



ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, April 15, 2020.

MEETING NOTICES

The Administrative Regulation Review Subcommittee is tentatively scheduled to meet on May 12, 2020, at 1:00 p.m. in room 171 Capitol Annex.

ARRS Tentative Agenda - 2765 [Updated as needed online](#)

INDEXES & OTHER INFORMATION

Regulation Review Procedure	2768
ARRS Report.....	None
Other Committee Reports	None
Locator Index - Effective Dates.....	K - 2

KRS Index.....	K - 16
Certifications	K - 31
Technical Amendments	K - 46
Subject Index.....	K - 48

EMERGENCIES

Board of Nursing

201 KAR 020:225E. Reinstatement of license	2769
201 KAR 020:470E. Dialysis technician credentialing requirements and training program standards	2771

Board of Licensure of Marriage and Family Therapists

201 KAR 032:110E. Telehealth	2776
------------------------------------	------

Kentucky Horse Racing Commission

810 KAR 002:090E. Temporary unsuitability of licensed premises	2779
--	------

Department for Public Health

902 KAR 030:010E. Enhanced early intervention services in response to declared national or state public health emergency	2780
--	------

Department for Medicaid Services

907 KAR 3:300E. Enhanced and suspended Medicaid services and requirements if there is a declared national or state emergency	2782
--	------

Department for Community Based Services

921 KAR 003:025E. Technical requirements	2784
--	------

AS AMENDED

None

AMENDED AFTER COMMENTS

Board of Medical Licensure

201 KAR 009:270. Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone	2790
--	------

Board of Nursing

201 KAR 020:650. Licensed certified professional midwives permitted medical tests and formulary	2794
201 KAR 020:690. Licensed certified professional midwives transfer guidelines	2795

Board of Education

702 KAR 005:080. Bus drivers' qualifications, responsibilities, and training	2796
703 KAR 005:140. Requirements for school and district report cards	2801
704 KAR 007:090. Homeless children and youth education program and ensuring educational stability of children in foster care	2804

Department of Insurance

806 KAR 005:025. Credit for reinsurance	2811
---	------

PROPOSED AMENDMENTS

Board of Licensure of Marriage and Family Therapists

201 KAR 032:110. Telehealth	2821
-----------------------------------	------

Department of Juvenile Justice

505 KAR 001:120. Department of Juvenile Justice Policies and Procedures Manual: Health and Safety Services	2823
--	------

Board of Education

702 KAR 006:040. Personnel; policies and procedures	2825
---	------

Department of Workplace Standards

803 KAR 002:301. Adoption and extension of established federal standards	2827
803 KAR 002:304. Exit routes and emergency planning	2828
803 KAR 002:311. Fire protection	2830
803 KAR 002:312. Compressed gas and compressed air equipment	2832
803 KAR 002:315. Hand and portable powered tools and other hand-held equipment	2834
803 KAR 002:316. Welding, cutting, and brazing	2836
803 KAR 002:319. Commercial diving operations	2837

Kentucky Horse Racing Commission

810 KAR 008:020. Drug, medication, and substance classification schedule and withdrawal guidelines	2839
--	------

Office of Inspector General

900 KAR 005:020. State Health Plan for facilities and services	2841
--	------

Department for Community Based Services

921 KAR 003:025. Technical requirements	2842
---	------

NEW ADMINISTRATIVE REGULATION

Board of Education

702 KAR 006:046. Repeal of 702 KAR 006:045	2847
780 KAR 001:011. Repeal of 780 KAR 001:010	2848

Kentucky Horse Racing Commission

810 KAR 002:090. Temporary unsuitability of licensed premises	2850
--	------

Department for Medicaid Services

907 KAR 3:300 Enhanced and suspended Medicaid services and requirements if there is a declared national or state emergency	2851
---	------

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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 Meeting Agenda
Tuesday, May 12, 2020 at 1 p.m.
Annex Room 171



1. CALL TO ORDER AND ROLL CALL
2. REGULATIONS FOR COMMITTEE REVIEW

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Education Professional Standards Board

Educator Preparation

016 KAR 005:020. Standards for admission to educator preparation.

PERSONNEL BOARD

101 KAR 001:325. Probationary periods. (Deferred from April)

BOARDS AND COMMISSIONS

Board of Pharmacy

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

Board of Dentistry

201 KAR 008:550. Anesthesia and sedation. (Amended After Comments) (Deferred from April)

Board of Medical Licensure

201 KAR 009:270. Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone. (Amended After Comments)

Board of Cosmetology

201 KAR 012:030. Licensing, permits, and examinations. (Deferred from April)

201 KAR 012:060. Inspections. (Deferred from April)

201 KAR 012:082. Education requirements and school administration. (Deferred from April)

201 KAR 012:100. Infection control, health and safety.

201 KAR 012:140. School equipment. (Deferred from April)

201 KAR 012:260. Fees. (Deferred from April)

Board of Nursing

201 KAR 020:600. Standards for training programs for licensed certified professional midwives. (Not Amended After Comments)

201 KAR 020:610. Approval process for training programs for licensed certified professional midwives. (Not Amended After Comments)

201 KAR 020:620. Licensing requirements for licensed certified professional midwives. (Not Amended After Comments)

201 KAR 020:630. Disciplinary actions for licensed certified professional midwives. (Not Amended After Comments)

201 KAR 020:640. Requirements for informed consent for licensed certified professional midwives. (Deferred from March)

201 KAR 020:650. Licensed certified professional midwives permitted medical tests and formulary. (Amended After Comments)

201 KAR 020:660. Licensed certified professional midwives duty to report. (Deferred from March)

201 KAR 020:670. Licensed certified professional midwives consultation, collaboration, and referral provisions. (Deferred from March)

201 KAR 020:680. Licensed certified professional midwives client records. (Deferred from March)

201 KAR 020:690. Licensed certified professional midwives transfer guidelines. (Amended After Comments)

Real Estate Appraisers

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

COMMUNITY AND TECHNICAL COLLEGE SYSTEM

Board of Emergency Medical Services

202 KAR 007:555. Ground agencies. (Deferred from April)

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. (Deferred from March)

302 KAR 020:013. Repeal of 302 KAR 020:110, 302 KAR 020:115, 302 KAR 020:120, 302 KAR 020:130, 302 KAR 020:140, 302 KAR 020:180, 302 KAR 020:185, and 302 KAR 020:261. (Deferred from April)

302 KAR 020:014. Repeal of 302 KAR 020:070. (Deferred from April)

Office of the State Veterinarian

Livestock, Poultry, and Fish

302 KAR 022:130. Equine. (Deferred from April)

302 KAR 022:150. Cervids. (Amended After Comments) (Deferred from April)

VOLUME 46, NUMBER 11– MAY 1, 2020

Office of Agricultural Marketing Ginseng

302 KAR 045:010. Ginseng. (Deferred from April)

Industrial Hemp

302 KAR 050:012. Repeal of 302 KAR 050:040 and 302 KAR 050:050.

302 KAR 050:020. Policies and procedures for hemp growers.

302 KAR 050:030. Policies and procedures for hemp processors and handlers.

302 KAR 050:055. Sampling and THC testing, post-testing actions, disposal of noncompliant harvests.

302 KAR 050:060. Fees for the Hemp Licensing Program and forms.

ENERGY AND ENVIRONMENT CABINET

Department for Natural Resources

Division of Conservation

Administration

416 KAR 001:010. Administration of Kentucky Soil Erosion and Water Quality Cost-Share Fund. (Not Amended After Comments)
(Deferred from April)

JUSTICE AND PUBLIC SAFETY CABINET

Department of Corrections

Office of the Secretary

501 KAR 006:020. Corrections policies and procedures. (Not Amended After Comments)

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

Board of Education

Department of Education

Pupil Transportation

702 KAR 005:080. Bus drivers' qualifications, responsibilities, and training. (Amended After Comments)

Office of Learning Support Services

704 KAR 007:090. Homeless children and youth education program and ensuring educational stability of children in foster care. (Amended After Comments)

LABOR CABINET

Department of Workplace Standards

Division of Safety and Health Compliance

Division of Safety and Health Education and Training

Occupational Safety and Health

803 KAR 002:180. Recordkeeping, reporting, statistics.

PUBLIC PROTECTION CABINET

Department of Insurance

Kinds of Insurance; Limits of Risk; Reinsurance

806 KAR 005:025. Credit for reinsurance. (Amended After Comments)

Horse Racing Commission

Flat and Steeplechase Racing

810 KAR 004:030. Entries, subscriptions, and declarations.

Standardbred Racing

810 KAR 005:060. Entries and starters.

810 KAR 005:070. Running of the race.

Incentive and Development Funds

810 KAR 007:040. Kentucky Standardbred Development Fund and Kentucky Standardbred Breeders' Incentive Fund.

Medication Guidelines

810 KAR 008:010. Medication; testing procedures; prohibited practices.

810 KAR 008:070. Bisphosphonates.

Harness Racing

811 KAR 001:250. Exotic wagering.

Department of Housing, Buildings, and Construction

Division of Plumbing

Plumbing

815 KAR 020:191. Minimum fixture requirements.

VOLUME 46, NUMBER 11– MAY 1, 2020

CABINET FOR HEALTH AND FAMILY SERVICES

Kentucky Health Program

Medicaid Services

895 KAR 001:002E. Repeal of 895 KAR 001:001, 895 KAR 001:010, 895 KAR 001:015, 895 KAR 001:020, 895 KAR 001:025, 895 KAR 001:030, 895 KAR 001:035, 895 KAR 001:040, 895 KAR 001:045, 895 KAR 001:050, and 895 KAR 001:055. (Deferred from April)

Department for Public Health

Division of Epidemiology and Health Planning

Communicable Diseases

902 KAR 002:065. Immunization requirements for long-term care facilities. (Deferred from April)

Division of Healthcare

Health Services and Facilities

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

Department for Community Based Services

Division of Family Support

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

921 KAR 002:015 & E. Supplemental programs for persons who are aged, blind, or have a disability. ("E" expires 08-23-2020) (Not Amended After Comments)

Department for Community Based Services

Division of Child Care

Day Care

922 KAR 002:090. Child-care center licensure. (Amended After Comments) (Deferred from April)

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

3. REGULATIONS REMOVED FROM MAY'S AGENDA

SECRETARY OF STATE

Notary Public

030 KAR 008:005 & E. Notary Public applications and electronic and online registrations. ("E" expires 08-30-2020) (Comments Received, SOC ext., due 5-15-2020)

BOARDS AND COMMISSIONS

Board of Pharmacy

201 KAR 002:230. Special limited pharmacy permit – Central Fill. (Comments Received, SOC ext., due 5-15-2020)

Board of Dentistry

201 KAR 008:590. Teledentistry. (Comments Received, SOC ext., due 5-15-2020)

TOURISM, ARTS AND HERITAGE CABINET

Department of Fish and Wildlife Resources

Game

301 KAR 002:185. Hunter education. (Deferred from September) (Withdrawn by agency; 04-24-2020)

Wildlife

301 KAR 004:090. Taxidermy, cervid meat processors, and the buying and selling of inedible wildlife parts. (Deferred from March) (Withdrawn by agency; 04-24-2020)

GENERAL GOVERNMENT CABINET

Department of Agriculture

Office of the Consumer and Environmental Protection

Egg Marketing

302 KAR 010:011. Repeal of 302 KAR 010:010, 302 KAR 010:020, 302 KAR 010:030, 302 KAR 010:040, 302 KAR 010:050, 302 KAR 010:060, 302 KAR 010:070, 302 KAR 010:080, and 302 KAR 010:090. (Comments Received, SOC ext., due 5-15-2020)

302 KAR 010:015. Egg grading and classification. (Comments Received, SOC ext., due 5-15-2020)

302 KAR 010:025. License application, refusal, revocation, suspension, and appeals. (Comments Received, SOC ext., due 5-15-2020)

302 KAR 010:100. Refrigeration of eggs and temperature requirements. (Comments Received, SOC ext., due 5-15-2020)

Office of the State Veterinarian

Livestock, Poultry, and Fish

302 KAR 022:050. Stockyards. (Comments Received, SOC ext., due 5-15-2020)

PUBLIC PROTECTION CABINET

Horse Racing Commission

Medication Guidelines

810 KAR 008:030. Disciplinary measures and penalties. (Withdrawn by agency, 03-05-2020)

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

Division of Certificate of Need

Certificate of Need

900 KAR 006:075 & E. Certificate of need nonsubstantive review. ("E" expires 10-28-2020) (Comments Received, SOC ext., due 5-15-2020)

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.

EMERGENCY ADMINISTRATIVE REGULATIONS

STATEMENT OF EMERGENCY
201 KAR 20:225E

Nature of the emergency: Governor Beshear has declared a State of Emergency due to the COVID19 pandemic per Executive Order 2020-215.

An ordinary administrative regulation is not sufficient due to the immediacy of the need for nurses.

An ordinary administrative regulation will not be filed with the Regulations Compiler because these measures are meant to be temporary and in effect only for the duration of the State of Emergency.

ANDY BESHEAR, Governor
DINA BYERS, President

BOARDS AND COMMISSIONS
Board of Nursing
(Emergency Amendment)

201 KAR 20:225E. Reinstatement of license.

EFFECTIVE: March 31, 2020

RELATES TO: KRS 164.772, 194A.540, 314.041(11), 314.042(6), 314.051(11), 314.071, 314.073, 314.075, 314.085(1), 314.091, 314.103, 314.109

STATUTORY AUTHORITY: KRS 314.103, 314.131(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations to implement the provisions of KRS 314.011 to 314.991. KRS 314.103 authorizes the board to require a criminal background check investigation of an applicant or nurse. KRS 314.041(11), 314.042(6), and 314.051(11) allow a person whose license has lapsed due to failure to renew to be able to reinstate the license. KRS 314.091 authorizes the board to discipline a licensee for a violation of KRS Chapter 314 or 201 KAR Chapter 20. This administrative regulation establishes procedures for reinstatement of a license that has lapsed or has been subject to disciplinary action.

Section 1. Reinstatement of Lapsed or Retired License. (1) A license shall be lapsed if it has expired because of the licensee's failure to:

- (a) Submit a completed and timely application for renewal;
- (b) Submit data required to enable the board to complete the processing of an application;
- (c) Submit the current application fee; or
- (d) Meet all requirements for renewal of a license, in accordance with KRS 314.071.

(2) A lapsed or retired license may be reinstated by:

- (a) Submitting a completed application form required by 201 KAR 20:370, Section 1(1)(a) or (c);
 - (b) Paying the current application fee required by 201 KAR 20:240, Section 1(2)(g) or (l);
 - (c) Submitting a criminal record check completed within six (6) months of the date of the application by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI) using the FBI Applicant Fingerprint Card, and including payment of any required fee of the KSP and the FBI;
 - (d) Submitting a certified or attested copy of the court record of any misdemeanor or felony conviction as required by 201 KAR 20:370, Section 1(3);
 - (e) Submitting a letter of explanation that addresses each conviction, if applicable;
 - (f) Submitting a certified copy of any disciplinary action taken on a nursing or other professional or business license in another jurisdiction with a letter of explanation or a report if there is any disciplinary action pending on a nursing or other professional or business license in another jurisdiction; and
 - (g) Meeting all other requirements of this section.
- (3)(a) If an individual applies for reinstatement of a lapsed

license to active status, the applicant shall complete fourteen (14) contact hours of continuing education for each year since the date of last active licensure, if the date of last active licensure is within five (5) years of the application for reinstatement, but more than one (1) year from the date of last active licensure.

1. Fourteen (14) hours of continuing education shall have been earned within twelve (12) months of the date of the application.

2. Continuing education earned more than five (5) years preceding the date of application shall not be counted toward meeting this requirement.

(b) If an applicant has not been engaged in nursing practice during the five (5) years preceding the date of the application, the applicant shall complete at least 120 contact hours of continuing education earned within one (1) year of the date of the application.

(c) An individual may use the continuing competency methods set out in 201 KAR 20:215, Section 3, for reinstatement if that individual allowed the license to lapse and applies for reinstatement of a lapsed license within one (1) year from the date of lapse.

(d) Continuing competency used for reinstatement pursuant to paragraph (c) of this subsection shall not be used for renewal of the license.

(4)(a) If the applicant has been currently licensed and actively engaged in nursing practice in another jurisdiction for at least 500 hours during the preceding five (5) years, the requirements of subsection (3) of this section shall not apply.

(b) The applicant shall submit evidence to verify active practice.

(5) In addition to the requirements of this administrative regulation, an applicant whose license has lapsed for one (1) year or more shall submit evidence of completion of the jurisprudence examination required by KRS 314.041(11) for registered nurses and KRS 314.051(11) for licensed practical nurses as approved by the board.

Section 2. Reinstatement of License Subject to Disciplinary Action. (1) If a license has been revoked, an individual may apply for reinstatement by:

- (a) Completing the appropriate application required by 201 KAR 20:370, Section 1(1)(a) or (c);
- (b) Paying the current application fee required by 201 KAR 20:240, Section 1(2)(g) or (l);
- (c) Meeting the terms of the disciplinary order; and
- (d) Retaking the licensure examination and achieving a passing score.

(2) A hearing shall be held to determine if the issuance of a license would no longer be a threat to public safety and health.

(3)(a) If a license has been suspended or voluntarily surrendered, an individual may apply for reinstatement by:

1. Completing an application required by 201 KAR 20:370, Section 1(1)(a) or (c);
2. Paying the fee required by 201 KAR 20:240, Section 1(2)(g) or (l); and
3. Notifying the board, in writing, that the requirements of the decision or agreed order have been met.

(b) If the decision or agreed order requires that a hearing be held, the individual shall notify the board, in writing, to request that a hearing be scheduled.

(4) An individual whose license has been suspended or voluntarily surrendered shall be required to comply with the continuing education requirements of KRS 314.073 for the period during which the license was suspended or surrendered.

(5)(a) If a license has been probated and the individual has allowed the license to expire prior to the end of the probationary period, and the individual later applies for reinstatement, the license shall be reinstated subject to the remaining probationary period.

(b) The individual shall comply with all requirements for reinstatement, in accordance with KRS 314.071.

(6)(a) A person may seek reinstatement of a license pursuant to subsection (3) of this section, if an order of immediate temporary

suspension has been issued pursuant to:

1. KRS 314.085(1) because of a person's failure to obtain an evaluation and the person subsequently obtains the evaluation;
2. KRS 314.075 because of a person's submission of a bad check and the person subsequently makes the check good; or
3. KRS 164.772 because of a notice from the Kentucky Higher Education Assistance Authority that a person is in default on a student loan and the Kentucky Higher Education Assistance Authority subsequently notifies the board that the person is no longer in default.

(b) A request for reinstatement of a license following the issuance of an order of immediate temporary suspension as listed in paragraph (a) of this subsection shall be denied, if in the opinion of the board, continuance of the temporary suspension is necessary in order to protect the public.

Section 3. Miscellaneous Requirements. (1)(a) A copy of an official name change document shall be submitted by the applicant if making application, if applicable.

(b) Verification of the name change shall be made by submitting a copy of a:

1. Court order;
2. Marriage certificate;
3. Divorce decree; or
4. Social Security card.

(2) An individual whose license lapsed, was suspended, or voluntarily surrendered prior to July 15, 1996 shall earn three (3) hours of continuing education in domestic violence within three (3) years of reinstatement of the license as required by KRS 194A.540.

(3) An individual who holds a nursing license that was revoked by disciplinary order of the board prior to December 31, 1987 shall meet all requirements of Section 2 of this administrative regulation except Section 2(1)(d) of this administrative regulation.

(4) An individual whose license lapsed, was suspended, or voluntarily surrendered prior to July 15, 2010 shall earn one and one-half (1.5) hours of continuing education in pediatric abusive head trauma as required by KRS 314.073(6) within three (3) years of reinstatement of the license.

Section 4. Temporary work permit. (1) The board shall issue a temporary work permit to an applicant who meets the requirements of section 1(2) of this administrative regulation except for subsection (2)(c), unless the application is denied pursuant to KRS 314.091 or 201 KAR 20:161.

(2) The temporary work permit shall be issued for six (6) months and may be reissued.

(3) Prior to issuing a license, the applicant shall obtain a criminal record check pursuant to section 1(2)(c) of this administrative regulation.

DINA BYERS, President

APPROVED BY AGENCY: March 26, 2020

FILED WITH LRC: March 31, 2020 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2020 at 10:00 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day (11:59 p.m.) June 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: Morgan Ransdell, General Counsel,

Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, KY 40222, phone (502) 429-3339, fax (502) 429-1248, email Morgan.Ransdell@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

(1) Provide a brief summary of:

(a) What this administrative regulation does: This emergency administrative regulation creates a temporary work permit for nurses applying for reinstatement. At this time, applicants cannot obtain a criminal record check from the State Police or the FBI. This will allow them to work as a nurse during the State of Emergency without the criminal record check, which they would obtain before getting a full license. It also eliminates the competency validation mechanism which would present a delay in obtaining a temporary work permit. The elimination of the competency validation mechanism would only be for the duration of the State of Emergency.

