remain in Effect As Is
740 KAR 001:080	02-05-2020	Remain in Effect As Is
740 KAR 001:090	02-05-2020	Remain in Effect As Is
740 KAR 001:100	02-05-2020	Remain in Effect As Is
740 KAR 001:110	02-05-2020	Remain in Effect As Is
755 KAR 001:010	12-16-2019	Remain in Effect As Is
755 KAR 001:020	12-16-2019	Remain in Effect As Is
755 KAR 001:030	12-16-2019	Remain in Effect As Is
755 KAR 001:040	12-16-2019	Remain in Effect As Is
755 KAR 001:050	12-16-2019	Remain in Effect As Is
755 KAR 001:060	12-16-2019	Remain in Effect As Is

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Regulation Number	Letter Filed Date	Action
755 KAR 001:070	12-16-2019	Remain in Effect As Is
760 KAR 001:0030	01-22-2020	Remain in Effect As Is
760 KAR 001:010	01-22-2020	Remain in Effect As Is
760 KAR 001:020	01-22-2020	Remain in Effect As Is
760 KAR 001:040	01-22-2020	Remain in Effect As Is
760 KAR 001:050	01-22-2020	Remain in Effect As Is
760 KAR 001:060	01-22-2020	Remain in Effect As Is
760 KAR 001:070	01-22-2020	Remain in Effect As Is
765 KAR 001:010	02-12-2020	Remain in Effect As Is
765 KAR 001:020	02-12-2020	Remain in Effect As Is
765 KAR 001:030	02-12-2020	Remain in Effect As Is
765 KAR 001:040	02-12-2020	Remain in Effect As Is
765 KAR 001:050	02-12-2020	Remain in Effect As Is
765 KAR 001:060	02-12-2020	Remain in Effect As Is
765 KAR 001:070	02-12-2020	Remain in Effect As Is
770 KAR 001:010	06-21-2019	Remain in Effect As Is
770 KAR 001:020	06-21-2019	Remain in Effect As Is
770 KAR 001:030	06-21-2019	Remain in Effect As Is
770 KAR 001:040	06-21-2019	Remain in Effect As Is
770 KAR 001:050	06-21-2019	Remain in Effect As Is
770 KAR 001:060	06-21-2019	Remain in Effect As Is
770 KAR 001:070	06-21-2019	Remain in Effect As Is
772 KAR 001:010	07-01-2019	Remain in Effect As Is
772 KAR 001:020	07-01-2019	Remain in Effect As Is
772 KAR 001:030	07-01-2019	Remain in Effect As Is
772 KAR 001:040	07-01-2019	Remain in Effect As Is
772 KAR 001:050	07-01-2019	Remain in Effect As Is
772 KAR 001:060	07-01-2019	Remain in Effect As Is
772 KAR 001:070	07-01-2019	Remain in Effect As Is
775 KAR 001:010	02-05-2020	Remain in Effect As Is
775 KAR 001:020	02-05-2020	Remain in Effect As Is
775 KAR 001:030	02-05-2020	Remain in Effect As Is
775 KAR 001:040	02-05-2020	Remain in Effect As Is
775 KAR 001:050	02-05-2020	Remain in Effect As Is
775 KAR 001:060	02-05-2020	Remain in Effect As Is
780 KAR 002:040	06-28-2019	Remain in Effect As Is
780 KAR 002:060	06-28-2019	Remain in Effect As Is
780 KAR 002:140	06-28-2019	Remain in Effect As Is
780 KAR 003:050	06-28-2019	Remain in Effect As Is
780 KAR 003:120	06-28-2019	Remain in Effect As Is
780 KAR 003:130	06-28-2019	Remain in Effect As Is
780 KAR 003:140	06-28-2019	Remain in Effect As Is
780 KAR 007:010	06-28-2019	Remain in Effect As Is
781 KAR 001:010	02-12-2020	To be amended. Filing deadline 8-12-21
781 KAR 001:020	02-12-2020	To be amended. Filing deadline 8-12-21
781 KAR 001:030	02-12-2020	To be amended. Filing deadline 8-12-21
781 KAR 001:040	02-12-2020	To be amended. Filing deadline 8-12-21
781 KAR 001:050	02-12-2020	To be amended. Filing deadline 8-12-21
782 KAR 001:010	02-12-2020	To be amended. Filing deadline 8-12-21
782 KAR 001:070	02-12-2020	To be amended. Filing deadline 8-12-21
787 KAR 003:010	02-04-2020	Remain in Effect As Is
789 KAR 001:010	02-12-2020	Remain in Effect As Is
791 KAR 001:010	02-04-2020	To be amended, filing deadline 8-4-21

Regulation Number	Letter Filed Date	Action
791 KAR 001:020	02-04-2020	To be amended, filing deadline 8-4-21
791 KAR 001:025	02-04-2020	To be amended, filing deadline 8-4-21
791 KAR 001:027	02-04-2020	To be amended, filing deadline 8-4-21
791 KAR 001:030	02-04-2020	To be amended, filing deadline 8-4-21
791 KAR 001:035	02-04-2020	To be amended, filing deadline 8-4-21
791 KAR 001:040	02-04-2020	To be amended, filing deadline 8-4-21
791 KAR 001:050	02-04-2020	To be amended, filing deadline 8-4-21
791 KAR 001:060	02-04-2020	To be amended, filing deadline 8-4-21
791 KAR 001:070	02-04-2020	To be amended, filing deadline 8-4-21
791 KAR 001:080	02-04-2020	To be amended, filing deadline 8-4-21
791 KAR 001:100	02-04-2020	To be amended, filing deadline 8-4-21
791 KAR 001:150	02-04-2020	To be amended, filing deadline 8-4-21
791 KAR 001:155	02-04-2020	To be amended, filing deadline 8-4-21
791 KAR 001:160	02-04-2020	To be amended, filing deadline 8-4-21
803 KAR 025:015	08-20-2019	To be amended, filing deadline 2-20-21
803 KAR 025:021	08-20-2019	To be amended, filing deadline 2-20-21
803 KAR 025:220	08-20-2019	To be amended, filing deadline 2-20-21
804 KAR 007:020	03-26-2019	To be amended. Amendment filed 4-15-19, effective 8-2-2019.
811 KAR 001:250	03-18-2019	To be amended. Amendment filed 2-14-20.
815 KAR 020:071	10-14-2019	Remain in Effect As Is
815 KAR 020:072	10-14-2019	Remain in Effect As Is
815 KAR 020:073	10-14-2019	Remain in Effect As Is
815 KAR 020:074	10-14-2019	Remain in Effect As Is
815 KAR 020:078	10-14-2019	Remain in Effect As Is
815 KAR 020:110	10-14-2019	Remain in Effect As Is
815 KAR 020:150	10-14-2019	To be amended. Amendment filed 10-14-19.
902 KAR 001:400	10-15-2019	Remain in Effect As Is
902 KAR 002:030	10-18-2019	Remain in Effect As Is
902 KAR 002:040	10-18-2019	Remain in Effect As Is
902 KAR 002:050	10-18-2019	Remain in Effect As Is
902 KAR 002:065	10-18-2019	To be amended, filing deadline 4-18-21
902 KAR 002:080	10-15-2019	Remain in Effect As Is
902 KAR 002:090	10-15-2019	Remain in Effect As Is
902 KAR 002:140	11-26-2019	Remain in Effect As Is
902 KAR 004:090	10-15-2019	Remain in Effect As Is
902 KAR 004:110	11-26-2019	To be amended, filing deadline 5-26-21
902 KAR 008:130	06-11-2019	Remain in Effect As Is
902 KAR 008:150	06-11-2019	Remain in Effect As Is
902 KAR 008:160	06-11-2019	Remain in Effect As Is
902 KAR 010:010	11-18-2019	Remain in Effect As Is
902 KAR 010:030	10-02-2019	Remain in Effect As Is
902 KAR 010:035	10-02-2019	Remain in Effect As Is
902 KAR 010:060	11-18-2019	Remain in Effect As Is