(b) The necessity of this administrative regulation: This emergency administrative regulation is necessary because of the State of Emergency declared by the Governor and the need for nurses.

(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 for the ability of a nurse applying for reinstatement to work as a nurse.

(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 for the ability of a nurse applying for reinstatement to work as a nurse.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Nurses applying for reinstatement of a license, number unknown.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: They will have to apply for reinstatement.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The reinstatement fee is \$135.

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

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

(a) Initially: There is no additional cost.

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

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

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

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

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

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

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

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

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

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

**STATEMENT OF EMERGENCY
201 KAR 20:470E**

Nature of the emergency: Governor Beshear has declared a State of Emergency due to the COVID19 pandemic per Executive Order 2020-215.

An ordinary administrative regulation is not sufficient due to the immediacy of the need for dialysis technicians.

An ordinary administrative regulation will not be filed with the Regulations Compiler because these measures are meant to be temporary and in effect only for the duration of the State of Emergency.

ANDY BESHEAR, Governor
DINA BYERS, President

**BOARDS AND COMMISSIONS
Board of Nursing
(Emergency Amendment)**

201 KAR 20:470E. Dialysis technician credentialing requirements and training program standards.

EFFECTIVE: March 31, 2020

RELATES TO: KRS 314.035, 314.089, 314.091, 314.103, 314.137, 314.991

STATUTORY AUTHORITY: KRS 314.131(1), 314.137

NECESSITY, FUNCTION AND CONFORMITY: KRS 314.137 requires the board to promulgate administrative regulations to regulate dialysis technicians. This administrative regulation establishes the requirements for dialysis technician training programs and for credentialing dialysis technicians.

Section 1. Definitions.

(1) "Approved dialysis technician training program" means a program to train dialysis technicians that is approved by the board in accordance with Sections 7 through 10 of this administrative

regulation.

(2) "Central venous catheter" means a catheter that is inserted in such a manner that the distal tip is located in the superior vena cava.

(3) "Conviction" is defined by KRS 314.011(21).

(4) "Dialysis technician applicant" means an individual who has applied for a dialysis technician credential.

(5) "Dialysis technician trainee" means an individual who is enrolled in an approved dialysis technician training program.

(6) "Supervision" means:

(a) Initial and ongoing direction, procedural guidance, observation, and evaluation by a registered nurse or physician; and

(b) While a patient is being dialyzed the registered nurse or physician is in the immediate clinical area.

Section 2. Requirements for Dialysis Technician Credential.

(1)(a) An individual who applies to be credentialed as a dialysis technician in order to engage in dialysis care shall:

1. File with the board the completed Application for Dialysis Technician Credential;

2. Have completed an approved dialysis technician training program or an out-of-state dialysis training program pursuant to paragraph (b) of this subsection;

3. Pay the fee established in Section 12 of this administrative regulation;

4. Provide a criminal record check by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI);

5. Use the FBI Applicant Fingerprint Card;

6. Pay any required fee to the KSP and the FBI;

7. Complete the criminal record check within six (6) months of the submission date of the Application for Dialysis Technician Credential;

8. Provide to the board a certified or attested copy of the court record of any misdemeanor or felony conviction from any jurisdiction, except for:

a. Traffic-related misdemeanors (other than DUI); or

b. Misdemeanors older than five (5) years; and

9. Provide to the board a letter of explanation that addresses each conviction identified pursuant to subparagraph 8. of this paragraph.

(b)1. If the dialysis technician applicant has completed an out-of-state dialysis technician training program, the applicant shall submit the training program curriculum and evidence of completion to the board.

2.a. The board or its designee shall evaluate the applicant's training program to determine its comparability with the standards as established in Section 7 of this administrative regulation.

b. The board or its designee shall advise an applicant if the training program is not comparable and specify what additional components shall be completed to meet the requirements of Section 7 of this administrative regulation.

3. A dialysis technician applicant who has completed an out-of-state dialysis technician training program shall be required to complete that portion of a board-approved dialysis technician training program related to specific portions of the legal and ethical aspects of practice as established in the Dialysis Technician Training Program Guide.

4. An applicant shall submit evidence to the board of successful completion of the following sections of the Dialysis Technician Training Program Guide:

a. State and Federal Regulations Governing Dialysis;

b. The Principles and Legal Aspects of Documentation, Communication and Patient Rights;

c. The Roles of the Dialysis Technician and other Multidisciplinary Team Members; and

d. Principles Related to Patient Safety.

5. A dialysis technician applicant who has completed an out-of-state dialysis technician training program shall submit the completed Checklist for Dialysis Technician Competency Validation signed by the applicant's immediate supervisor in Kentucky. The Checklist for Dialysis Technician Competency Validation shall be filed after the submission of the Application for

Dialysis Technician Credential.

6. A dialysis technician applicant who has completed an out-of-state dialysis technician training program shall submit evidence of:

a. Successful completion of a comprehensive, written final examination from a board approved dialysis technician training program; or

b. Dialysis technician certification issued within the past two (2) years by the Nephrology Nursing Certification Commission, the Board of Nephrology Examiners Nursing and Technology, or the National Nephrology Certification Organization.

(2) An individual shall be exempt from the credentialing requirement while enrolled in an approved dialysis technician training program. The individual shall use the title dialysis technician trainee.

(3) Upon approval, pursuant to subsection (1) of this section, of the Application for Dialysis Technician Credential, the board shall initially issue the dialysis technician credential for twenty-four (24) months following the month of issuance. The credential shall lapse on the last day of the credentialing period.

(4)(a) An applicant for a dialysis technician credential may engage in dialysis care as a dialysis technician applicant upon:

1. Receipt by the board of the Application for Dialysis Technician Credential; and

2. Meeting the requirements of subsection (6) of this section.

(b) The dialysis technician applicant shall only practice dialysis care as an applicant until:

1. The credential is issued; or

2. The application is denied by the board.

(5) An Application for Dialysis Technician Credential submitted for initial credentialing shall be valid for six (6) months from the date of receipt by the board.

(6) A felony or misdemeanor conviction shall be reviewed to determine, based on Section 6(2)(c) of this administrative regulation, if:

(a) The Application for Dialysis Technician Credential shall be processed with no further action; or

(b) The Application for Dialysis Technician Credential shall be processed only after:

1. The applicant has entered into an agreed order with the board with terms and conditions as agreed by the parties; or

2. If the parties are unable to agree on terms and conditions, a hearing is held pursuant to KRS 314.091 and 201 KAR 20:162, and a final decision is entered by the board.

(7) An applicant shall not be credentialed until a report is received from the FBI pursuant to the request submitted pursuant to subsection (1)(a)5 of this section and any conviction is addressed by the board.

Section 3. Renewal. (1) To be eligible for renewal of the credential, the dialysis technician shall submit, no later than one (1) month prior to the expiration date of the credential:

(a) The completed Application for Renewal of the Dialysis Technician Credential; and

(b) The fee established in Section 12 of this administrative regulation.

(2) Upon approval of the Application for Renewal of the Dialysis Technician Credential, the credential shall be renewed for twenty-four (24) months. The credential shall lapse on the last day of the credentialing period.

(3) A dialysis technician shall report to the board at renewal the name of the national certification program that has issued the technician's certification and provide a copy of the certification certificate to the board.

Section 4. Reinstatement. (1) Before beginning practice as a dialysis technician or a dialysis technician applicant, the individual shall meet the requirements of this section. If the dialysis technician credential has lapsed for a period of less than one (1) credentialing period, the individual may reinstate the credential. The reinstatement shall be accomplished by:

(a) Submitting the completed Application for Dialysis Technician Credential;

(b) Paying the fee established in Section 12 of this

administrative regulation;

(c) Providing a criminal record check by the KSP and the FBI;

(d) Using the FBI Applicant Fingerprint Card;

(e) Paying any required fee to the KSP and the FBI;

(f) Completing the criminal record check within six (6) months of the submission date of the Application for Dialysis Technician Credential;

(g) Providing to the board a certified or attested copy of the court record of any misdemeanor or felony conviction, except for:

1. Traffic-related misdemeanors (other than DUI); or

2. Misdemeanors older than five (5) years; and

(h) Providing to the board a letter of explanation that addresses each conviction identified pursuant to paragraph (g) of this subsection.

(2) If the dialysis technician credential has lapsed for more than one (1) credentialing period, the dialysis technician may reinstate the credential. The reinstatement shall be accomplished by:

(a) Completing a dialysis technician training program approved by the board pursuant to the criteria established in the Dialysis Technician Training Program Guide before submitting the Application for Dialysis Technician Credential. While enrolled in a training program, the individual shall be referred to as a dialysis technician trainee;

(b) Submitting the completed Application for Dialysis Technician Credential;

(c) Paying the fee established in Section 12 of this administrative regulation;

(d) Submitting the Checklist for Dialysis Technician Competency Validation signed by the individual's immediate supervisor;

(e) Providing a criminal record check by the KSP and the FBI;

(f) Using the FBI Applicant Fingerprint Card;

(g) Paying any required fee to the KSP and the FBI;

(h) Completing the criminal record check within six (6) months of the submission date of the Application for Dialysis Technician Credential;

(i) Providing to the board a certified or attested copy of the court record of any misdemeanor or felony conviction, except for:

1. Traffic-related misdemeanors (other than DUI); or

2. Misdemeanors older than five (5) years; and

(j) Providing to the board a letter of explanation that addresses each conviction identified pursuant to paragraph (i) of this subsection.

(3) An Application for Dialysis Technician Credential submitted for reinstatement shall be valid for six (6) months from the date of receipt by the board.

(4) Upon approval of the Application for Dialysis Technician Credential pursuant to Section 2(1) of this administrative regulation, the credential shall be reinstated for twenty-four (24) months following the month of issuance. The credential shall lapse on the last day of the credentialing period.

(5) An applicant shall not be credentialed until a report is received from the FBI pursuant to the request submitted pursuant to subsection (2)(f) of this section and any conviction is addressed by the board.

(6) Temporary Work Permit. (1)(a) An applicant seeking reinstatement of a dialysis technician credential who meets all of the requirements of subsections (1) and (2) of this section, except for subsection (1)(c), (d), and (e) or subsection (2)(e), (f), and (g) of this section, shall be issued a temporary work permit, unless reinstatement of the credential is denied or restricted in accordance with Section 2(6) and Section 6 of this administrative regulation.

(b) The temporary work permit shall be issued for six (6) months and may be reissued.

Section 5. Scope of Practice. (1) The scope of practice of a dialysis technician shall include the following and shall be performed under the direct, on-site supervision of a registered nurse or a physician:

(a) Preparation and cannulation of peripheral access sites (arterial-venous fistulas and arterial-venous grafts);

- (b) Initiating, delivering, or discontinuing dialysis care;
- (c) Administration of the following medications only:
 1. Heparin 1:1000 units or less concentration either to prime the pump, initiate treatment, or for administration throughout the treatment, in an amount prescribed by a physician, physician's assistant, or advanced registered nurse practitioner. The dialysis technician shall not administer heparin in concentrations greater than 1:1000 units;
 2. Normal saline via the dialysis machine to correct dialysis-induced hypotension based on the facility's medical protocol. Amounts beyond that established in the facility's medical protocol shall not be administered without direction from a registered nurse or a physician; and
 3. Intradermal lidocaine, in an amount prescribed by a physician, physician's assistant, or advanced practice registered nurse;
- (d) Assistance to the registered nurse in data collection;
- (e) Obtaining a blood specimen via a dialysis line or a peripheral access site;
- (f) Responding to complications that arise in conjunction with dialysis care; and
- (g) Performance of other acts as delegated by the registered nurse pursuant to 201 KAR 20:400.

(2) The scope of practice of a dialysis technician shall not include:

- (a) Dialysis care for a patient whose condition is determined by the registered nurse to be critical, fluctuating, unstable, or unpredictable;
- (b) The connection and disconnection of patients from, and the site care and catheter port preparation of, percutaneously or surgically inserted central venous catheters; and
- (c) The administration of blood and blood products.

Section 6. Discipline of a Dialysis Technician. (1) The board shall have the authority to discipline a dialysis technician for:

- (a) Failure to safely and competently perform the duties of a dialysis technician as established in Section 5 of this administrative regulation;
- (b) Practicing beyond the scope of practice as established in Section 5 of this administrative regulation;
- (c) Conviction of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence;
- (d) Obtaining or attempting to obtain a credential by fraud or deceit;
- (e) Abusing controlled substances, prescription medications, or alcohol;
- (f) Personal misuse or misappropriation for use of others of any drug placed in the custody of the dialysis technician for administration;
- (g) Falsifying or in a negligent manner making incorrect entries or failing to make essential entries on essential records;
- (h) Having a dialysis technician credential disciplined by another jurisdiction on grounds sufficient to cause a credential to be disciplined in this Commonwealth;
- (i) Practicing without filing an Application for Dialysis Technician Credential or without holding a dialysis technician credential;
- (j) Abuse of a patient;
- (k) Theft of facility or patient property;
- (l) Having disciplinary action on a professional or business license;
- (m) Violating any lawful order or directive previously entered by the board;
- (n) Violating any applicable requirement of 201 KAR Chapter 20;
- (o) Having been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property; or
- (p) Having violated the confidentiality of information or

knowledge concerning any patient, except as authorized or required by law.

- (2) The discipline may include the following:
 - (a) Immediate temporary suspension of the credential, following the procedure established in KRS 314.089;
 - (b) Reprimand of the credential;
 - (c) Probation of the credential for a specified period of time, with or without limitations and conditions;
 - (d) Suspension of the credential for a specified period of time;
 - (e) Permanent revocation of the credential; or
 - (f) Denying the Application for Dialysis Technician Credential.
- (3) The board shall follow the procedures established in and have the authority established in KRS 314.091, 201 KAR 20:161, and 201 KAR 20:162 for management and resolution of complaints filed against a dialysis technician.
- (4) In addition to the provisions of subsection (3) of this section, the board may impose a civil penalty of up to \$10,000.

Section 7. Dialysis Technician Training Program Standards. (1) Program administrator. Each dialysis technician training program shall have a registered nurse who holds a current Kentucky license, temporary work permit, or multistate privilege, with at least one (1) year of experience in dialysis care, who shall be administratively responsible for planning, development, implementation, and evaluation of the dialysis technician training program.

(a) The name, title, and credentials identifying the educational and professional qualifications of the program administrator shall be provided to the board.

(b) A change in the program administrator shall be reported to the board within thirty (30) days of the change.

(2) Faculty qualifications.

(a) The dialysis technician training program shall be taught by multidisciplinary faculty with expertise in the subject matter.

(b) The name, title, and credentials identifying the educational and professional qualifications of each didactic and clinical instructor shall be provided to the board.

(3) The dialysis technician training program shall be based upon the Dialysis Technician Training Program Guide.

(4) The dialysis technician training program syllabus shall include:

- (a) Prerequisites for admission to the program;
- (b) Program outcomes. The outcomes shall provide statements of measurable competencies to be demonstrated by the learner; supportive content identified;
- (c) Content. The content shall be described in outline format with corresponding time frame and testing schedules;
- (d) Teaching methods. The activities of both instructor and learner shall be specified. These activities shall be congruent with stated objectives and content and shall reflect application of adult learning principles;
- (e) Instructional or reference materials. All required instructional reference materials shall be identified; and
- (f) Evaluation. There shall be:
 1. Clearly defined criteria for evaluating the learner's achievement of program outcomes; and
 2. A process for annual program evaluation by trainees, program administrator, faculty, and employers.

(5) Any proposed substantive changes to the dialysis technician training program syllabus after initial submission shall be submitted to the board in writing and shall not be implemented without approval from the board pursuant to the criteria established in the Dialysis Technician Training Program Guide.

(6) Trainee clinical practice requirements. The dialysis technician trainee enrolled in a dialysis technician training program shall practice dialysis care incidental to the training program only under the supervision of a faculty member or the faculty member's designee.

(7) The dialysis technician training program shall be at least 400 hours in length. A minimum of 200 hours shall be didactic.

(8) Completion requirements. Requirements for successful completion of the dialysis technician training program shall be clearly specified.

(a) The requirements shall include demonstration of clinical competency and successful completion of a comprehensive, written final examination.

(b) The final examination shall be administered only during the final forty (40) hours of the training program.

(c) There shall be a statement of policy regarding a trainee who fails to successfully complete the training program.

(9) The program shall establish a written records retention plan describing the location and length of time records shall be maintained. At a minimum, the following records shall be maintained by the program:

(a) Provider name, dates of program offerings, and sites of the training program;

(b) The program code number issued by the board; and

(c) Trainee roster, with a minimum of name, date of birth, Social Security number, and program completion date.

(10) An individual who successfully completes the training program shall receive a certificate of completion that documents the following:

(a) Name of individual;

(b) Title of training program, date of completion, and location;

(c) Provider's name;

(d) The program code number issued by the board; and

(e) Name and signature of program administrator.

(11) The program shall submit the List of Dialysis Technician Training Program Graduates within three (3) working days of the program completion date.

(12)(a) The program shall notify the board in writing within thirty (30) days of a training program closure.

(b) The notification shall include:

1. The date of closing;

2. A copy of the program trainee roster from the date of the last renewal to the date of closing;

3. The location of the program's records as established in subsection (9) of this section; and

4. The name and address of the custodian of the records.

(13) A dialysis technician training program that conducts either the didactic portion or the clinical portion in this state shall be required to be approved by the board pursuant to the criteria established in the Dialysis Technician Training Program Guide, and the program shall meet the requirements of this section.

Section 8. Dialysis Technician Training Program Initial Approval. (1) To receive initial approval, a dialysis technician training program shall:

(a) File a completed Application for Dialysis Technician Training Program Approval; and

(b) Pay the fee established in Section 12 of this administrative regulation.

(2) Board approval for a dialysis technician training program shall be:

(a) Based on compliance with the standards established in Section 7 of this administrative regulation; and

(b) Granted for a two (2) year period from the date of approval.

(3) Upon approval, the board shall issue a program code number.

Section 9. Continued Board of Approval of a Dialysis Technician Training Program. (1) To receive continued approval, a dialysis technician training program shall:

(a) File a completed Application for Dialysis Technician Training Program Approval;

(b) Submit an annual program evaluation summary report and any actions taken as a result of the evaluation as required by Section 7(4)(f) of this administrative regulation;

(c) Submit a list of current faculty including the name, title, and credential identifying the educational and professional qualifications of each instructor;

(d) Submit a copy of the program trainee roster for the past two (2) years as required by Section 7(9)(c) of this administrative regulation; and

(e) Pay the fee established in Section 12 of this administrative regulation.

(2) The completed Application for Dialysis Technician Training Program Approval shall be submitted at least two (2) months prior to the end of the current approval period.

(3) Continued approval shall be based on compliance with the standards established in Section 7 of this administrative regulation.

(4) Continued approval shall be granted for a two (2) year period.

(5) If a program fails to maintain continued approval, the approval shall lapse.

Section 10. Reinstatement of Dialysis Technician Training Programs. A program with lapsed approval that seeks to reinstate that approval shall:

(1) File a completed Application for Dialysis Technician Training Program Approval; and

(2) Pay the fee established in Section 12 of this administrative regulation.

Section 11. Board Actions on Dialysis Technician Training Programs. (1) A representative of the board may make a site visit to a dialysis technician training program to evaluate compliance with 201 KAR Chapter 20.

(2) The board shall prepare a report of the site visit, identifying deficiencies for the training program if applicable, and shall include recommendations and requirements to be met in order to maintain compliance with standards.

(3) The program administrator shall submit to the board a response to the site visit report.

(4) Based on the report of deficiencies, the training program's response, and any other relevant evidence, the board shall grant approval, continue approval, continue approval with stipulations, or propose to deny or withdraw approval of the program.

(5) A dialysis technician training program administrator may request a review of a board decision concerning approval. A review shall be conducted using the procedure established in this subsection.

(a) A written request for the review shall be filed with the board within thirty (30) days after the date of notification of the board action that the dialysis technician training program administrator contests.

(b) The board, or the board's designee, shall conduct a review. The dialysis technician training program administrator may appear in person to present reasons why the board's decision should be set aside or modified.

(c) The dialysis technician training program administrator shall be notified of the board's decision.

(6) The board shall deny or withdraw approval of a program after an administrative hearing conducted pursuant to KRS Chapter 13B.