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Regulation Number	Letter Filed Date	Action
908 KAR 003:010	12-18-2019	Remain in Effect As Is
908 KAR 003:020	12-18-2019	Remain in Effect As Is
908 KAR 003:025	12-18-2019	Remain in Effect As Is
908 KAR 003:030	12-18-2019	Remain in Effect As Is
908 KAR 003:040	12-18-2019	Remain in Effect As Is
908 KAR 003:190	12-18-2019	Remain in Effect As Is
908 KAR 005:010	12-18-2019	Remain in Effect As Is
910 KAR 001:150	01-07-2020	Remain in Effect As Is
910 KAR 001:160	01-07-2020	Remain in Effect As Is
920 KAR 001:030	11-12-2019	To be amended, filing deadline 4-18-21
921 KAR 001:020	12-06-2019	To be amended, filing deadline 6-6-21
921 KAR 001:390	12-06-2019	To be amended, filing deadline 6-6-22
921 KAR 003:010	11-26-2019	To be amended, filing deadline 5-26-21
921 KAR 003:020	11-26-2019	To be amended, filing deadline 5-26-21
921 KAR 004:116	11-26-2019	To be amended, filing deadline 5-26-21
922 KAR 001:300	11-26-2019	To be amended, filing deadline 5-26-21
922 KAR 001:370	11-26-2019	Remain in Effect As Is
922 KAR 001:380	11-26-2019	To be amended, filing deadline 5-26-21
922 KAR 001:390	11-26-2019	To be amended, filing deadline 5-26-21
922 KAR 001:520	11-26-2019	To be amended, filing deadline 5-26-21
922 KAR 001:540	11-26-2019	To be amended, filing deadline 5-26-21
922 KAR 002:230	11-26-2019	To be amended, filing deadline 5-26-21
922 KAR 002:240	11-26-2019	To be amended, filing deadline 5-26-21
922 KAR 002:250	11-26-2019	To be amended, filing deadline 5-26-21
922 KAR 005:020	11-26-2019	To be amended, filing deadline 5-26-21
922 KAR 006:040	12-06-2019	Remain in Effect As Is
922 KAR 006:045	12-06-2019	Remain in Effect As Is
922 KAR 008:010	11-26-2019	Remain in Effect As Is

TECHNICAL AMENDMENT INDEX

The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments entered during *Register* year 46. 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).
† - A nonsubstantive change was made by the Compiler pursuant to KRS 13A.040(9).

Regulation Number	Date Corrected	Regulation Number	Date Corrected
102 KAR 001:036‡	01-13-2020		
103 KAR 028:150	10-31-2019		
103 KAR 030:290	10-10-2019		
103 KAR 031:180	10-10-2019		
105 KAR 001:147	09-12-2019		
106 KAR 001:050†	09-04-2019		
302 KAR 035:060†	09-04-2019		
401 KAR 039:060	05-07-2019		
401 KAR 039:080	05-07-2019		
401 KAR 042:020	05-07-2019		
	09-25-2019		
401 KAR 042:060	05-07-2019		
	09-25-2019		
401 KAR 042:250	05-07-2019		
	09-25-2019		
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	09-25-2019		
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401 KAR 055:010†	09-04-2019		
401 KAR 059:010†	09-04-2019		
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401 KAR 059:021†	09-04-2019		
401 KAR 059:023†	09-04-2019		
401 KAR 061:010†	09-04-2019		
401 KAR 061:011†	09-04-2019		
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401 KAR 101:0.30	05-07-2019		
401 KAR 101:040	05-07-2019		
401 KAR 102:010	05-07-2019		
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