Section 12. Fees. (1) The application fee for the initial credential shall be seventy (70) dollars.

(2) The credential renewal fee shall be seventy (70) dollars.

(3) The credential reinstatement fee shall be \$100.

(4) The dialysis technician training program initial approval fee shall be \$950.

(5) The dialysis technician training program continued approval fee shall be \$800.

(6) The dialysis technician training program reinstatement fee shall be \$950.

(7) An additional fee of twenty-five (25) dollars shall be charged for an Application for Renewal of Dialysis Technician Credential that is filed after the deadline for filing.

(8) An additional fee of \$150 shall be charged for an Application for Dialysis Technician Training Program Approval that is filed after the deadline for continued approval filing.

(9) A fee of ten (10) dollars shall be charged for issuing a duplicate of the credential.

(10) A check submitted to the board for payment of a fee that is returned by the bank for nonpayment shall be assessed a return check fee of thirty-five (35) dollars.

(11) A fee of ten (10) dollars shall be charged for written verification of a dialysis technician credential. If submitted in list

format, a fee of ten (10) dollars for the first name shall be assessed and a fee of one (1) dollar shall be assessed for each additional name.

(12) A fee of twenty-five (25) dollars shall be charged for a duplicate application form that is issued due to the failure to maintain a current mailing address as required by Section 13 of this administrative regulation.

(13) A fee of twenty-five (25) dollars shall be charged for a name change and the issuance of a new credential.

(14) All fees shall be nonrefundable.

Section 13. Miscellaneous Requirements. (1) Any person credentialed by the board as a dialysis technician shall maintain a current mailing address with the board and immediately notify the board in writing of a change of mailing address.

(2)(a) Holding a credential shall constitute consent by the dialysis technician to service of notices or orders of the board. Notices and orders shall be sent to the mailing address on file with the board.

(b) Any notice or order of the board mailed or delivered to the mailing address on file with the board shall constitute valid service of the notice or order.

(3)(a) Any dialysis technician credentialed by the board shall, within ninety (90) days of entry of the final judgment, notify the board in writing of any misdemeanor or felony conviction in this or any other jurisdiction.

(b) Upon learning of any failure to notify the board pursuant to this subsection, the board shall initiate an action for immediate temporary suspension until the person submits the required notification.

(4) Any dialysis technician credentialed by the board shall immediately notify the board in writing if any professional or business license that is issued to the person by any agency of the commonwealth or any other jurisdiction:

(a) Is surrendered or terminated under threat of disciplinary action;

(b) Is refused, limited, suspended, or revoked; or

(c) If renewal of continuance is denied.

(5) If the board has reasonable cause to believe that any dialysis technician is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it shall require the person to submit to a chemical dependency evaluation or a mental or physical examination by a practitioner it designates.

(a) Holding a credential shall constitute:

1. Consent by the dialysis technician to a chemical dependency evaluation, mental examination, or physical examination if directed in writing by the board. The direction to submit to an evaluation or examination shall contain the basis for the board's concern that the technician is unable to practice safely and effectively; and

2. Waiver of objections to the admissibility of the examining practitioner's testimony or examination reports on the grounds of privileged communication.

(b) The dialysis technician shall bear the cost of chemical dependency evaluation, mental examination, or physical examination ordered by the board.

(c) Upon failure of the dialysis technician to submit to a chemical dependency evaluation, mental examination, or physical examination ordered by the board, unless due to circumstances beyond the person's control, the board shall initiate an action for immediate temporary suspension pursuant to KRS 314.089 or deny an application until the person submits to the required examination.

(d) If a chemical dependency evaluation, mental examination, or physical examination pursuant to this subsection results in a finding that indicates that the dialysis technician is unable to practice with reasonable skill and safety or has abused alcohol or drugs, the dialysis technician shall be subject to disciplinary procedures as established in Section 6 of this administrative regulation.

Section 14. Due process procedures, including appeal, pertaining to this administrative regulation shall be conducted in

accordance with KRS Chapter 13B.

Section 15. Incorporation by Reference. (1) The following materials are incorporated by reference:

(a) "Application for Dialysis Technician Training Program Approval", Kentucky Board of Nursing, 6/2006;

(b) "Application for Dialysis Technician Credential", Kentucky Board of Nursing, 1/2016;

(c) "Application for Renewal of Dialysis Technician Credential", Kentucky Board of Nursing, 5/2018;

(d) "Checklist for Dialysis Technician Competency Validation", Kentucky Board of Nursing, 9/2007;

(e) "Dialysis Technician Training Program Guide", August 14, 2001, Kentucky Board of Nursing; and

(f) "List of Dialysis Technician Training Program Graduates", Kentucky Board of Nursing, 9/2007.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222-5172, Monday through Friday, 8 a.m. to 4:30 p.m.

DINA BYERS, President

APPROVED BY AGENCY: March 26, 2020

FILED WITH LRC: March 31, 2020 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 22, 2020 at 10:00 a.m. (EST) in the office of the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until end of day (11:59 p.m.) June 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: Morgan Ransdell, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, KY 40222, phone (502) 429-3339, fax (502) 429-1248, email Morgan.Ransdell@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

(1) Provide a brief summary of:

(a) What this administrative regulation does: This emergency administrative regulation creates a temporary work permit for dialysis technicians (DT) applying for reinstatement. At this time, applicants cannot obtain a criminal record check from the State Police or the FBI. This will allow them to work as a DT during the State of Emergency without the criminal record check.

(b) The necessity of this administrative regulation: This emergency administrative regulation is necessary because of the State of Emergency declared by the Governor and the need for DTs.

(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 for the ability of a DT applying for reinstatement to work as a DT.

(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 for the ability of a DT applying for reinstatement to work as a DT.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: DTs applying for reinstatement of a license, number unknown.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: They will have to apply for reinstatement.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The reinstatement fee is \$100.

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

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

(a) Initially: There is no additional cost.

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

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is needed.

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

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.137.

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

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

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

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

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

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

STATEMENT OF EMERGENCY 201 KAR 32:110E

Pursuant to 13A.190(1)(a)(1), KRS 39A.180, and 39A.190, this emergency administrative regulation is being promulgated in order to meet an imminent threat to public health, safety, or welfare. On March 6, 2020, Governor Andy Beshear signed Executive Order 2020-215 declaring State of Emergency regarding COVID-19. On March 18, 2020, Governor Andy Beshear signed executive order 2020-243 requiring all citizens of Kentucky to take all feasible measures to engage in appropriate social distancing. This emergency administrative regulation is being filed to allow marriage and family therapy associates the ability to provide services by telehealth. An ordinary administrative regulation would not immediately allow marriage and family therapy associates the ability to provide services by telehealth. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency regulation.

DR. C. SHAWN OAK, Ph.D., LMFT, Board Chair
ANDY BESHEAR, Governor

BOARDS AND COMMISSIONS Board of Licensure of Marriage and Family Therapists (Emergency Amendment)

201 KAR 32:110E. Telehealth.

EFFECTIVE: March 30, 2020

RELATES TO: KRS 335.305, 335.310, 335.320, 335.325, 335.380, 335.399

STATUTORY AUTHORITY: KRS 335.320(9), 335.380

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.320(9) requires the Board of Licensure for Marriage and Family Therapists to promulgate administrative regulations to implement the purpose and scope of KRS 335.300 to 335.399. KRS 335.380 requires the board to promulgate administrative regulations to govern telehealth services in the provision of marriage and family therapy services. This administrative regulation establishes procedures for the use of telehealth by licensees and associates.

Section 1. Definitions.

(1) "Asynchronous" means a communication that does not occur simultaneously in real time.

(2) "Electronic communication" means the use of websites, cell phones, email, texting, online social networking, video, or other digital methods and technology used to send and receive messages or post information.

(3) "Encryption" means a mathematical process that converts text, video, or audio streams into a scrambled, unreadable format when transmitted electronically.

(4) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub L. No. 104-191, 110 Stat. 1936 (1996).

(5) "HITECH" means the Health Information Technology for Economic and Clinical Health Act of 2009, 42 U.S.C. 17901-17953.

(6) "Social media" means a Web-based communication tool that enables people to interact with each other by both sharing and consuming information.

(7) "Synchronous" means a communication that occurs simultaneously in real time.

(8) "Telehealth" is defined by KRS 335.380(3).

Section 2. Licensure, Standard of Practice, and Competency.

(1) License or permit required. Any licensed marriage and family therapist or marriage and family therapy associate practicing teletherapy in this state shall be licensed by the board or hold a permit issued by the board and comply with all statutes, administrative regulations, and ethics guidelines applicable to the practice of marriage and family therapy.

(2) Standard of appropriate practice. A licensed marriage and

family therapist or marriage and family therapy associate providing telehealth services in this state shall be held to the same standards of practice as those applicable for in-person therapy settings.

(3) Competency. A licensed marriage and family therapist or marriage and family therapy associate shall only provide telehealth services in this state in those instances in which the licensed marriage and family therapist or marriage and family therapy associate has successfully completed all requirements set forth in Section 3(1) of this administrative regulation.

(4) Continued competency. A licensed marriage and family therapist or marriage and family therapy associate providing telehealth services in this state shall have an ongoing obligation to assess their technical and clinical competency to render these services by successfully completing all requirements set forth in Section 3(2) of this administrative regulation.

(5) Fee splitting. A licensed marriage and family therapist or marriage and family therapy associate providing telehealth services shall not split fees.

Section 3. Education and Continuing Education Requirements.

(1) Initial educational requirements. Effective January 1, 2020, a licensed marriage and family therapist or a marriage and family therapy associate providing telehealth services in this state or a licensed marriage and family therapist who is supervising a marriage and family therapy associate providing telehealth services in this state shall have completed fifteen (15) hours of board-approved training in the practice of telehealth as provided in 201 KAR 32:060, Section 2(2), which shall include three (3) hours of ethics in the practice of telehealth. Each approved course shall be live or online. Areas to be covered in the training shall include:

- (a) Appropriateness of teletherapy;
- (b) Teletherapy theory and practice;
- (c) Modes of delivery;
- (d) Legal and ethical issues;
- (e) Handling online emergencies; and
- (f) Best practices and informed consent.

(2) Continuing education requirements. A licensed marriage and family therapist or marriage and family therapy associate who has completed the initial training in the practice of telehealth shall complete at least two (2) credit hours of continuing education approved by the board, in accordance with 201 KAR 32:060, in the practice of telehealth during each subsequent [licensure] renewal period.

(3) Credit hours earned to comply with subsections (1) and (2) above may be applied to continuing education requirements set forth in 201 KAR 32:060.

Section 4. Verification of the Client. Prior to providing telehealth services in this state a licensed marriage and family therapist or marriage and family therapy associate shall require the client to produce a valid photo identification.

Section 5. Client Assessment.

(1) Initial assessment. Prior to providing telehealth services in this state a licensed marriage and family therapist or marriage and family therapy associate shall conduct an initial assessment of the client to determine if telehealth is an appropriate delivery of treatment considering the professional, intellectual, or emotional needs of the client.

(2) Ongoing assessment. Throughout the duration of providing telehealth services in this state, a licensed marriage and family therapist or marriage and family therapy associate shall engage in a continual assessment of the appropriateness of providing these services to the client.

(3) Telehealth may not be appropriate if the client:

- (a) Recurrently experiences, or is likely to experience, crises or emergencies;
- (b) Is a suicide risk, or likely to become a suicide risk;
- (c) Is violent, or likely to become violent; or
- (d) Otherwise poses a risk to themselves or to others.

Section 6. Informed Consent. (1) Generally. Prior to providing telehealth services in this state, the licensed marriage and family

therapist or marriage and family therapy associate providing these services shall obtain the informed consent of the client, which shall include:

(a) Disclosure of specific information regarding the marriage and family therapist's:

1. Training and credentials;
2. License number;
3. Physical location and contact information;
4. Social media policy;
5. Encryption policy; and
6. Collection, documentation, tracking, and storage of client information;

(b) Client confidentiality and the limits to confidentiality in electronic communication;

(c) Information on reporting complaints to the board and other appropriate licensing bodies;

(d) The specific services to be provided;

(e) The risks and benefits of engaging in telehealth in the clinical setting;

(f) The possibility of technology failure and alternate methods of service delivery;

(g) Time zone differences, if any;

(h) Cultural or language differences that may affect the delivery of services;

(i) The possible denial of insurance benefits;

(j) The pertinent legal rights and limitations governing practice across state lines or international boundaries, if applicable; and

(k) Whether delivery of service will be asynchronous or synchronous.

(2) Minors. If the client is a minor, prior to providing telehealth services in this state the licensed marriage and family therapist or marriage and family therapy associate shall, pursuant to Section 4 of this administrative regulation, verify the identity of the parent, guardian, or other person consenting to the minor's treatment and obtain from that person the informed consent required by this section.

Section 7. Emergency Procedures, Coordination of Care and Referrals. Prior to providing telehealth services in this state, the licensed marriage and family therapist or marriage and family therapy associate shall establish with the client:

(1) Acceptable ways to contact the marriage and family therapist in an emergency;

(2) Emergency procedures to include emergency services at the client's location;

(3) Coordination of care with other professionals; and

(4) Conditions under which telehealth services may be terminated and a referral made to in-person care.

Section 8. Compliance with Privacy Laws, Documentation, and Recordkeeping. A licensed marriage and family therapist or marriage and family therapy associate performing telehealth services in this state shall:

(1) Comply with all privacy laws and regulations relating to the transmission and protection of protected health information, including HIPAA and HITECH; and

(2) Comply with all state and federal laws and regulations relating to the practice of telehealth, documentation of services delivered, and related recordkeeping.

DR. C. SHAWN OAK, Ph.D., LMFT, Board Chair

APPROVED BY AGENCY: March 30, 2020

FILED WITH LRC: March 30, 2020 at 4 p.m.

CONTACT PERSON: Bryan D. Morrow, Board Attorney, 500 Mero Street, 218 NC, phone +1 (502) 782-0766, fax +1 (502) 564-3969, email Bryan.Morrow@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Bryan D. Morrow

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 335.380 requires the board to promulgate administrative regulations to

implement the practice of telehealth. This administrative regulation establishes procedures and education requirements for licensed marriage and family therapists and marriage and family therapy associates to provide telehealth services to patients in Kentucky.

(b) The necessity of this administrative regulation: This administrative regulation is required by KRS 335.380(2).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 335.380 requires the board to promulgate administrative regulations to implement the practice of telehealth, including: (1) preventing abuse and fraud through the use of telehealth services; (2) preventing fee-splitting; and (3) utilizing telehealth in the provision of marriage and family therapy services and in the provision of continuing education. This administrative regulation prevents fraud and abuse in six ways: (1) applying standards for in-person counseling to telehealth; (2) requiring verification of the client; (3) requiring an initial assessment to ensure the client is a proper candidate for telehealth services; (4) making that assessment an on-going concern; (5) obtaining the informed consent of the client; and (6) establishing procedures for the client in case of an emergency. This administrative regulation prohibits fee splitting in the delivery of services. Finally, the regulation sets forth education and continuing education requirements for telehealth services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in the effective administration of KRS 335.380 by carrying out the legislative mandate for the board to establish a regulation regarding telehealth services.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will change the existing administrative regulation in two ways: (1) by allowing marriage and family therapy associates to practice telehealth; and (2) prohibiting fee splitting.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to allow marriage and family therapy associates to practice telehealth. This is especially crucial under the State of Emergency declared in Executive Order 2020-215 on March 6, 2020 and Executive Order 2020-243 signed by Governor Beshear on March 18, 2020 requiring social distancing. The amendment prohibiting fee splitting is necessary because it is required by KRS 335.380(2)(b).

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to KRS 335.380 which requires the board to promulgate regulations regarding telehealth services. It also conforms to KRS 335.380 which requires a prohibition on fee splitting in the delivering of telehealth services.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of KRS 335.380 by carrying out the legislative mandate for the board to establish a regulation regarding telehealth services.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect 728 licensed Marriage and Family Therapists and Marriage and Family Therapy Associates in Kentucky, as well as an unknown number of Marriage and Family Therapists from other jurisdictions seeking to provide telehealth to clients located in Kentucky.

(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: In order to use telehealth to practice marriage and family therapy in Kentucky, each licensed marriage and family therapist, marriage and family therapy associate, and licensed marriage and family therapist supervising an associate practicing telehealth will be required to complete initial training and continuing education each subsequent year. The licensed therapist and marriage and family therapy associate will also have to verify the client, continuously assess the

client as an appropriate recipient of telehealth, obtain consent from the client, establish emergency procedures, and ensure compliance with applicable privacy laws.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This regulation should add no additional cost to the licensed marriage and family therapist or marriage and family therapy associate. Licensed marriage and family therapist and marriage and family therapy associates continuing education requirements are already in place as part of 201 KAR Chapter 32. The education and continuing education requirements specific to telehealth will count toward those hours licensed marriage and family therapists or marriage and family therapy associates are already required to obtain.

(c) As a result of compliance, what benefits will accrue to the entities: As a result of compliance, licensed marriage and family therapists and marriage and family therapy associates and clients will be permitted to engage in telehealth, increasing access and availability of needed services.

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

(a) Initially: This administrative regulation does not create a cost for the administrative body; a licensed marriage and family therapist or marriage and family therapy associate that provides telehealth will be governed by the same process as a licensed marriage and family therapists or marriage and family therapy associates in an office setting.

(b) On a continuing basis: This administrative regulation does not create a cost for the administrative body; a licensed marriage and family therapists or a marriage and family therapy associate that provides telehealth will be governed by the same process as a licensed marriage and family therapists or a marriage and family therapy associate in an office setting.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Marriage and Family Therapy Board is self-funded through the fees paid by licensees. No additional funding is necessary for the implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increases in fees or funding is necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No increases in fees or funding is necessary to implement this administrative regulation.

(9) TIERING: Is tiering applied? Tiering is not applied because similarly situated licensed marriage and family therapists and marriage and family therapy associates are treated similarly under this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 335.380

(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 regulation will not generate revenue for state or local government.

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

(c) How much will it cost to administer this program for the first year? A licensed marriage and family therapist or a marriage and family therapy associate providing telehealth services will abide by the same process as a licensed marriage and family therapist or a marriage and family therapy associate in an office setting so there will be no additional cost to administer this program.

(d) How much will it cost to administer this program for subsequent years? A licensed marriage and family therapist or a marriage and family therapy associate providing telehealth services will abide by the same process as a licensed marriage and family therapist or a marriage and family therapy associate in an office setting so there will be no additional cost to administer this program.

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

Revenues (+/-): Neutral
Expenditures (+/-): Neutral
Other Explanation: None

STATEMENT OF EMERGENCY **810 KAR 2:090E**

This emergency administrative regulation is necessary to avoid serious economic harm to a number of racing association employees and to prevent the loss of considerable tax revenue to the Commonwealth. This emergency administrative regulation will allow each licensed Kentucky racing association to establish one (1) off-site facility, with commission approval, if its licensed premises becomes temporarily unsuitable for its intended use. This emergency administrative regulation is promulgated pursuant to KRS 13A.190(a)(1) and (2). A new ordinary administrative regulation is not sufficient. This is because the licensed premises of at least one (1) racing association will be temporarily unsuitable for its intended use from April 2020 through Summer 2021. This condition will result from substantial improvements to the licensed premises, which will render it unsafe for use during construction. During that time, a number of Turfway Park, LLC ("Turfway Park") employees will be laid off. Turfway Park will lose substantial taxable income from Simulcast, ADW, and HHR wagering. The Commonwealth will lose the resulting tax revenue, including the large revenue anticipated during the Derby and the Breeder's Cup. The Kentucky Horse Racing Commission will lose revenue intended for the Backside Improvement Fund and the Health and Welfare Fund. This new emergency administrative regulation and approval of an off-site location will avoid the loss of jobs and substantial tax revenue. This new emergency administrative regulation will be replaced with a new, identical ordinary administrative regulation allowing all licensed Kentucky racing associations to occupy one (1) alternate facility, with commission approval, during a time in which its licensed premises are temporarily unsuitable for its intended use.

ANDY BESHEAR, Governor
KERRY B. HARVEY, Secretary

PUBLIC PROTECTION CABINET **Kentucky Horse Racing Commission** **(New Emergency Administrative Regulation)**

810 KAR 2:090E. Temporary unsuitability of licensed premises.

RELATES TO: KRS Chapter 230
STATUTORY AUTHORITY: KRS 230.215, 230.225(5), 230.260, 230.361(1), 230.370
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the Kentucky Horse Racing Commission the

authority to regulate conditions under which thoroughbred racing shall be conducted in Kentucky. KRS 230.260(8) grants the commission the authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state. This administrative regulation addresses problems arising from a premises being rendered temporarily unsuitable for its intended use.

Section 1. If any Kentucky racing association's licensed premises is temporarily rendered unsuitable for its intended use, an association may, with commission approval, occupy an alternate facility during the period that its licensed premises is temporarily unsuitable, provided that the alternate facility meets the following conditions:

(1) The alternate facility must be within a sixty (60) mile radius of such racing association's track but not contiguous to track premises; and

(2) The alternate facility must not be within a sixty (60) mile radius of another racing association's licensed premises where live racing is conducted and must not be within a forty (40) mile radius of a simulcast facility, unless any affected track or simulcast facility agrees in writing to permit a noncontiguous facility within the protected geographic area.

MARC A. GUILFOIL, Executive Director
KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: March 19, 2020
FILED WITH LRC: March 20, 2020 at 11 a.m.

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 new administrative regulation expands the commission's authority to allow each licensed Kentucky racing association to establish one (1) off-site facility, with commission approval, if its licensed premises are temporarily unsuitable for its intended use.

(b) The necessity of this administrative regulation: This new administrative regulation is necessary to avoid serious economic harm to association employees and to prevent the loss of significant tax revenue to the Commonwealth when Turfway Park, LLC closes from April 2020 through Summer 2021. This includes considerable revenue anticipated for the Derby and the Breeder's Cup.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) grants the Kentucky Horse Racing Commission the authority to regulate conditions under which thoroughbred racing shall be conducted in Kentucky. KRS 230.260(8) grants the commission the authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state. KRS 230.370 allows the commission to promulgate regulations to enforce the provisions of KRS Chapter 230. KRS 230.361 requires the commission to promulgate regulations to govern and regulate pari-mutuel wagering in Kentucky.

(d) How this administrative regulation currently assists or will assist in the effective administration of statutes: This new administrative regulation allows wagering to be conducted in accordance with KRS 230.361, even in the event that a licensed premises becomes temporarily unsuitable for its intended use.

(2) If this is an amendment to an existing regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is not an amendment to an existing regulation.

(b) The necessity of the amendment to this administrative regulation: This is not an amendment to an existing regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment to an existing regulation. (d) How the amendment will assist in the effective

administration of the statutes: This is not an amendment to an existing regulation.

(3) List the type and number of individuals, business, organizations, or state and local governments affected by this administrative regulation: Five (5) Thoroughbred racing associations (Turfway Park, LLC ("Turfway Park"); Keeneland Association, Inc. ("Keeneland"); Churchill Downs Racetrack, LLC ("Churchill Downs"); Ellis Entertainment, LLC d/b/a Ellis Park ("Ellis Park"); and Kentucky Downs, LLC ("Kentucky Downs")) will be affected, as will all of their employees. This new administrative regulation will also impact two (2) Standardbred racing associations (WKY Development, LLC d/b/a Oak Grove Racing and Gaming, LLC ("Oak Grove Racing") and Lexington Trots Breeders Association, LLC d/b/a Red Mile ("Red Mile")) and their employees. Seven (7) state and local governments will be affected, as follows: the Commonwealth of Kentucky, Florence (Turfway Park), Lexington (Keeneland and Red Mile), Louisville (Churchill Downs), Henderson (Ellis Park), Oak Grove (Oak Grove Racing), and Franklin (Kentucky Downs).

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional action is required. However, if a licensed Kentucky racing association wishes to utilize an off-site facility due to a temporary inability to use its licensed premises, the association may petition the commission for approval to do so.

(b) To comply with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This new administrative regulation is not anticipated to generate any new or additional costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Five (5) Thoroughbred racing associations (Turfway Park, Keeneland, Churchill Downs, Ellis Park, and Kentucky Downs) and two (2) Standardbred racing associations (Oak Grove Racing and Red Mile) will be more protected against the deleterious economic impact of temporary unsuitability of their licensed premises. All of the employees of each racing association will also be affected, as their jobs will be more secure. The tax revenue streams of the state and local governments will be more secure as a result of this regulation.

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

(a) Initially: This new administrative regulation is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This new administrative regulation is not anticipated to generate any new or additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This new administrative regulation is not anticipated to generate any new or additional costs.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This new administrative regulation is not anticipated to generate any new or additional costs.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This new administrative regulation is not anticipated to generate any new or additional costs.

(9) TIERING: Is tiering applied? No. This new administrative regulation treats all impacted entities the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Seven (7) state and local governments will be affected, as follows: the Commonwealth of Kentucky, Florence (Turfway), Lexington (Keeneland and Red Mile), Louisville (Churchill Downs), Henderson (Ellis Park), Oak

Grove (Oak Grove Race Track) and Franklin (Kentucky Downs).

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 230.215, 230.260, 230.225, 230.261, 230.361, and 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.

(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 mitigate the loss of significant of taxable revenue due to the anticipated temporary closure at Turfway Park. Additional funds may also be saved if other licensed Kentucky racing associations' licensed premises are temporarily unsuitable for the intended uses during the pendency of this 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? This new emergency regulation will expire after 270 days. The subsequent new ordinary regulation is anticipated to mitigate the loss of significant taxable revenue in the event that an association's licensed premises becomes temporarily unsuitable for its intended use.

(c) How much will it cost to administer the program for the first year? This new administrative regulation is not anticipated to generate any new or additional costs.

(d) How much will it cost to administer this program for subsequent years? This new administrative regulation is not anticipated to generate any new or additional costs.

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

Revenues (+/-): This new administrative regulation will mitigate the loss of significant taxable revenue in the event that a licensed Kentucky racing association's licensed premises becomes temporarily unsuitable for its intended use.

Expenditures (+/-): This new administrative regulation is not anticipated to generate any new or additional costs.

Other Explanation:

STATEMENT OF EMERGENCY 902 KAR 30:010E

This emergency administrative regulation is being promulgated to establish actions that the Department for Public Health may take in response to a declared national or state emergency. These actions include enhancing early intervention services to include tele-intervention delivery methods and continuing current early intervention service provider agreements which are set to expire June 30, 2020. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)1. and 4. to protect human health. This emergency administrative regulation will not be replaced by an ordinary administrative regulation as these measures are in direct response to the declared state public health emergency.

ANDY BESHEAR, Governor
ERIC FRIEDLANDER, Acting Secretary

CABINET FOR HEALTH AND FAMILY SERVICES Department for Public Health Division of Maternal and Child Health (New Emergency Administrative Regulation)

902 KAR 30:010E. Enhanced early intervention services in response to declared national or state public health emergency.

EFFECTIVE: March 23, 2020

RELATES TO: KRS 200.650-200.676, 34 C.F.R. Part 99,

303.121, 303.401, 303.404, 303.420, Pub. L. 104-191

STATUTORY AUTHORITY: KRS 194A.050, 200.660

NECESSITY, FUNCTION, AND CONFORMITY: KRS 200.660 requires the Cabinet for Health and Family Services to administer all funds appropriated to implement provisions of KRS 200.650 to 200.676, to enter into contracts with service providers, and to promulgate administrative regulations. This administrative regulation establishes the provisions for providing tele-intervention services when a national or state public health emergency has been declared.

Section 1. Definitions. (1) “Declared national or state public health emergency” means a formal declaration by the President of the United States or the Governor of Kentucky of an extraordinary event which is determined to constitute a public health risk through the spread of disease.

(2) “Tele-intervention service” means early intervention services provided through the internet with both video and audio features and with the early intervention provider and family both present in real time.

Section 2. Enhanced early intervention services in response to a declared national or state public health emergency. (1) Early intervention services and requirements may be enhanced to allow for tele-intervention services when a national or state public health emergency has been declared.

(2) Early intervention services that are otherwise designated as face-to-face in accordance with 902 KAR 30:160 may be provided through tele-intervention with informed parental consent when:

(a) Informed parental consent is obtained verbally for the purposes of tele-intervention services;

(b) Written consent is received by the point of entry within ten days of the verbal consent; and

(c) The date verbal consent is obtained is documented in the child’s electronic record.

(3) Providers utilizing tele-intervention services shall take all necessary steps to maintain confidentiality with IDEA, FERPA and HIPAA requirements.

(4) Tele-intervention services shall be reimbursed at the office or center based site rate as established in 902 KAR 30:200, Section 2.

(5) Tele-intervention services shall revert to face-to-face service delivery methods following the end of the declared national or state public health emergency.

Section 3. Enhanced provider enrollment. In response to a declared national or state public health emergency, the department may simplify the existing provider enrollment process, including provider contract renewal, as outlined in 902 KAR 30:150, to meet an existing or anticipated demand for early intervention services.

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Acting Secretary

APPROVED BY AGENCY: March 20, 2020

FILED WITH LRC: March 23, 2020 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 22, 2020, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by June 15, 2020, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until June 30, 2020. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if

applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Julie Brooks or Donna Little

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the provisions for early intervention services to continue through tele-intervention methods during a declared national or state public health emergency, and allows the cabinet to extend the expiration date of current early intervention service provider agreements during said emergencies.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure early intervention services continue to be provided during times of a national or state public health emergency when traditional face-to-face service delivery methods may not be available.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 200.660(7) authorizes the cabinet to develop procedures to ensure that early intervention services identified on the individualized family service plan are provided to eligible infants and toddlers with disabilities and their families in a timely manner. KRS 200.660(5) authorizes the cabinet to enter into contracts with service providers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will help to ensure early intervention services can continue to be provided by allowing alternative methods for service delivery and ensure an adequate early intervention workforce by allowing the cabinet to suspend traditional contracting procedures during the declared national or state public health emergency.

(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: There are approximately 5,400 children receiving early intervention services statewide. There are approximately 1,300 enrolled early intervention providers, including service coordinators.

(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 questions (3) will have to take to comply with this administrative regulation or amendment: Providers electing to provide services through tele-intervention methods will need to obtain and document informed parental consent for the service delivery method. In addition, providers will need to ensure the voice and video over the internet protocol used for tele-intervention services meets the confidentiality requirements of IDEA, FERPA, and HIPAA. Parents will need to make themselves available for the tele-intervention service delivery method, and give informed consent for same.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): The costs of providing early intervention services through tele-intervention methods is unknown at this time.

(c) As a result of compliance, what benefits will accrue to the

entities identified in question (3): Children and families will continue to receive needed early intervention services. Providing services through tele-intervention methods helps to ensure a continuity of services during a declared national or state public health emergency. There has been much published about the importance of sticking to a routine, especially for families with young children. Tele-intervention services will help families to continue with these daily routines while protecting all individuals from any potential exposure to any illnesses.

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

(a) Initially: There is no cost to implement this administrative regulation initially.

(b) On a continuing basis: There will be no ongoing costs for implementation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department for Medicaid Services has issued an emergency regulation that will allow for reimbursement for telehealth methods of service delivery for services designated as face-to-face services. That will allow the department to seek Medicaid reimbursement for early intervention services provided through tele-intervention methods. Other sources of funding include private insurance for reimbursement, and state and federal funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change, if it is an amendment: An increase in fees or funding is not needed to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied as this administrative regulation will affect all families and providers equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will impact the Division of Maternal and Child Health within the Department for Public Health.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050, 200.660, 34 C.F.R. Part 99, 303.121, 303.401, 303.404, 303.420, and Pub. L. 104-191.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation does not generate revenue.

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

(c) How much will it cost to administer this program for the first year? This administrative regulation will have no impact on costs.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will have no impact on costs.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 34 C.F.R. Part 99, 303.121, 303.401, 303.404, 303.420, Pub. L. 104-191

2. State compliance standards. Parents of children enrolled in early intervention services have certain rights as protected by the Individuals with Disability Education Act and the Family Education Rights and Privacy Act. The state must ensure all services are provided in compliance with these standards.

3. Minimum or uniform standards contained in the federal mandate. In order to receive early intervention funding the state must assure the federal Office of Special Education Programs compliance with the requirements for parental consent, prior written notice, and the confidentiality of the early intervention record. The state must also ensure the early intervention record is in compliance with the Health Insurance Portability and Accountability Act of 1996.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No, the requirements of this administrative regulation are consistent with the requirements of IDEA, FERPA and HIPAA.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable as no stricter standard, or additional or different responsibilities or requirements are imposed.

STATEMENT OF EMERGENCY 907 KAR 3:300E

This emergency administrative regulation is being promulgated to establish actions that the Department for Medicaid Services may take in response to a declared national or state emergency. These actions include expanding or enhancing certain services and benefits, including telehealth services, expanding eligibility, and allowing for simplified application processes, provider enrollment, and rate enhancements. This emergency administrative regulation also allows for the expansion of telehealth or telecommunications services within the Women, Infants, and Children program. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)2. to prevent a loss of federal and state funds, and pursuant to KRS 13A.190(1)(a)4. to protect human health. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor

ERIC FRIEDLANDER, Acting Secretary

CABINET FOR HEALTH AND FAMILY SERVICES Department for Medicaid Services Division of Policy and Operations (New Emergency Administrative Regulation)

907 KAR 3:300E. Enhanced and suspended Medicaid services and requirements if there is a declared national or state emergency.

RELATES TO: KRS 194A.060, 205.510(15), 205.559, 205.560, KRS Chapter 39A

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.559(2), (7), 205.560

NECESSITY, FUNCTION, AND CONFORMITY: In accordance with KRS 194A.030(2), 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 any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the requirements for enhancing or suspending certain Medicaid services and requirements if there is a declared national or state

emergency.

Section 1. General Provisions Relating to a Declared Emergency. (1) In accordance with all applicable federal law, the department shall respond to a declared national or state emergency that is related to or rationally related to healthcare or public health by temporarily enhancing, expanding, or suspending Medicaid services and requirements as necessary to respond to the declared emergency.

(2) The department shall provide information about specific expanded services via the use of the department's Web site, electronic provider letters, or other reliable methods of communication with members, providers, and stakeholders.

(3) The department may target any activity undertaken pursuant to this administrative regulation to a subpopulation based on criteria that include:

- (a) Geography;
- (b) Age;
- (c) Condition; or
- (d) Disease.

Section 2. Enhanced or Expanded Medicaid Benefits. Medicaid services and requirements that may be enhanced or expanded include:

(1) Any appropriate health service related to or rationally related to the declared emergency;

(2) Telehealth services, which may include:

(a) Those services that are otherwise designated as face-to-face only throughout Title 907 KAR;

(b) The use of equipment, such as a telephone, that would not customarily be allowable for a telehealth service pursuant to Title 907 KAR; or

(c) Expanded use of asynchronous telehealth or store-and-forward telehealth, including:

- 1. Remote patient monitoring, as appropriate; or
- 2. Any other telehealth service for which an evidence base exists to justify the safety and efficacy of the service when provided as asynchronous telehealth;

(3) The introduction or expansion of any appropriate telecommunication or electronically mediated health service as allowable pursuant to federal law; or

(4) "Telehealth" or "telehealth service" or "telehealth consultation" as it is defined throughout 907 Title KAR, which shall be equivalent to an in-person service or a service requiring physical presence.

Section 3. Eligibility. Pursuant to Section 1 of this administrative regulation, the department may:

(1) Temporarily expand eligibility to include individuals with higher income than currently allowed pursuant to 907 KAR 20:100;

(2) Temporarily suspend the requirement that a beneficiary eligible pursuant to 42 U.S.C. 1396a(a)(10)(A)(ii)(V) be institutionalized for at least thirty (30) days;

(3) Implement a simplified electronic or paper application for use by designated providers; or

(4) Extend the availability of presumptive eligibility to additional groups than allowed pursuant to 907 KAR 20:050.

Section 4. Temporary Enhancement of Rate or Rate Methodology. The department may temporarily enhance rates or rate methodology relating to a declared national or state emergency.

Section 5. Provider Enrollment. (1) In response to a declared national or state emergency, the department may:

(a) Simplify any existing provider enrollment process to meet an existing or anticipated demand for health services; or

(b) Reenroll retired or previously enrolled providers.

(2) Any enrollment or reenrollment process utilized pursuant to subsection (1) of this section shall exercise discretion when enrolling or not enrolling providers with a history of disenrollment for good cause or other negative criminal or registry record.

Section 6. Women, Infants, and Children (WIC) Program

Services. (1) The department or any other agency of the Cabinet for Health and Family Services shall facilitate the provision of all appropriate WIC services via telehealth or as a telecommunications or other electronically mediated health service to the full extent allowable by federal or state law.

(2) For the purposes of all WIC services administered by the Cabinet for Health and Family Services, any requirement that a service be "face-to-face", "in-person", or "physically present" shall include a synchronous telehealth or telecommunication or other electronically mediated health service.

Section 7. Federal Financial Participation. A policy established in this administrative regulation may be null and void if the Centers for Medicare and Medicaid Services:

(1) Denies federal financial participation for the policy; or

(2) Disapproves the policy.

Section 8. If any policy stated in another administrative regulation within Title 907 of the Kentucky Administrative Regulations contradicts a policy stated in this administrative regulation, the policy stated in this administrative regulation shall supersede the policy stated elsewhere within Title 907.

LISA D. LEE, Commissioner

ERIC FRIEDLANDER, Acting Secretary

APPROVED BY AGENCY: March 19, 2020

FILED WITH LRC: March 19, 2020

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Jonathan Scott and Donna Little

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes Department for Medicaid Services (DMS) policies relating to additional Medicaid services, benefits, enrollment, and eligibility that may be available during a declared emergency. This administrative regulation also allows for the expansion of telehealth or telecommunications services within the Women, Infants, and Children program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish and enhance DMS policies relating to activities that may be undertaken in response to a declared emergency.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by implementing and clarifying policies that may be undertaken in response to a declared emergency.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: In response to a declared emergency, DMS may need to undertake various actions. This administrative regulation will establish a process and clarifications relating to activities that DMS may immediately undertake to address a declared emergency.

(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 government affected by this administrative regulation: The Department for Medicaid Services, managed care organizations (MCOs), any enrolled and credentialed provider, and Medicaid members who may be

impacted by a declared emergency. Similarly, the WIC program administered by the Department for Public Health is included to allow for telepresence applications.

(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: Providers and recipients and potential recipients will need to comply with departmental directions relating to any declared emergency.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). DMS does not anticipate initial costs as this administration authorizes future actions. However, depending on the department's response to a declared emergency, providers, MCOs, or DMS could experience some costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Entities will be able to access or provide additional services and benefits in response to a declared emergency.

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

(a) Initially: The department anticipates that it will incur no additional expenses in the implementation of this administrative regulation initially, as this administrative regulation simply authorizes future actions necessary if there is a declared emergency. If there is a declared emergency, there could be costs associated with the Department's response to the declared emergency.

(b) On a continuing basis: The department anticipates that it will incur no additional expenses in implementing this administrative regulation on a continuing basis, as this administrative regulation simply authorizes future actions necessary if there is a declared emergency. If there is a declared emergency, there could be costs associated with the Department's response to the declared emergency.

(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 of general fund appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding will be necessary to implement this administrative regulation.

(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 in the context that enhanced or expanded eligibility or services may be located within a specific area or limited to a specific disease or population.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services (DMS) and the Department for Public Health will be impacted by the 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 194A.010, 194A.030(2), and 205.520(3)

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

(a) How much revenue will this administrative regulation

generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation is not expected to generate revenue for state or local government.

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

(c) How much will it cost to administer this program for the first year? The department anticipates that it will incur no additional expenses in the implementation of this administrative regulation initially, as this administrative regulation simply authorizes future actions necessary if there is a declared emergency. If there is a declared emergency, there could be costs associated with the Department's response to the declared emergency.

(d) How much will it cost to administer this program for subsequent years? The department anticipates that it will incur no additional expenses in implementing this administrative regulation on a continuing basis, as this administrative regulation simply authorizes future actions necessary if there is a declared emergency. If there is a declared emergency, there could be costs associated with the Department's response to the declared emergency.

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:

STATEMENT OF EMERGENCY 921 KAR 3:025E

This emergency administrative regulation is necessary in order to immediately eliminate the optional component of the technical eligibility for the Supplemental Nutrition Assistance Program (SNAP) to disqualify non-custodial parents delinquent in court-ordered child support payments. This amendment eliminates this SNAP disqualification policy as it places punitive measures on a vulnerable population that would otherwise qualify for assistance in purchasing food, it has not demonstrated to be beneficial in enforcing payments, and it results in less food in households that may contain children.

This amendment is deemed to be an emergency pursuant to KRS 13A.190(1)(a)1. and 4. as the lack of food is an imminent threat to public health, safety, and welfare and this amendment is necessary in order to protect human health. Assistance in purchasing food is especially urgent as Kentuckians are striving to maintain social distancing and make less trips to food stores and many have become unemployed due to the COVID-19 pandemic.

This emergency administrative regulation will be replaced by an ordinary administrative regulation.

The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC C. FRIEDLANDER, Acting Secretary

CABINET FOR HEALTH AND FAMILY SERVICES Department for Community Based Services Division of Family Support (Emergency Amendment)

921 KAR 3:025E. Technical requirements.

EFFECTIVE: April 15, 2020

RELATES TO: KRS 205.2005, 7 C.F.R. 273.4, 273.5, 273.7, 273.11, 45 C.F.R. 261.2, 7 U.S.C. 2011, 2014, 2015(d)

STATUTORY AUTHORITY: KRS 194A.050(1), 7 C.F.R. 271.4, 272, 273

NECESSITY, FUNCTION, AND CONFORMITY: KRS

194A.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. 7 C.F.R. 271.4 requires the cabinet to administer a Supplemental Nutrition Assistance Program (SNAP) within the state. 7 C.F.R. 272 and 273 establish requirements for the cabinet to participate in the SNAP. In addition, 7 U.S.C. 2014 establishes that an otherwise-qualified alien who is blind or receiving a disability benefit, who has lived in the United States for at least five (5) years, or who is under eighteen (18) years of age shall be eligible to participate in SNAP regardless of the date he entered the United States. This administrative regulation establishes the technical eligibility requirements used by the cabinet in the administration of SNAP.

Section 1. Definitions. (1) "Certification period" means a period of time during which a household shall be eligible to receive SNAP benefits.

(2) "Exempt" means excused by the department from participation in the Supplemental Nutrition Assistance Program Employment and Training Program (E&T).

(3) "Qualified alien" is defined by 7 C.F.R. 273.4.

(4) "Student" means a person who is between the ages of eighteen (18) and forty-nine (49), physically and mentally fit, and enrolled at least half-time in an institution of higher education.

Section 2. Technical Eligibility. In accordance with federal regulations promulgated by the Food and Nutrition Service (FNS), of the United States Department of Agriculture, the cabinet shall utilize national uniform requirements of technical eligibility for SNAP.

Section 3. Technical Eligibility Criteria. Technical eligibility requirements shall apply to all households and consist of:

(1) Residency. A household:

(a) Shall reside in the county in which the household receives benefits; and

(b) May apply for benefits in any county in accordance with 921 KAR 3:030, Section 3.

(2) Identity.

(a) The applicant's identity shall be verified; and

(b) If an authorized representative applies for the household, the applicant's and the authorized representative's identities shall be verified.

(3) Citizenship and alien status.

(a) An individual shall satisfy the citizenship and alien status requirement if the individual is a:

1. Citizen of the United States;
2. U.S. noncitizen national; or
3. Qualified alien who is lawfully residing in Kentucky.

(b) Except as provided in paragraph (c) of this subsection, an individual whose status is questionable shall be ineligible to participate until verified.

(c) An individual whose status is pending verification from a federal agency shall be eligible to participate for up to six (6) months from the date of the original request for verification.

(d) A single household member shall attest in writing to the citizenship or alien status requirements as established in 921 KAR 3:030 for each household member.

(4) Household size. If information is obtained by the Department for Community Based Services (DCBS) that household size differs from the household's stated size, the size of household shall be verified through readily available documentary evidence or through a collateral contact.

(5) Students. A student shall be ineligible to participate unless the student is:

(a)1. Engaged in paid employment for an average of twenty (20) hours per week; or

2. If self-employed, employed for an average of twenty (20) hours per week and receiving weekly earnings at least equal to the federal minimum wage multiplied by twenty (20) hours;

(b) Participating in a state or federally financed work study

program during the regular school year;

(c) Responsible for the care of a dependent household member under the age of six (6);

(d) Responsible for the care of a dependent household member who has reached the age of six (6), but is under age twelve (12) and for whom the cabinet has determined that adequate child care is not available to enable the individual to attend class and to satisfy the work requirements of paragraphs (a) or [and] (b) of this subsection;

(e) Receiving benefits from the Kentucky Transitional Assistance Program (K-TAP);

(f) Assigned to or placed in an institution of higher learning through a program pursuant to:

1. 29 U.S.C. 2801;
2. 45 U.S.C. 261.2; or
3. 19 U.S.C. 2296;

(g) Enrolled in an institution of higher learning as a result of participation in a work incentive program pursuant to 42 U.S.C. 681;

(h) Enrolled in an institution of higher learning as a result of participation in E&T in accordance with 921 KAR 3:042; or

(i) A single parent with responsibility for the care of a dependent household member under age twelve (12).

(6) Social Security number (SSN).

(a) Households applying for or participating in SNAP shall comply with SSN requirements by providing the SSN of each household member or applying for a number prior to certification.

(b) Failure to comply without good cause shall be determined for each household member and shall result in an individual's disqualification from participation in SNAP until this requirement is met.

(7) Work registration. All household members, unless exempt, shall be required to comply with the work registration requirements established in Section 4 of this administrative regulation.

(8) Work requirement.

(a) Except for individuals who may be eligible for up to three (3) additional months in accordance with Section 4 of this administrative regulation, an individual shall not be eligible to participate in SNAP as a member of a household if the individual received SNAP for more than three (3) countable months during any three (3) year period, during which the individual did not:

1. Work eighty (80) hours or more per month;
2. Participate in and comply with the requirements of the E&T component pursuant to 7 U.S.C. 2015(d) for twenty (20) hours or more per week;
3. Participate in and comply with the requirements of a program pursuant to:

- a. 29 U.S.C. 2801 to 2945; or
- b. 19 U.S.C. 2296;

4. Participate in and comply with the requirements established in 921 KAR 3:042; or

5. Receive SNAP benefits pursuant to paragraph (b), (c), or (d) of this subsection.

(b) Paragraph (a) of this subsection shall not apply to an individual if the individual is:

1. Under eighteen (18) or fifty (50) years of age or older;
2. Physically or mentally unfit for employment as determined by the cabinet;
3. A parent or other adult member of a household containing a dependent child under the age of eighteen (18);
4. Exempt from work registration pursuant to Section 4(4) of this administrative regulation; or
5. Pregnant.

(c) Paragraph (a) of this subsection shall not apply if, pursuant to an approved waiver by FNS, the county or area in which the individual resides:

1. Has an unemployment rate of over ten (10) percent; or
2. Does not have a sufficient number of jobs to provide employment.

(d) Subsequent eligibility.

1. An individual denied eligibility pursuant to paragraph (a) of this subsection shall regain eligibility to participate in SNAP if, during a thirty (30) day period, the individual meets one of the

conditions of paragraph (a)1. through 4. of this subsection, or the individual was not meeting the work requirements in accordance with paragraph (b) of this subsection.

2. An individual who regains eligibility pursuant to subparagraph 1. of this paragraph shall remain eligible as long as the individual meets the requirements of subparagraph 1. of this paragraph.

(e) Loss of employment or training.

1. An individual who regains eligibility pursuant to paragraph (d)1. of this subsection and who no longer meets the requirements of paragraph (a)1. through 4. of this subsection shall remain eligible for a consecutive three (3) month period, beginning on the date the individual first notifies the cabinet that the individual no longer meets the requirements of paragraph (a)1. through 4. of this subsection.

2. An individual shall not receive benefits pursuant to subparagraph 1. of this paragraph for more than a single three (3) month period in any three (3) year period.

(f) If the individual does not meet all other technical and financial eligibility criteria pursuant to 7 U.S.C. 2011, nothing in this section shall make an individual eligible for SNAP benefits.

(9) Quality control. Refusal to cooperate in completing a quality control review shall result in termination of the participating household's benefits.

(10) Drug felons. An individual convicted under federal or state law of an offense classified as a felony by the law of the jurisdiction involved and that has an element of possession, use, or distribution of a controlled substance as defined in 21 U.S.C. 862(a), may remain eligible for SNAP benefits if the individual meets the requirements established in [pursuant to] KRS 205.2005.[

(11) Child Support Arrears.

~~(a) In accordance with 7 C.F.R. 273.11(q) to disqualify a noncustodial parent for refusing to cooperate, a noncustodial parent of a child under the age of eighteen (18) shall not be eligible to participate in SNAP if the individual is delinquent in payment of court-ordered support as determined by the Department for Income Support, Child Support Enforcement, unless the individual:~~

~~1. Is enrolled in a drug treatment program;~~

~~2. Is participating in a state or federally funded employment training program;~~

~~3. Meets good cause for nonpayment. Good cause shall include temporary situations of thirty (30) days or less resulting from illness, job change, or pendency of unemployment benefits;~~

~~4. Is a member of a SNAP household containing a child under the age of six (6);~~

~~5. Is pregnant or three (3) months post-partum; or~~

~~6. Is:~~

~~a. Within three (3) months of incarceration for a period of at least six (6) months; and~~

~~b. Cooperating with the Department for Income Support, Child Support Enforcement.~~

~~(b) The disqualification of an individual in accordance with paragraph (a) of this subsection shall be in place as long as the individual remains delinquent as determined by Department for Income Support, Child Support Enforcement.~~

~~(c) The income, expenses, and resources of an individual disqualified in accordance with paragraph (a) of this subsection shall be processed in accordance with 921 KAR 3:035, Section 5(4).]~~

Section 4. Work Registration. (1) Unless a household member is exempt from work requirements as established in subsection (4) of this section, a household member shall register for work:

(a) At the time of initial application for SNAP; and

(b) Every twelve (12) months following the initial application.

(2) Work registration shall be completed by the:

(a) Member required to register; or

(b) Person making application for the household.

(3) Unless otherwise exempt, a household member excluded from the SNAP case shall register for work during periods of disqualification. An excluded person shall be an:

(a) Ineligible alien; or

(b) Individual disqualified for:

1. Refusing to provide or apply for a Social Security number; or

2. An intentional program violation.

(4) An individual meeting the criteria of 7 C.F.R. 273.7(b)(1) shall be exempt from work registration requirements.

(5) A household member who loses exemption status due to a change in circumstances shall register for work in accordance with 7 C.F.R. 273.7(b)(2).

(6) After registering for work, a nonexempt household member shall:

(a) Respond to a cabinet request for additional information regarding employment status or availability for work;

(b) In accordance with 7 C.F.R. 273.7(a)(1)(vi), accept a bona fide offer of suitable employment pursuant to 7 C.F.R. 273.7(h), at a wage not lower than the state or federal minimum wage; or

(c) In accordance with 7 C.F.R. 273.7(a)(1)(ii), participate in the E&T Program if assigned by the cabinet.

(7) A household member making a joint application for SSI and SNAP in accordance with 921 KAR 3:035 shall have work requirements waived in accordance with 7 C.F.R. 273.7(a)(6).

(8) The cabinet's E&T worker shall explain to the SNAP applicant the:

(a) Work requirements for each nonexempt household member;

(b) Rights and responsibilities of the work-registered household members; and

(c) Consequences of failing to comply.

Section 5. Determining Good Cause. (1) A determination of good cause shall be undertaken if a:

(a) Work registrant has failed to comply with work registration requirements as established in Section 4 of this administrative regulation; or

(b) Household member has, pursuant to Section 7 of this administrative regulation, voluntarily:

1. Quit a job; or

2. Reduced the household member's work effort.

(2) In accordance with 7 C.F.R. 273.7(i)(2), good cause shall be granted for circumstances beyond the control of the individual, such as:

(a) Illness of the individual;

(b) Illness of another household member requiring the presence of the individual;

(c) A household emergency;

(d) Unavailability of transportation; or

(e) Lack of adequate care for a child who is six (6) to twelve (12) years of age for whom the individual is responsible.

(3) Good cause for leaving employment shall be granted if:

(a) A circumstance established in subsection (2) of this section exists;

(b) The employment became unsuitable in accordance with 7 C.F.R. 273.7(h); or

(c) A circumstance established in 7 C.F.R. 273.7(i)(3) exists.

Section 6. Disqualification. (1) A participant shall be disqualified from the receipt of SNAP benefits if the participant:

(a) Fails to comply with the work registration requirements; or

(b) Is determined to have voluntarily, without good cause, quit a job or reduced the work effort as established in Section 5 of this administrative regulation.

(2) An individual disqualified from participation in SNAP shall be ineligible to receive SNAP benefits until the latter of the:

(a) Date the individual complies; or

(b) Lapse of the following time periods:

1. Two (2) months for the first violation;

2. Four (4) months for the second violation; or

3. Six (6) months for the third or a subsequent violation.

(3) Ineligibility shall continue until the ineligible member:

(a) Becomes exempt from the work registration; or

(b)1. Serves the disqualification period established in subsection (2)(b) of this section; and

2. Complies with the work registration requirements.

(4) A disqualified household member who joins a new household shall:

- (a) Remain ineligible for the remainder of the disqualification period established in subsection (2)(b) of this section;
- (b) Have income and resources counted with the income and resources of the new household; and
- (c) Not be included in the household size in the determination of the SNAP allotment.

Section 7. Disqualification for Voluntary Quit or Reduction in Work Effort. (1) Within thirty (30) days prior to application for SNAP or any time after application, an individual shall not be eligible to participate in SNAP if the individual voluntarily, without good cause:

- (a) Quits a job:
 - 1. Of thirty (30) hours or more per week; and
 - 2. With weekly earnings at least equal to the federal minimum wage times thirty (30) hours; or
- (b) Reduces the individual's work effort [to]:
 - 1. To less [Less] than thirty (30) hours per week; and
 - 2. So that after [After] the reduction, weekly earnings are less than the federal minimum wage times thirty (30) hours.
- (2) The cabinet shall impose a disqualification period established in Section 6(2)(b) of this administrative regulation on an individual meeting subsection (1)(a) or (1)(b) of this section.

Section 8. Curing Disqualification for Voluntary Quit or Reduction in Work Effort. (1) Eligibility and participation may be reestablished by:

- (a) Securing new employment with salary or hours comparable to the job quit;
- (b) Increasing the number of hours worked to the amount worked prior to the work effort reduction and disqualification; or
- (c) Serving the minimum period of disqualification imposed pursuant to Section 6(2)(b) of this administrative regulation.
- (2) If the individual applies again and is determined to be eligible, an individual may reestablish participation in SNAP.
- (3) If an individual becomes exempt from work registration, the disqualification period shall end, and the individual shall be eligible to apply to participate in SNAP.

Section 9. Hearing Process. If aggrieved by a cabinet action or inaction that affects participation, a SNAP participant may request a hearing in accordance with 921 KAR 3:070.

ERIC C. FRIEDLANDER, Acting Secretary
 APPROVED BY AGENCY: April 8, 2020
 FILED WITH LRC: April 15, 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, email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Laura Begin

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation sets forth the technical requirements to receive Supplemental Nutrition Assistance Program (SNAP) benefits.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the technical requirements for eligibility for SNAP.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes:
 This administrative regulation conforms to the content of the authorizing statutes through its establishment of technical requirements for SNAP eligibility.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing technical requirements for SNAP.
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This administrative regulation amendment eliminates the optional component of the technical eligibility for SNAP recipients to disqualify non-custodial parents delinquent in any payment due under a court order for the support of a child of the individual. This amendment eliminates the SNAP disqualification policy for non-custodial parents in arrears on ordered child support. 7 C.F.R. 273.11(q), Action on households with special circumstances, provides states with the option to utilize the SNAP disqualification of non-custodial parents who are in arrears with court-ordered child support. This is an option, not a federal mandate, and this amendment reflects the change in policy to not utilize this method of disqualification following the enactment of this amendment. This disqualification method was found to entail significant administrative burden on staff and punitive measures being placed on a vulnerable population that otherwise would qualify for assistance in purchasing food, with no demonstration or evidence of benefitting the children involved. There are incentives to paying child support embedded within SNAP policy.

(b) The necessity of the amendment to this administrative regulation: The administrative regulation is being amended to eliminate the disqualification from SNAP due to arrears of court-ordered child support. The amendment is necessary to reflect this change in policy.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes through its establishment of technical requirements for SNAP eligibility. This amendment reflects a policy change in opting out of a federal SNAP option established in 7 C.F.R. 273.11.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes governing SNAP by removing an optional punitive measure for SNAP recipients.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: SNAP recipients who are non-custodial parents and are determined by the Division of Income Support to be delinquent in any payment due under a court order for the support of a child are affected. As of November 2019, eligibility system reports show that 1,014 individuals with child support arrearages could have potentially been affected by this disqualification method.

(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 individuals affected by this administrative regulation amendment have no actions to complete; the agency will remove the SNAP disqualification processing procedures.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individuals with child support arrearages will not be denied SNAP benefits solely for that reason.

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

(a) Initially: There will be a one-time agency cost for design changes to the web-based eligibility system used for SNAP. This is estimated to be less than \$200,000.

(b) On a continuing basis: The amendment requires no ongoing costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: SNAP benefits are 100% federally funded by the U.S. Department of Agriculture. Program administrative costs are funded 50% federal and 50% state and have been appropriated in the enacted budget.

(7) Provide an assessment of whether an increase in fees or

funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There are no increases in fees or funding required with this amendment.

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

(9) TIERING: Is tiering applied? Tiering is not applied as this administrative regulatory amendment will be applied in a like manner on a statewide basis.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 7 C.F.R. 271.4, 272, 273

2. State compliance standards. KRS 194A.050(1), 205.2005

3. Minimum or uniform standards contained in the federal mandate. 7 C.F.R. 271.4, 272, 273

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Community Based Services will be impacted by the administrative regulation amendment.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. 7 C.F.R. 273.11(q) gives the option of using this disqualification method, but it is only an option and not a mandate.

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. 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 amendment to the administrative regulation will not generate revenue.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment to the administrative regulation will not generate revenue in future years.

(b) How much will it cost to administer this program for the first year? This amendment does not affect the cost of administering the SNAP program. There will be a one-time agency cost for design changes to the web-based eligibility system used for SNAP. This is estimated to be less than \$200,000.

(c) How much will it cost to administer this program for subsequent years? This amendment does not affect the on-going cost of administering the SNAP program.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

VOLUME 46, NUMBER 11– MAY 1, 2020

**ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE**

**ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee**

NONE

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

BOARDS AND COMMISSIONS
Kentucky Board of Medical Licensure
(Amended After Comments)

201 KAR 9:270. Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone.

RELATES TO: KRS 311.530-311.620, 311.990

STATUTORY AUTHORITY: KRS 311.565(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311.565(1)(a) authorizes the board to promulgate administrative regulations to regulate the conduct of its licensees. This administrative regulation establishes the professional standards for physicians practicing in Kentucky who prescribe or dispense Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone.

Section 1. Minimum Qualifications for Prescribing or Dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone. Except as provided in Section 3 of this administrative regulation, a licensed physician shall not prescribe or dispense Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone unless that physician possesses the minimum qualifications established in this section.

(1) The physician shall obtain and maintain in good standing a waiver and license as issued by the Drug Enforcement Administration (DEA) to prescribe Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone for the treatment of opioid use disorder[dependence] in the Commonwealth of Kentucky.

(2) The physician shall successfully complete the approved educational programs required by this subsection.

(a) The prescribing physician shall be a DEA-licensed prescriber of Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone and shall have obtained Buprenorphine certification through completion of a Substance Abuse and Mental Health Services Administration ("SAMHSA") certified course.

(b) For each three (3) year continuing education cycle, each DEA-licensed prescriber of Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone shall complete at least twelve (12) hours of continuing medical education certified in Category I specific to addiction medicine as part of the required continuing medical education hours set forth in 201 KAR 9:310.

(3) The physician shall enroll in the Kentucky Health Information Exchange to the extent necessary to query and pull information from the Kentucky Health Information Exchange. The physician shall not report the prescribing or dispensing of Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone for medically-supervised withdrawal or as maintenance treatment for a patient diagnosed with opioid use disorder[dependence] into the Kentucky Health Information Exchange unless otherwise required by law.

Section 2. Professional Standards for Prescribing or Dispensing transmucosal Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone for Medically-Supervised Withdrawal or the Treatment of Opioid Use Disorder[Dependency].

(1)(a) Except as provided in paragraphs (b) and (c) of this subsection, transmucosal Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone shall only be prescribed or dispensed for medically-supervised withdrawal or as a maintenance treatment for a patient diagnosed with opioid use disorder[dependence].

(b) Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone shall not be used for the treatment of pain or any other condition, unless delivered in a Federal Drug Administration (FDA) approved form and for an FDA approved purpose[Transdermal delivery and buccal film delivery of Buprenorphine-Mono-Product may be used for treatment of pain in

patients with pain severe enough to require daily, around-the-clock, long-term opioid treatment and for whom alternative treatment options are ineffective, not tolerated, or would be otherwise inadequate to provide sufficient management of pain. Transdermal delivery and buccal film delivery of Buprenorphine-Mono-Product shall not be prescribed or dispensed as an as-needed (prn) analgesic.

(c) ~~Intravenous and intramuscular delivery of Buprenorphine-Mono-Product may be administered in a physician's office or other healthcare facility for treatment of acute pain severe enough to require an opioid analgesic and for which alternate treatments have not been tolerated or are expected not to be tolerated, or have not provided adequate analgesia or are not expected to provide adequate analgesia.~~

(2) Buprenorphine-Mono-Product shall not be prescribed or dispensed for medically-supervised withdrawal or as a maintenance treatment for a patient diagnosed with opioid use disorder[dependence], except:

(a) To a pregnant patient;

(b) To a patient with demonstrated hypersensitivity to naloxone; ~~or~~

(c) As ~~[an implant-delivered or injectable treatment]~~ administered under supervision in a physician's office or other healthcare facility, including hospitals, urgent care settings, surgical care centers, residential treatment facilities, and correctional facilities; or

(d) To a patient transitioning from methadone to buprenorphine, limited to a period of no longer than one week.

(3)(a) Except as provided in paragraph (b) of this section, Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone shall not be prescribed or dispensed to a patient who is also being prescribed benzodiazepines, other sedative hypnotics, stimulants or other opioids, without consultation of a physician who is certified by the American Board of Addiction Medicine, the American Board of Preventive Medicine, the American Board of Medical Specialties (ABMS) in psychiatry, or an American Osteopathic Association (AOA) certifying board in addiction medicine or psychiatry.

(b) A physician may prescribe or dispense Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone to a patient who is also being prescribed benzodiazepines, other sedative hypnotics, stimulants, or other opioids, without consultation in order to address an extraordinary and acute medical need not to exceed a combined period of thirty (30) days.

(4) Except as provided in Section 3 of this administrative regulation, each licensed physician who prescribes or dispenses Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone for medically-supervised withdrawal or for the treatment of opioid use disorder[dependence] shall fully comply with the professional standards established in this subsection.

(a) Prior to or at least within two (2) weeks of initiating treatment, the prescribing or dispensing physician shall:

1. Obtain and record a complete and appropriate evaluation of the patient which shall at a minimum include:

- The patient's history of present illness;
- The patient's history of substance use;
- The patient's social and family history;
- The patient's past medical and psychiatric histories;
- A focused physical examination of the patient;
- ~~[The patient's injection use history, which shall include]~~

Screening for HIV and hepatitis serology; and

- Arranging appropriate laboratory tests, which shall include a CBC, a drug screen, and a CMP;

2. Obtain the patient's consent and authorizations in order to obtain the patient's prior medical records.

a. Upon receipt of the medical records, the prescribing or dispensing physician shall review and incorporate the information from the records into the evaluation and treatment of the patient.

b. If the prescribing or dispensing physician is unable, despite best efforts, to obtain the patient's prior medical records, the

physician shall document those efforts in the patient's chart;

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

4. Explain treatment alternatives and the risks and the benefits of treatment with Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone to the patient;

5. Obtain written informed consent from the patient in a manner that meets professional standards; and

6. If the patient is a female of child-bearing age and ability, meet the requirements of paragraph (b) of this subsection.

(b) Except as provided in Section 3 of this administrative regulation, the requirements of this paragraph shall apply to the treatment of a female of child-bearing age and ability.

1. Prior to initiating treatment, the physician shall require that the patient [first] submit to a pregnancy test and, if pregnant, the physician shall provide counseling as to the risk of neonatal abstinence syndrome which shall be consistent with current SAMHSA guidance~~[patient education material on neonatal abstinence syndrome from the American Congress of Obstetricians and Gynecologists, American Academy of Pediatrics, American Society of Addiction Medicine (ASAM) and the Kentucky Department for Public Health, and offer means to prevent pregnancy]~~.

2.a. A physician who prescribes or dispenses~~[shall not prescribe or dispense]~~ Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone to a patient who is pregnant or breastfeeding shall first obtain and document~~[unless the prescribing physician first obtains and documents]~~ consultation with another independent physician that~~[for an opinion as to whether]~~ the potential benefit of Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone use outweighs the potential risk of use.

b. The consultation shall be obtained from a physician who is certified by the American Board of Addiction Medicine, the American Board of Preventive Medicine, the American Board of Medical Specialties (ABMS) in psychiatry, or an American Osteopathic Association (AOA) certifying board in addiction medicine or psychiatry or from an obstetrician or maternal-fetal medicine specialist~~[who is also qualified to prescribe buprenorphine]~~.

(c) Except as provided by paragraph (d) of this subsection, while initiating treatment with Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone, the prescribing or dispensing physician shall comply with the requirements of this paragraph.

1. The prescribing or dispensing physician shall recommend to the patient an in-office observed induction protocol.

a. Except as provided in clause b. of this subparagraph, the prescribing or dispensing physician shall supervise~~[conduct]~~ the in-office observed induction protocol.

b. If an in-office observed induction does not occur, the prescribing or dispensing physician shall appropriately record the circumstances in the patient chart ~~[and shall implement a SAMHSA-recognized or ASAM-recognized home-based induction protocol]~~.

2. The prescribing or dispensing physician shall document the presence of opioid withdrawal before the first dose is given by using a standardized instrument, such as the clinic opioid withdrawal scale (COWS) or other similarly recognized instrument.

3. The prescribing or dispensing physician shall initiate treatment with a dose not to exceed the dose equivalency of four (4) milligrams buprenorphine generic tablet, which:

a. May be followed by subsequent doses if withdrawal persists ~~[and is not improving]~~; and

b. Shall not exceed the dose equivalency of sixteen (16) milligrams buprenorphine generic tablet on the first day of treatment.

(d) If the patient is transferred from another treatment provider and has previously experienced withdrawal without a relapse and has not had a lapse in treatment, the prescribing or dispensing physician shall:

1. Document that fact;

2. Educate the patient about the potential for precipitated withdrawal; and

3. Continue maintenance treatment of the patient on the same or less dosage as established by the previous treatment provider and then as provided in paragraph (e) of this subsection.

(e) After initial induction of Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone, the prescribing or dispensing physician shall meet the requirements established in this paragraph.

1. If the physician prescribes or dispenses Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone medication, the physician shall implement a treatment plan that requires objective behavioral modification by the patient. The behavioral modification shall include the patient's participation in a behavioral modification program that may include counseling or a twelve (12) step facilitation.

2. The physician shall prescribe or dispense to the patient an amount of Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone that:

a. Is necessary to minimize craving and opiate withdrawal;

b. Does not produce opiate sedation;

c. Except as provided in subclauses (i) through (iv)[and (ii)] of this clause, is to be taken no more frequently than once daily;

(i) If the patient is pregnant, is to be taken no more than twice daily; or

(ii) If the patient is receiving a daily dosage of less than 16mg, is to be taken no more than twice daily;

(iii) If the patient is simultaneously engaged in cancer treatment, hospice or palliative care, is to be taken bid or tid; and

(iv) If the patient is undergoing a major surgery, being any operative or invasive procedure or delivery, or has suffered a significant physical trauma, being any acute, blunt, blast or penetrating bodily injury that has a risk of death, physical disability or impairment, is to be taken bid or tid for up to fourteen (14) days.

d. Is able only to supply the patient until the next physician visit, which shall be scheduled as required by subparagraph 3. of this paragraph.

3.a. The prescribing or dispensing physician shall ensure that the patient is seen ~~[by the physician]~~:

(i) No later than ten (10) days after induction and then at intervals of no more than ten (10) days for the first month after induction; and

(ii) At intervals of no more than fourteen (14) days for the second month after induction.

b.(i) If the patient demonstrates objective signs of positive treatment progress, the prescribing or dispensing physician shall ensure that the patient is seen at least once monthly thereafter.

(ii) If two (2) years after initiation of treatment, the patient is being prescribed Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone for opioid use disorder~~[dependence]~~ and the patient has demonstrated objective signs of positive treatment progress, including documented evidence that the patient has been compliant with the treatment plan and all treatment directives for at least two (2) years, then the prescribing or dispensing physician may require that the patient be seen only by the prescribing or dispensing physician at least once every three (3) months.

(iii) The prescribing or dispensing physician shall see the patient in shorter intervals if the patient demonstrates any noncompliance with the treatment plan.

c. If extenuating circumstances arise that require a patient to unexpectedly reschedule a physician visit, the prescribing or dispensing physician shall make best efforts to see the patient as soon as possible and document the circumstances in the patient chart.

4. At least every three (3) months after initiation of treatment, the prescribing or dispensing physician shall evaluate the patient to determine whether the patient's dosage should be continued or modified and shall appropriately document that evaluation and clinical reasoning in the patient's chart.

5. At least once every three (3) months, the prescribing or

dispensing physician shall obtain KASPER reports to help guide the treatment plan.

a. If the KASPER indicates any abnormal findings, the prescribing or dispensing physician shall incorporate those findings into appropriate clinical reasoning to support the continuation or modification of treatment and shall accurately document the same in the patient record.

b. Appropriate clinical reasoning may include adjustment of dose strength, adjustment of [or] frequency of visits, increased drug screening, a consultation with a specialist, or an alternative treatment.

c. Every twelve (12) months following initiation of treatment, if a patient's prescribed daily therapeutic dosage exceeds the dose equivalency of sixteen (16) milligrams buprenorphine generic tablet per day and the prescribing or dispensing physician is not certified by the American Board of Addiction Medicine, the American Board of Preventive Medicine, the American Board of Medical Specialties (ABMS) in psychiatry, or an American Osteopathic Association (AOA) certifying board in addiction medicine or psychiatry, then the prescribing or dispensing physician shall obtain a[~~refer the patient for~~] consultation from[~~by~~] a physician who is certified by the American Board of Addiction Medicine, the American Board of Medical Specialties (ABMS) in psychiatry, or an American Osteopathic Association (AOA) certifying board in addiction medicine or psychiatry for an opinion as to whether continued treatment and dosage is appropriate and shall accurately document the results of that consultation in the patient chart.

d. The prescribing or dispensing physician shall adjust dosages according to the individual patient's condition and within acceptable and prevailing medical standards, with the goal of improving the patient's quality of life and ability to function in the community.

e. Every twelve (12) months following initiation of treatment, the prescribing or dispensing physician shall evaluate for and document the medical necessity for continued treatment at the established dose.

f. The prescribing or dispensing physician shall ensure that the patient is drug tested. A patient in early stages of treatment shall be tested at least once weekly and as the patient becomes more stable in treatment, the frequency of drug testing may be decreased, but shall be performed at least on a monthly basis. Individual consideration may be given for less frequent testing if a patient is in sustained remission. If the patient returns to substance use after a period of abstinence, the prescribing or dispensing physician shall resume the early treatment testing schedule, in conjunction with an adapted or intensified treatment plan. [obtain at least eight (8) drug screens from the patient within each twelve (12) month period of treatment in order to help guide the treatment plan. For patients who have demonstrated objective signs of positive treatment progress for at least two (2) years from the date of initiation of treatment, including documented evidence that the patient has been compliant with the treatment plan and all treatment directives, the prescribing or dispensing physician shall obtain at least six (6) drug screens from the patient within each twelve (12) month period of treatment in order to help guide the treatment plan.]

(i) [At least two (2) of the drug screens shall be random and shall be coupled with a pill count.

(ii) Each drug screen shall at a minimum screen for buprenorphine, methadone, [oxycodone, other] opioids, THC, benzodiazepines, amphetamines, and cocaine.

(iii) If a drug screen indicates any abnormal findings, the prescribing or dispensing physician shall incorporate those findings into appropriate clinical reasoning to support the continuation or modification of treatment and shall accurately document the same in the patient record.

(iv) Appropriate clinical reasoning may include adjustment of dose strength, adjustment of [or] frequency of visits, increased drug screening, a consultation with a specialist, or an alternative treatment.

6. The prescribing or dispensing physician shall document a plan for handling any lost or stolen medication, which[~~]~~

[a.] shall not provide for the automatic replacement of

medication prior to the specified interval date [~~]~~ and

b. If the prescribing or dispensing physician determines that it is necessary to minimize improper or illegal diversion of medications under the circumstances, shall require the patient to first report the lost or stolen medications to police or other law enforcement agencies].

Section 3. Use of transmucosal buprenorphine-mono-product or buprenorphine-combined-with-naloxone for treatment of opioid use disorder in an emergency situation or inpatient setting. (1) In an emergency, including in a hospital emergency department or similar outpatient urgent care setting, or in an inpatient setting, physicians may offer and initiate buprenorphine treatment to patients who present with opioid use disorder, without meeting the requirements established in Sections 1 and 2 of this administrative regulation and to the extent permitted by federal law, if:

(a) The physician has determined that the use of buprenorphine-mono-product or buprenorphine-combined-with-naloxone will not result in a harmful interaction with other medications or substances in the patient's system, including benzodiazepines, sedative hypnotics, carisoprodol, or tramadol;

(b) The physician obtains and documents written informed consent from the patient specific to risks and benefits of buprenorphine treatment; and

(c) The physician provides the patient with written instructions and contact information for appropriate follow up care, including bridge-provider services, residential treatment providers, and outpatient treatment providers.

(2) The physician shall initiate buprenorphine treatment under an observed induction protocol with an initial dose not to exceed the dose equivalency of four (4) milligrams buprenorphine generic tablet, which may be followed by subsequent doses, up to a maximum of twenty-four (24) milligrams buprenorphine generic tablet, if withdrawal persists and is not improving.

Section 4. Professional Standards for Documentation of Patient Assessment, Education, Treatment Agreement and Informed Consent, Action Plans, Outcomes and Monitoring. (1) Each physician prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-With-Naloxone shall obtain and document all relevant information in a patient's medical record in a legible manner and in sufficient detail to enable the board to determine whether the physician is conforming to professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-With-Naloxone and other relevant professional standards. (2) If a physician is unable to conform to professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-With-Naloxone as set forth in this regulation due to circumstances beyond the physician's control, or the physician makes a professional determination that it is not appropriate to comply with a specific standard, based upon the individual facts applicable to a specific patient's diagnosis and treatment, the physician shall document those circumstances in the patient's record and only prescribe or dispense Buprenorphine-Mono-Product or Buprenorphine-Combined-With-Naloxone to the patient if the patient record appropriately justifies the prescribing or dispensing of Buprenorphine-Mono-Product or Buprenorphine-Combined-With-Naloxone under the circumstances and in accordance with SAMHSA guidelines.

Section 5. Violations. Failure to comply with or a violation of the professional standards established in Sections[Section] 2 and 3 of this administrative regulation shall constitute a "departure from, or failure to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky," in violation of KRS 311.595(12) and (9), as illustrated by KRS 311.597(4) and may constitute a violation of KRS 311.595(9), as illustrated by KRS 311.597(3), subjecting the licensed physician to sanctions authorized by KRS 311.595.

SANDRA R. SHUFFETT, M.D., President

APPROVED BY AGENCY: April 14, 2020

FILED WITH LRC: April 14, 2020 at 11 a.m.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Leanne K. Diakov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone in the Commonwealth of Kentucky.

(b) The necessity of this administrative regulation: It is necessary to promulgate this regulation to establish acceptable and prevailing medical standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone in the Commonwealth of Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation acts specifically to establish the requirements for individual physicians prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone in the Commonwealth of Kentucky.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation acts specifically to establish the requirements for individual physicians prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone in the Commonwealth of Kentucky.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This administrative regulation amendment changes references of "opioid dependence" to the more acceptable medical terminology of "opioid use disorder"; is more specific to use of transmucosal buprenorphine products for the treatment of opioid use disorder (other delivery-methods (injections, etc) being inherently less subject to abuse or diversion) and limits the use of buprenorphine products for other purposes to FDA-approved forms and uses; expands provisions for the use of transmucosal buprenorphine products for the treatment of opioid use disorder in hospitals, urgent care centers, surgical care centers, and correctional facilities in newly proposed Section 3; incorporates by reference "current SAMHSA guidance" in regard to testing female patients for pregnancy and providing counseling on neonatal abstinence syndrome; and allows physicians to prescribe/dispense to a patient after the physician obtains a specialty consult, where appropriate, rather than requiring the patient to be referred out to a specialist, thus increasing patient access to treatment.

(b) The necessity of the amendment to this administrative regulation: It was necessary to amend the regulation in order to ensure that the regulation reflects updated and widely recognized acceptable and prevailing practice standards in a fast-developing area of medical practice and to increase patient access to quick and appropriate treatment.

(c) How the amendment conforms to the content of the authorizing statutes: This amended regulation acts specifically to further clarify and update the acceptable and prevailing medical practices for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone in the Commonwealth of Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: This amended regulation acts specifically to further clarify and update the acceptable and prevailing medical practices for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone in the Commonwealth of Kentucky.

(3) List the type and number of individuals, businesses,

organizations, or state and local governments affected by this administrative regulation: This amendment will affect all physicians licensed in the Commonwealth of Kentucky who prescribe, dispense or administer Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Physicians will be required to follow the professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone in the Commonwealth of Kentucky.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost associated with the requirements of this administrative regulation known to the Board.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Benefits to the physician including having updated professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone which will help curb the prescription drug epidemic in the Commonwealth of Kentucky and increase patient access to appropriate treatment.

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

(a) Initially: None.

(b) On a continuing basis: None.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase of fees or funding will be necessary.

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

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

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 311.565(1)(a)

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

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

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

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

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

Note: If specific dollar estimates cannot be determined, provide

a brief narrative to explain the fiscal impact of the administrative regulation.

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

BOARDS AND COMMISSIONS
Board of Nursing
(Amended After Comments)

201 KAR 20:650. Licensed certified professional midwives permitted medical tests and formulary.

RELATES TO: KRS 314.404 – 314.416

STATUTORY AUTHORITY: KRS 314.131(1), 314.404

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(7) authorizes the board to promulgate an administrative regulation to establish a list of medical tests that a licensed certified professional midwife may order when providing certified professional midwifery services that is limited to only those tests that are indicated and approved for the safe conduct of pregnancy, labor or birth, and care of a client and not intended for the diagnosis or management of any acute condition unrelated to pregnancy.

Section 1. An LCPM may independently order the following medical tests:

- (1) Complete blood count (CBC);
- (2) Blood type, Rh, and antibody screen;
- (3) Screening for gestational diabetes;
- (4) Hepatitis B and C panels for immunity or infection;
- (5) HIV test;
- (6) HPV test;
- (7) Pap smear;
- (8) Screen tests for syphilis, chlamydia, gonorrhea, and herpes;
- (9) Rubella titers;
- (10) Urine or serum HCG;
- (11) Urinalysis;
- (12) Urine culture including Group B strep;
- (13) Vaginal culture for Group B strep;
- (14) Varicella titers;
- (15) Ultrasound for fetal viability, confirmation of singleton intrauterine pregnancy, gestational age, fetal position, placental localization, anatomy scan, amniotic fluid index, or nuchal translucency;
- (16) Standard state newborn screening for metabolic disorders;
- (17) Newborn hearing screening;
- (18) Critical congenital heart disease screening (pulse oximetry);
- (19) Maternal prenatal genetic screening for errors of metabolism;
- (20) Hemoglobin A1C;
- (21) Standard screening tests for fetal genetic abnormalities including Quad Screen and cell-free DNA testing;
- (22) TSH screening;
- (23) Complete Metabolic Panel (CMP); and
- (24) Non-stress tests.**

Section 2. An LCPM may order any other test which is deemed necessary after consultation with a physician or other appropriate licensed healthcare provider.

Section 3. (1) An LCPM may obtain, transport, and administer the following legend medications:

- (a) Vitamin K;
- (b) Rho D immune globulin;
- (c) Erythromycin ophthalmic ointment USP (0.5%);
- (d) Oxygen;

- (e) Hepatitis B vaccine;
- (f) Antibiotics which shall be administered pursuant to United States Centers for Disease Control (CDC) Guidelines for Prophylaxis:

1. Penicillin;
2. Ampicillin;
3. Cefazolin;
4. Clindamycin; and
5. Vancomycin;
- (g) Topical anesthetics:
1. Procaine HCl;
2. Novacaine;
3. Benzocaine;
4. Cetacaine; and
5. Generic equivalents;

- (h) Lidocaine 1% up to 20 milliliters per patient;

(i) **Lidocaine 2% may be obtained by a LCPM only in order that it may be compounded to 1% if Lidocaine 1% is not available.**

- (j) Epinephrine;
- (k) Glucose gel to be administered orally for neonatal hypoglycemia;

- (l) Normal saline; and

(m) Medical supplies needed to administer the medications listed in this administrative regulation.

(2)(a) An LCPM shall obtain and transport for emergencies Oxytocin (Pitocin) for prevention of postpartum hemorrhage and Lactated Ringer's or Normal Saline for intravenous infusion.

(b) The LCPM shall obtain and transport at least one of the following to be used in the event of postpartum hemorrhage and if Oxytocin is not successful:

1. Methylergonovine (Methergine);
2. Hemabate; or
3. Misoprostal (Cytotec).

DINA BYERS, Board President

APPROVED BY AGENCY: March 19, 2020

FILED WITH LRC: March 31, 2020 at 4 p.m.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Nathan Goldman

(1) Provide a brief summary of:

(a) What this administrative regulation does: Senate Bill 84 (2019 Session) enacted KRS 314.400-416 which recognized licensed certified professional midwives (CPM) and placed their regulation with the Board of Nursing. This administrative regulation lists permitted medical tests and the formulary for CPMs in Kentucky.

(b) The necessity of this administrative regulation: It is required by KRS 314.404(7).

(c) How this administrative regulation conforms to the content of the authorizing statutes: By listing the permitted tests and medications that may be used by CPMs.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By listing the tests and medications.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation:

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this

administrative regulation: It will affect all licensed CPMs in Kentucky, number unknown.

(4) Provide an analysis of how the entities referenced 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) A detailed explanation of the actions the entities referenced in question (3) will be required to undertake in order to comply with this proposed administrative regulation: They will have to comply with the regulation.

(b) An estimate of the costs imposed on entities referenced in question (3) in order to comply with this proposed administrative regulation: The costs are not known.

(c) The benefits that may accrue to the entities referenced in question (3) as a result of compliance: They will be in compliance with the regulation.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation, both initially and on a continuing basis: The Board of Nursing estimates that to implement this and the other CPM regulations will initially cost \$150,000 and approximately \$50,000 per year thereafter.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment: An increase in funding may be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not.

(9) TIERING: Is tiering applied? Tiering is not applicable.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131, KRS 314.404

(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? We are not sure how many certified professional midwives there will be, but we estimate not more than 20. This will generate \$20,000 in revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The same amount.

(c) How much will it cost to administer this program for the first year? We estimate \$150,000.

(d) How much will it cost to administer this program for subsequent years? We estimate \$50,000.

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:

BOARDS AND COMMISSIONS Board of Nursing (Amended After Comments)

201 KAR 20:690. Licensed certified professional midwives transfer guidelines.

RELATES TO: KRS 314.404 – 314.416

STATUTORY AUTHORITY: KRS 314.131(1), 314.404, 314.414

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(3) authorizes the board to promulgate an administrative regulation to establish statewide requirements for licensed certified professional midwives and hospitals regarding the transfer of care from a licensed certified professional midwife to a hospital. KRS 314.414 authorizes the board to promulgate administrative regulations to implement the requirements developed by the work group.

Section 1. (1) In the prenatal period, the LCPM shall provide information to the client about hospital care and procedures that may be necessary. The LCPM shall document that **an emergency** transfer plan has been developed with the client for hospital transfer should the need arise.

(2) The LCPM shall assess the status of the client, fetus, and newborn throughout the maternity care cycle and shall determine when a transfer is necessary pursuant to 201 KAR 20:670.

(3) The **emergency** transfer plan shall contain:

(a) The names and addresses of appropriate hospitals offering care for the birthing person or the newborn;

(b) Contact information for either:

1. A facility's preferred method of initiating communication to access care; or

2. If that communication is not obtainable, the publicly available information for the facility; or

3. A healthcare provider or practice group that will accept a client in a transfer;

(c) Approximate distance or estimated travel time to indicated hospitals; and

(d) EMS activation process or a description of a private transportation plan.

~~**(a) The name and location of geographically adjacent facilities providing:**~~

~~**1. Emergency care;**~~

~~**2. Obstetrical care; and**~~

~~**3. Newborn care.**~~

~~**(b) The level of obstetrical or newborn care available;**~~

~~**(c) The approximate travel time to each facility;**~~

~~**(d) A list of the modes of transport services available, including emergency medical services available through 911;**~~

~~**(e) The requirements for activating each mode of transportation;**~~

~~**(f) The mechanism by which medical records and other information concerning the client may be rapidly transmitted to each facility, including fax numbers and electronic health record portals;**~~

~~**(g) Each facility's preferences regarding patient preregistration; and**~~

~~**(h) Contact information for either a healthcare provider or practice group who has agreed in advance to accept clients in transfer, or a facility's preferred method of accessing care by the facility's designated provider on call.]**~~

(4) The LCPM shall notify the receiving provider or hospital of:

(a) The incoming transfer;

(b) The reason for the transfer;

(c) A brief relevant clinical history;

(d) The planned mode of transport; and

(e) The expected time of arrival.

(5) The LCPM shall continue to provide routine or urgent care en route in coordination with any emergency services personnel and shall address the psychosocial needs of the client during the

change of birth setting.

(6) Upon arrival at the hospital, the LCPM shall provide a verbal report, including details on the client's current health status and the need for urgent care. The LCPM shall also provide a legible copy of relevant prenatal and labor medical records.

(7) The LCPM shall transfer clinical responsibility to the hospital provider.

(8) If the client chooses, the LCPM may remain to provide continuous support.

DINA BYERS, Board President

APPROVED BY AGENCY: March 19, 2020

FILED WITH LRC: March 31, 2020 at 4 p.m.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Nathan Goldman

(1) Provide a brief summary of:

(a) What this administrative regulation does: Senate Bill 84 (2019 Session) enacted KRS 314.400-416 which recognized licensed certified professional midwives (CPM) and placed their regulation with the Board of Nursing. This administrative regulation sets the transfer guidelines for CPMs in Kentucky when the client needs to be transferred to a hospital.

(b) The necessity of this administrative regulation: It is required by KRS 314.404(3) and KRS 314.414.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting transfer guidelines.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting transfer guidelines.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing administrative regulation:

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: It will affect all CPMs in Kentucky, number unknown.

(4) Provide an analysis of how the entities referenced 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) A detailed explanation of the actions the entities referenced in question (3) will be required to undertake in order to comply with this proposed administrative regulation: They will have to follow the transfer guidelines.

(b) An estimate of the costs imposed on entities referenced in question (3) in order to comply with this proposed administrative regulation: The costs are not known, but estimated to be minimal.

(c) The benefits that may accrue to the entities referenced in question (3) as a result of compliance: They will be in compliance with the regulation.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation, both initially and on a continuing basis: The Board of Nursing estimates that to implement this and the other CPM regulations will initially cost \$150,000 and approximately \$50,000 per year thereafter.

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

(7) Provide an assessment of whether an increase in fees or

funding will be necessary to implement this administrative regulation or amendment: An increase in funding may be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not.

(9) TIERING: Is tiering applied? Tiering is not applicable.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 314.131, KRS 314.404

(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? We are not sure how many certified professional midwives there will be, but we estimate not more than 20. This will generate \$20,000 in revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The same amount.

(c) How much will it cost to administer this program for the first year? We estimate \$150,000.

(d) How much will it cost to administer this program for subsequent years? We estimate \$50,000.

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:

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Kentucky Board of Education

Department of Education

(Amended After Comments)

702 KAR 5:080. Bus drivers' qualifications, responsibilities, and training.

RELATES TO: KRS 156.160, 161.011, 189.540, 49 C.F.R. Parts 380, 382 and 391[382.401-382.605]

STATUTORY AUTHORITY: KRS 156.160(1), 189.540

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160(1) requires the Kentucky Board of Education to promulgate administrative regulations relating to the transportation of children to and from school and to medical inspections and other matters deemed relevant to the protection of the physical welfare and safety of public school children. KRS 189.540 requires the Kentucky Board of Education to promulgate administrative regulations governing the design and operation of school buses. This administrative regulation establishes the qualifications, training, and responsibilities of the school bus driver.

Section 1. ~~[(1)(a)]~~Licensing Requirement. A school bus driver shall have a current, valid Commercial Driver's License with applicable endorsements and restrictions pursuant to KRS 281A.170 to 281A.175.

Section 2. Medical Fitness. (1) A local board of education shall require an annual medical examination that complies with KRS 281A.175 for~~[of]~~each school bus driver~~[or driver of a special~~

vehicle used to transport school children to and from school and events related to the school].

(2) A person shall not drive a school bus unless physically and mentally able to operate a school bus safely and satisfactorily;

(3) If there is limitation of motion in joints, neck, back, arms, legs, or other body parts, due to injury or disease that may limit the driver's ability to safely perform the task of driving a school bus or performing other driver responsibilities, the person shall not be employed as a school bus driver;

(4) A temporarily-injured or ill bus driver may be assigned duties other than driving until the employee regains the ability to safely perform school bus driver duties.

(5) An otherwise medically and physically eligible school bus driver with diabetes mellitus, may be employed as a school bus driver, if the driver possesses a valid federal Medical Examiner's Certificate as required under 49 C.F.R. Part 391.41.

(6)(b) A driver taking medication either by prescription or without prescription shall report said medication to the immediate supervisor and shall not drive if that medication may affect the driver's ability to safely drive a school bus or perform other driver responsibilities.

(7)(a) To ensure student safety, a district may require a school bus driver to pass a [routine] medical examination or a special type medical examination more often than annually at the district's expense;

(b) The medical examination shall include risk assessment and appropriate follow-through, as established in 702 KAR 1:160, Section 1, for tuberculosis upon initial employment; and

(c) The medical examination shall be documented on the same form required by the Kentucky Department of Transportation to obtain a commercial driver's license and retained by the district. [A current Medical Examination Report, form TC94-35E and supplement (TC 94-35E and the Supplement to TC 94-35E)] for each school bus driver shall be retained by the district.

(2) The medical examination shall include tests for:

(a) Hearing and vision disorders;

(b) Emotional instability; and

(c) Serious medical conditions including:

1. Diabetes;

2. Epilepsy;

3. Heart disease; and

4. Other chronic or communicable diseases if indicated in the opinion of the licensed medical examiner.

(3) The examination shall include risk assessment and appropriate follow-through, as established in 704 KAR 4:020, Section 1, for tuberculosis upon initial employment.

(4) A medical examination of a school bus driver shall be reported on the Medical Examination Report, form TC94-35E and supplement, and shall be submitted to the local superintendent or the superintendent's designee.]

Section 3.[2:] Criminal Records Check, Driving History, and Drug Testing. (1)(a) A criminal records and driving history check shall be performed by a local district on school bus drivers prior to initial employment and prior to reemployment following[after] a break in employment[service (excluding summers)].

(b)1. Employment shall be contingent upon meeting the requirements of paragraph (a) of this subsection.

2. A local board of education shall adopt policies outlining employment qualifications for school bus drivers as related to these criminal records and driving history checks.

(c) A school bus driver shall immediately report to the local superintendent or the superintendent's designee a:

1. Revocation of the driver's license;

2. Conviction for driving under the influence (DUI) or driving while intoxicated (DWI)[DUI or DWI];

3. Conviction for reckless driving; or

4. Citation for a moving motor vehicle violation, including:

a. Driving under the influence (DUI) or driving while intoxicated (DWI)[DUI or DWI];

b. Reckless driving; or

c. A violation of state or local law governing motor vehicle traffic control, other than a parking violation.

(2)(a) Controlled substance and alcohol use testing shall be a condition of employment for anyone in a safety sensitive pupil transportation position, including:

1. School bus drivers;

2. School bus mechanics; and

3. Other safety-sensitive jobs requiring a Commercial Drivers License (CDL)[CDL] license.

(b) The controlled substance and alcohol use testing program shall include the following tests:

1. Preemployment testing (controlled substance only);

2. Postaccident testing;

3. Random testing; and

4. Reasonable suspicion testing.

(c) Prospective employees who have tested positive for a controlled substance within the last five (5) years shall not be considered for employment to drive a school bus or the performance of safety-sensitive services related to pupil transportation.

(d) A school bus driver, school bus mechanic, or anyone performing safety-sensitive pupil transportation duties having a confirmed positive test for a controlled substance shall be relieved of those duties immediately and not be eligible for reemployment for five (5) years.

(e) A school bus driver, school bus mechanic, or anyone performing safety-sensitive pupil transportation duties who tests at 0.02 percent or higher on the confirmation alcohol test immediately before, during, or immediately following the performance of these duties shall be relieved of these duties immediately and not be eligible for reemployment in a safety-sensitive pupil transportation position for five (5) years.

(f) A person shall not be employed as a school bus driver if convicted within the past five (5) years of driving under the influence (DUI) or driving while intoxicated (DWI)[DUI or DWI].

[(g)1. A person shall not drive a school bus unless the person is physically or mentally able to operate a school bus safely and satisfactorily.

2. If there is limitation of motion in joints, neck, back, arms, legs, or other body parts, due to injury or disease that may limit the driver's ability to safely perform the task of driving a school bus or performing other driver responsibilities, the person shall not be employed as a school bus driver.

3. Pursuant to KRS 161.011, a temporarily-injured or ill bus driver may be assigned duties other than driving until the employee regains the ability to safely perform school bus driver duties.]

(h) A driver taking medication either by prescription or without prescription shall report to the immediate supervisor and shall not drive if that medication may affect the driver's ability to safely drive a school bus or perform other driver responsibilities.

Section 3. (1) A person shall not drive a school bus unless the person has:

(a) Visual acuity of at least 20/40 (Snellan) in each eye either without corrective lenses or by correction with corrective lenses;

(b) Form field vision of not less than a total of 140 degrees; and

(c) The ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

(2) A driver requiring correction by corrective lenses shall wear properly prescribed corrective lenses at all times while driving.

Section 4. (1) A person shall not drive a school bus if the person's hearing is less than 7/15 in the better ear, or if hearing loss is greater than forty (40) decibels if an audiogram is used, for conversational tones, with or without a hearing aid.

(2) A driver requiring a hearing aid shall wear properly operating aids at all times while driving.

Section 5. A school bus driver shall be at least twenty-one (21) years of age.

Section 6. (1) A school bus driver shall have a current, valid Commercial Driver's License with applicable endorsements and

restrictions.

(2)(a) Prior to acceptance into the school bus driver training program, a driver applicant shall be required to demonstrate driving skills judged by a certified driver training instructor to meet acceptable performance standards as outlined in Preemployment Road Test found in the School Bus Drivers Curriculum Instructor's Manual.

(b) The Preemployment Road Test Score Sheet supplied by the Department of Education shall become a part of the driver's training record.

(c) A driver shall demonstrate the following skill levels:

1. Vehicle knowledge; and

2. Driver ability to

A. Perform steering, maneuvering, and braking;

B. Use mirrors;

C. Demonstrate

(i) Ninety (90) degree left hand turns steering technique;

(ii) Ninety (90) degree right hand turns steering technique;

(iii) Correct operating posture;

(iv) Visual awareness;

(v) Backing ability using mirrors only; and

(vi) Demonstration of spatial awareness.]

Section 4.[7.-(1)] Training Requirements. (1)(a) Minimum training requirements to become a school bus driver shall consist of the successful completion of the twenty-one (21) hour initial training course and follow-up reviews as set forth in the Kentucky School Bus Driver Trainer Manual[training course developed by the Kentucky Department of Education and three (3) driver review, evaluation, and instruction components].

(b) Prior to the beginning of each school year, a bus driver shall successfully complete a district specific eight (8) hour update training.

(c) Each district shall annually provide the eight (8) hour update training, which shall be aligned with the Kentucky School Bus Driver Trainer Manual, address the needs of the district's school bus drivers, and be conducted by a driver trainer certified in accordance with subsection two (2) of this Section.

(d) The eight (8) hour update training shall be provided after the district's last student attendance day of the school year, but prior to opening day of the proceeding school year.

(e) In the event a district employs a school bus driver, after the eight (8) hour annual update training was provided to bus drivers, the district shall provide the driver with the update training prior to allowing the driver to transport students.

(f) If a school bus driver leaves the employment of a school district as a bus driver, and is subsequently reemployed in the district as a driver, the driver shall complete the eight (8) hour update training within twelve (12) months following the driver's last date of employment in the district as a bus driver.

(g) A driver who does not timely complete the annual eight (8) hour update training and recertification pursuant to this section shall be required to complete the twenty-one (21) hour initial training course.

(2)(a) A driver trainer shall satisfactorily complete the thirty-three (33) hour classroom and driving curriculum developed by the Department and delivered by a state approved driver trainer instructor.[person shall not be certified to teach the school bus driver training curriculum until that person has:

(a) Satisfactorily completed a minimum of thirty-three (33) of hours classroom and driving instruction conducted by the Department of Education and relevant to the driver training curriculum; and

(b) Been issued an instructor's certificate by the commissioner of education.]

(b)[(3)] Driver trainers shall annually complete a minimum of six (6) hours of training developed by the Department and delivered by a state approved driver trainer.[Instructors shall be required to renew their certificates annually by completing six (6) hours of update training conducted by the Department of Education.

(4) The School Bus Driver Training Course core curriculum shall consist of the following instructional units and minimum

instructional times:

(a) Laws and regulations, which shall include at least two (2) hours of instructional time;

(b) Driving fundamentals, which shall include at least two (2) hours of instructional time;

(c) Care and maintenance, which shall include at least two (2) hours of instructional time;

(d) Critical situations one, which shall include at least one (1) hours of instructional time;

(e) Incidents and emergency procedures, which shall include at least two (2) hours of instructional time;

(f) Pupil management, which shall include at least two (2) hours of instructional time;

(g) First aid, which shall include at least one (1) hours of instructional time;

(h) Special education transportation, which shall include at least one (1) hours of instructional time;

(i) Extracurricular trips, which shall include at least one (1) hours of instructional time;

(j) Vehicle operations, which shall include at least three (3) hours of instructional time;

(k) Vehicle control at speed, which shall include at least one (1) hours of instructional time; and

(l) Bus route identification, driver review and instruction, which shall include at least two (2) hours of instructional time.

(5) Upon successful completion of the core curriculum, the school bus driver applicant shall complete the following:

(a) Driver review I, evaluation and instruction, which shall include at least two (2) hours of instructional time within the first five (5) days of driving;

(b) Driver review II, evaluation and instruction, which shall include at least two (2) hours of instructional time after not less than twenty (20) days and not more than thirty (30) days of driving; and

(c)1. Driver review III evaluation and instruction, which shall include at least one (1) hour of instructional time within three (3) to six (6) months of completion of driver review II.

2. Driver review III shall be done with students on the bus.

Section 8.-(1)(a) Prior to the beginning of each school year, a certified driver shall complete an eight (8) hour training update relevant to the curriculum.

(b) Each district shall be responsible for planning and conducting its own update based on the needs of its drivers and to ensure student safety. A district unable to administer its own eight (8) hour update shall receive prior written approval from the Department of Education before sending a driver to receive the training from another district.

(2) Discontinuance of driver employment and subsequent reemployment shall require the driver to become requalified by a training update within the twelve (12) month period following the driver's certification termination date.

(3) A driver who does not complete the training update and recertification as required by subsection (2) of this section shall be required to complete the beginning training program.]

Section 5.[9:] First Aid and Cardiopulmonary Resuscitation (CPR). All school bus drivers, pupil transportation technicians, and employees that transport students shall, at a minimum, receive basic first aid and CPR training by a person with a valid certificate in first-aid training, including CPR, from the American Red Cross, or equivalent training that can be verified by documentary evidence.

Section 6. Emergency Operation. (1) If an emergency makes it necessary for the driver to leave the bus while pupils are on board, the driver shall follow local board policy.]:

(1) Move the bus to a safe location if possible;

(2) Stop the engine;

(3) Shift the bus to low gear or place in neutral if automatic equipped;

(4) Set the parking brake;

(5) Remove the ignition key; and

VOLUME 46, NUMBER 11– MAY 1, 2020

(6) Place one (1) of the older responsible pupils in charge during the driver's absence if appropriate.

Section 10.]

(2) A driver shall not permit a pupil to operate the entrance handle or any other bus control except in case of an emergency[school bus at all times in a manner that provides the maximum amount of safety and comfort for the pupils under the circumstances].

Section 7.[14.] Transport of Items on School Bus. (1)(a) A local board of education shall develop a policy regarding the transport of persons and items on a school bus.

(b) To ensure student safety, the policy shall include:

1. A prohibition on firearms or weapons, either operative or ceremonial; however, the policy may permit archery bows, used in connection with a school archery team, to be transported inside the passenger compartment and arrows transported in the underneath storage compartment;

2. A prohibition on fireworks or other explosive materials of any type;

3. A prohibition on live animals, except for a service animal necessary for the student to attend school [as documented by a pupil's Individual Education Program];

4. A prohibition on glass objects or helium balloons; and

5. A prohibition on any object that may block the bus aisle or exits or otherwise impede exiting the bus;

(c) The policy may additionally address issues related to the safe transport of students, including but not limited to eating and drinking on the school bus.

Section 8. Student Assignment. (1) A driver shall transport only those pupils officially assigned to a bus trip unless an unassigned pupil presents the driver with a written permit to ride the bus trip that has been signed by the school principal or designee.

(2) A driver shall not permit an assigned pupil to leave the bus at a stop other than the pupil's regular stop unless presented with written permission signed by the principal or a designee.

(3) A driver shall not transport a person who is not a student, including adult employees of the board, unless provided with written permission from the district superintendent or a designee.

Section 9. Student Seating. (1) A driver shall supervise the seating of the pupils on the bus and may assign a pupil to a specific seat on the bus.

(2)(a) The driver shall make certain the seating capability of the bus has been fully utilized before any pupil is permitted to stand in the bus aisle.

(b) A driver shall not permit pupils to stand:

1. In the stepwell or landing area;

2. If the pupil would likely fall out of the bus if the emergency door were opened; or

3. If the driver's view directly in front of the bus or to either side of the front of the bus would be obscured.

(3) A driver shall report to the superintendent or a designee an overcrowded condition on the bus.

Section 12. (1) A driver shall transport only those pupils officially assigned to a particular bus trip unless an unassigned pupil presents the driver with a written permit to ride the bus trip that has been signed by the school principal or a designee.

(2) Except as provided in Section 18(2)(c) and (d) of this administrative regulation, a driver shall not permit an assigned pupil to leave the bus at a stop other than where the pupil regularly leaves the bus unless presented with a written permission signed by the principal or a designee.

Section 13. A driver shall not transport a person who is not a student, including adult employees of the board, unless provided with written permission from the district superintendent or a designee.

Section 14. A board of education shall develop a policy regarding what may or shall not be transported on a school bus. The policy shall include the following:

(1)(a) A driver shall not knowingly permit any firearms or weapons, either operative or ceremonial, to be transported on the bus.

(b) The driver shall not knowingly permit fireworks or other explosive materials of any type to be transported on the bus;

(2) A driver shall not permit to be transported on the bus:

(a) live animals, except for an animal that is:

1. To enable a person to safely utilize the bus transportation as documented by:

a. Adequate medical evidence; or

b. A student's Individual Education Plan; and

2. Not a risk to other bus riders;

(b) A preserved specimen that would likely frighten a pupil or cause a commotion on the bus; or

(c) Glass objects or helium balloons; and

(3) A driver shall not permit the transportation of an object that may block the bus aisle or exits.

Section 15. A driver shall not permit a pupil to operate the entrance door handle or any other bus control except in case of an emergency.]

Section 10.[16.] Loading and Unloading. (1) A driver shall activate the flashing amber signal lights at least 200[150] feet, if available, or a sufficient distance from a bus stop to warn motorists of the intended stop.

(2) Once the bus comes to a complete stop, the driver shall follow the loading and unloading procedure outlined in the Kentucky School Bus Driver Trainer Manual [Chapter 7 of the School Bus Drivers Curriculum Instructor's Manual].

(3) A stop signal arm and flashing warning lights shall be in operation anytime pupils are boarding or leaving the bus, including on school property.

(4) A driver shall signal pupils to board or exit only after determining that any visible approaching traffic has come to a complete stop and is not beginning to move or attempting to pass the bus.

(5) A driver of a school bus shall be on the bus at all times students are loading or unloading.

Section 11.[17.] Fueling. For safety reasons, a driver shall not permit fueling of the bus while pupils are on board the bus.

Section 12.[18.] Student Conduct. (1) Local boards of education shall adopt policies related to student conduct on school buses.

(2) If a pupil's conduct on the bus makes it unsafe for the bus to continue on its route, the driver shall follow local district policy.]:

(1) Make a determination as to the potential danger to other students on the bus; and

(2) Take action against the student by:

(a) Requesting that the student stop engaging in the prohibited conduct;

(b) If feasible, sending for assistance if the student fails to comply with the driver's order or request;

(c) Ordering the student to leave the bus; or

(d) Ejecting the pupil from the bus.

(3)(a)[1.] Ejecting a pupil from the bus shall be done only in the most extreme circumstances; and[.]

(b)[2.] If a student has been ejected from a bus [as the result of conduct specified in subsection (1) of this section,]the driver shall notify the immediate supervisor who shall notify the appropriate district authorities, who shall subsequently notify the student's parent or legal guardian according to local board policy.

Section 13.[19.] Railroad. A school bus driver shall stop the bus at all places where the roadway crosses a railroad track or tracks at the grade level. The stop shall be made not less than fifteen (15) feet and not more than fifty (50) feet from the nearest track.

(1) After making the stop, the driver shall:

(a) Set the parking brake;
(b) Shift to neutral;
(c) Activate the noise abatement switch;
(d) Open the service door and driver side window; and
(e) Carefully look in each direction and listen for approaching trains before proceeding.

(2) If visibility is impaired at a crossing, after stopping the driver may allow the vehicle to roll forward to gain required visibility before proceeding.

(3) When a driver has ascertained that it is safe for the bus to cross the railroad tracks or tracks at the grade level, the driver shall:

(a) Close the bus entrance door;
(b) Shift the bus into the lowest gear;
(c) Release the parking brake;
(d) Proceed immediately to cross the railroad tracks or tracks at the grade level; and
(e) Turn the noise abatement switch off when safe to do so.

Section 14.[20.] Driver Inspection. (1) A driver shall perform and document a pretrip inspection of the bus safety and operating equipment each time that the bus is taken out for the transportation of pupils.

~~(2)[Section 21.-(1)] A school bus driver shall inspect the school bus at the completion of each bus run to ensure that no students remain in the bus.~~

~~Section 15. Road Conditions.[not operate the school bus at a speed in excess of the posted speed limit on any section of highways over which the bus travels.~~

~~(2)] A driver shall not drive the school bus on any roadway [at any time at a speed] if the conditions of the roadway, weather conditions, or other extenuating circumstances may make it unsafe.~~

Section 16. Driver Seat Belt.[Section 22.] A driver shall wear the driver's seat belt at all times that the bus is operated.

~~Section 17. Tobacco.[Section 23. A stop signal arm and flashing warning lights shall be used only at stops where pupils are boarding or leaving the bus.~~

~~Section 24.] A driver shall not use tobacco products on the school bus and shall not permit pupils to use tobacco products on the school bus.[~~

~~Section 25. A driver shall signal pupils to board or leave the bus when the driver has determined that any visible approaching traffic has come to a complete stop and is not attempting to start up or pass the bus.~~

~~Section 26. (1) A driver shall not operate a school bus while under the influence of alcoholic beverages or any illegal drug or other drug.~~

~~(2) A driver found under the influence of alcohol or any illegal drug while on duty or with remaining driving responsibilities that same day shall be dismissed from employment.~~

~~Section 27. A driver of a school bus shall be on the bus at all times students are loading or unloading.~~

~~Section 28. A driver shall inspect the school bus at the completion of each bus run to ensure that students do not remain on the bus.]~~

Section 18. [Section 29.] Drug and Alcohol. (1) A driver shall not operate a school bus while under the influence of alcoholic beverages or any illegal drug or other drug. (2) A driver found under the influence of alcohol or any illegal drug while on duty or with remaining driving responsibilities shall, that same day, be dismissed from employment.

Section 19. Incorporation by Reference. (1) The following

material is incorporated by reference:

(a) ~~"Kentucky School Bus Driver Trainer Manual, Kentucky School Bus Drivers Curriculum", October 2019["Medical Examination Report", Form TC 94-35E and Supplement to TC 94-35E, October 2007;~~

(b) ~~"Preemployment Road Test", Score Sheet January 2002; and~~

(c) ~~"School Bus Drivers Curriculum Instructor's Manual", October 2007].~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Pupil Transportation Branch, Department of Education, 300 Sower Boulevard, Frankfort, Kentucky 40601[15th Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40604], 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).

KEVIN C. BROWN, Interim Commissioner

DAVID K. KAREM, Chairperson

APPROVED BY AGENCY: April 14, 2020

FILED WITH LRC: April 14, 2020 at 10 a.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: The amendment revises KDE's school bus driver training requirements and brings them into alignment with recent changes to Federal Motor Carrier Safety Administration federal regulations (49 C.F.R. part 380) related to entry-level driver training. Additionally, the amendment reorganizes and streamlines the existing regulation to clearly communicate policies and procedures for the safe operation of school buses and transportation of students.

(b) The necessity of this administrative regulation: This regulation has not been amended since 2007. Recent changes to federal regulations related to commercial vehicle entry-level driver training (49 C.F.R. part 380), applicable to school bus drivers, require changes to KDE's driver training curriculum. Additional changes to the regulation include a reorganization of existing sections to better communicate best practices for safe school bus operation and safety.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 156.160(1) requires the KBE to promulgate administrative regulations relating to the transportation of children to and from school and to medical inspections and other matters deemed relevant to the protection of the physical welfare and safety of public school children. KRS 189.540 requires the Kentucky Board of Education to promulgate administrative regulations governing the design and operation of school buses. This administrative regulation establishes the qualifications, training, and responsibilities of the school bus driver.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 189.540 requires the KBE to promulgate administrative regulations governing the design and operation of school buses. The proposed amendment will align Kentucky's training requirements for school bus drivers with recent changes to federal rules (49 C.F.R. part 380) for entry-level driver training. The federal regulations are applicable to school bus drivers.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment updates the training requirements for Kentucky school bus drivers to comply with recent

federal rule changes (49 C.F.R. part 380). Additionally, the amendment reorganizes and streamlines the regulation to provide for the safe operation of school buses and transportation of school children.

(b) The necessity of the amendment to this administrative regulation: This regulation has not been amended since 2007. Recent changes to federal regulations related to commercial vehicle entry-level driver training (49 C.F.R. part 380), applicable to school bus drivers, require changes to KDE's driver training curriculum. Additional changes to the regulation include a reorganization of existing sections to better communicate best practices for safe school bus operation and safety.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 156.160(1) requires the KBE to promulgate administrative regulations relating to the transportation of children to and from school and to medical inspections and other matters deemed relevant to the protection of the physical welfare and safety of public school children. KRS 189.540 requires the Kentucky Board of Education to promulgate administrative regulations governing the design and operation of school buses. This administrative regulation establishes the qualifications, training, and responsibilities of the school bus driver.

(d) How the amendment will assist in the effective administration of the statutes: KRS 189.540 requires the KBE to promulgate administrative regulations governing the design and operation of school buses. The proposed amendment will align Kentucky's training requirements for school bus drivers with recent changes to federal rules (49 C.F.R. part 380) for entry-level driver training. The federal regulations are applicable to school bus drivers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The regulation will impact all 172 Kentucky school districts. All new bus drivers, after the effective date of the amendment, will be subject to the new training requirements. The amendments to the school bus driver training regime is required by federal regulation effective February 2020. (49 C.F.R. part 380).

(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 amended training curriculum will replace the existing training. After the effective date of the regulation, all new bus drivers will receive the new training and updates. The changes to the entry-level driver training is required by 49 C.F.R. part 380, effective February 2020.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There should be no additional cost to providing the new training.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The new training requirements complies with the recent changes to 49 C.F.R. part 380. The changes to entry level driver training are required for all commercial vehicle drivers including school bus drivers.

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

(a) Initially: There is no additional cost to school districts or new school bus drivers.

(b) On a continuing basis: There is no additional cost to school districts or new school bus drivers.

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

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: There are no fees associated with the proposed regulation amendment.

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

There are no fees associated with this administrative regulation.

(9) TIERING: Is tiering applied? Tiering was not applied. There are no fees associated with the proposed regulation amendment.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.160(1) requires the Kentucky Board of Education to promulgate administrative regulations relating to the transportation of children to and from school and to medical inspections and other matters deemed relevant to the protection of the physical welfare and safety of public school children.

KRS 189.540 requires the Kentucky Board of Education to promulgate administrative regulations governing the design and operation of school buses. This administrative regulation establishes the qualifications, training, and responsibilities of the school bus driver.

49 C.F.R. part 380 provides requirements for entry-level driver training of commercial vehicles, including school buses.

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. No additional fiscal impact is anticipated. The amendment, when effective, replaces the existing training requirements.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The proposed amendment is not expected to generate revenue.

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

(c) How much will it cost to administer this program for the first year? Administration of the proposed amendment is not expected to exceed current expenditures in the first year.

(d) How much will it cost to administer this program for subsequent years? Administration of the proposed amendment is not expected to exceed current expenditures 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 (+/-): Minimal to none.

Other Explanation: The intent of the proposed amendment is to update Kentucky's school bus driver training requirements to conform with the federal requirements of 49 C.F.R. part 380, effective February 2020. Additionally, the amendment reorganizes and streamlines the regulation to clearly communicate the proper policies and procedures for the safe operation of school buses and transportation of students.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Kentucky Board of Education Department of Education (Amended After Comments)

703 KAR 5:140. Requirements for school and district report cards.

RELATES TO: KRS 158.031, 158.6453 (17) [(20)]
STATUTORY AUTHORITY: KRS 158.6453 (17) [(20)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6453 (17) [(20)] requires the Kentucky Board of Education to promulgate an administrative regulation to define the

implementation and the components of a school and district report card that clearly communicates with parents and the public about school and district performance. This administrative regulation establishes the standards for a school and district report card.

Section 1. Definitions. (1) "Average student/teacher ratio" means the total enrollment of the school (end of year membership) divided by the number of teachers on a full-time equivalent (FTE) basis, not including administrators, guidance counselors, or media specialists.

(2) "Average years of experience" means the average number of years of professional experience of classroom teachers excluding certified staff such as administrators, guidance counselors, or media specialists.

(3) "Base year" means the academic year immediately preceding the publication of the school report card components. [

(4) "Core academic subject" means English, reading or language arts, mathematics, science, foreign language, civics and government, economics, arts, history, or geography.]

(4) [(5)] "District report card" means the summary of district and school information that shall [may] be published [in the newspaper with the largest paid circulation in the county in which the district resides] pursuant to KRS 160.463.

(5) "Membership" means the number of kindergarten through grade (12) students enrolled in a school or district as reported by the local superintendent at the close of the year.

(6) "Parent" shall have the same meaning as defined in KRS 160.345(1)(d).

(7) "Prominent location" means a school entryway or common area where community members, parents, students and other educational stakeholders visit in the school.

(7) [(8)] [(6)] "School" means an institution as defined in KRS 160.345(1)(b).

(8) [(9)] [(7)] "School report card" means the public reporting mechanism established pursuant to 20 U.S.C. 6311(h) and KRS 158.6453 (17)(a). [compilation of school information to be published on the Kentucky Department of Education Web site and linked to school Web sites or in a printed copy if requested.]

(9) [(10)] [(8)] "School safety data" means a list of components as established in Section 2 of this administrative regulation, critical to providing for a safe school environment for students and school staff.

(10) [(11)] [(9)] "Spending per student - district" means the current expenditures made divided by the [total primary through grade twelve (12)] membership [end of year average daily attendance] in the district.

(11) [(12)] [(10)] "Spending per student - school" means the current expenditures made divided by the membership [end of year average daily attendance] in the school.

(12) [(13)] [(11)] "Spending per student - state" means the current expenditures made divided by the [total primary through grade twelve (12)] membership [end of year average daily attendance] in the state. [

(12) "Total enrollment" means the number of primary through grade twelve (12) students enrolled in a school or district as reported by the local superintendent at the close of the year.]

Section 2. School Report Card. In addition to the requirements of 20 U.S.C. 6311(h) and KRS 158.6453(17)(a), a [A] school report card shall include the following information:

(1) The name and address of the school, the name of its principal, [and] telephone, [fax] and email contact information, all of which shall be current at the time the card is published;

(2) The membership [total enrollment] of the school;

(3) The school level results of all components of Kentucky's accountability system to classify schools and districts, which is established in 703 KAR 5:270, Section 2; [

(a) Established in 703 KAR 5:200, Section 2; and

(b) Also known as the Unbridled Learning: College/Career-Ready for All Accountability System;

(4) Teacher qualification information, including:

(a) Average years of teaching experience; [

(b) Percentage of teachers with emergency or provisional

certification;

(c) Percentage of core academic subject classes not taught by highly qualified teachers;]

(b) [(d)] The number of teachers certified by the National Board for Professional Standards; and

(c) [(e)] The professional qualifications of all teachers expressed as percentages, including bachelors, masters, Rank I, specialist, and Ph.D. or Ed.D. degrees;

(5) School safety data including:

(a) Whether visitors are required to sign in;

(b) Whether all parents receive the district discipline code;

(c) The percentage of classrooms with telephones able to access outside lines; and

(d) Data detailing school safety incidents [violations] reported pursuant to 20 U.S.C. 6311(h) and KRS 158.444 as well as additional safety violations required to be reported as part of the Civil Rights Data Collection or another reporting mechanism mandated by state or federal law. [of 1st Degree assault (with intent to cause injury), drug abuse, and weapons. The safety data shall include:

1. The number of incidents; and

2. The number of students suspended or expelled for that kind of incident;]

(6) Student resource data including:

(a) Spending per student at the school, district and state level;

(b) Average student to teacher ratios at the school, district, and state level; and

(c) Student to internet connected instructional computer ratios, [at the school, district and state level;

(d) Percentage of computers meeting the minimum standards for acceptable computers in Kentucky schools and districts pursuant to the master plan for education technology required by KRS 156.670;]

(7) Measures of parental [Parental] involvement pursuant to KRS 158.6453 (17)(a) [information] including:

(a) Number of students whose parent or guardian had at least one (1) teacher conference;

(b) Number of parents and guardians voting in school based decision making council elections; and

(c) Number of parents and guardians serving on the school based decision making council, [or its committees; and

(d) Number of school-related volunteer hours;]

(8) The names of school based decision making council members at [of] the end of the base [current] year [school council with contact information, including telephone numbers or e-mail addresses where the members can be reached for questions or comments].

Section 3. As accurate, reliable data become available from student information systems, the Kentucky Department of Education shall link school, district, and state data to the school and district report cards, including existing reports, participation, and performance in Advanced Placement (AP) tests and courses, disaggregated to the extent permitted under KRS 160.700-160.730, which protects the confidentiality of an individual student's educational records.]

Section 3 [4]. District Report Card. In addition to the requirements of 20 U.S.C. 6311(h) and KRS 158.6453(17)(a), a district report card shall include the following information:

(1) A [district report card shall include a] district level summary of all school data required on the school report card and shall be the aggregation of the school report cards by [grade] level (elementary, middle and high); [

(2) The [district report card shall include the] name[s] and email [appropriate] address[es] of the current [district] superintendent at the time the card is published;

(3) [and] The names of the members of the local board of education at the end of the base year; and [

(4) [(3)] The [district report card shall contain data and information that complies with the federal No Child Left Behind Act of 2001, and the waiver provisions of that act, as may be applicable to the Department, 20 U.S.C. secs. 6301 et seq., or its

~~successor and the] professional qualifications of teachers [percentage of core academic subject classes not taught by highly qualified teachers] shall be aggregated. [and disaggregated high poverty compared to low poverty schools (schools in the top quartile of poverty and the bottom quartile of poverty in the state).~~

~~(4) The district report card shall include a list of district schools with primary programs and the number of students in each school requiring five (5) years to complete the primary program.]~~

~~Section 4. Data Verification and Publication [5. Reporting Requirements; Timelines]. (1) Prior to publication the principal and the superintendent or a designee shall review and approve the [text and] data included in [provided for] the school and district report cards. Each school report card and district report card shall be published on the Kentucky Department of Education Web site and the applicable school and district Web sites, [and shall be supplied by the school and districts in printed format if requested.~~

~~Section 6. Verification; Audits. (1) The Department of Education shall conduct an audit of school and district report cards for compliance with the provisions of this administrative regulation. School and district report card components generated at the school and district shall be delivered to the Department of Education upon request.]~~

~~(2) If a school or district [alters data without authorization,] falsifies data[, or publishes incorrect information in a component of the report card, it shall supply corrected information to the Department of Education in accordance with timelines set for publication of the School Report Card.~~

Section 5. Communication on federal and state school accountability classifications.

(1) (a) Each public elementary and secondary school shall display the school's current federal and state accountability classification in a prominent location in the school; or

(b) The principal in collaboration with the school based decision making council shall hold an advertised public meeting that includes both parents and community members to discuss the school's current federal and state accountability classification and plan for sustainability or improvement;

(c) The superintendent of the local education agency shall determine whether each public elementary and secondary school shall display the school's current federal and state accountability classification in a prominent location or conduct an advertised public meeting to discuss the school's current federal and state accountability classification and plan for sustainability or improvement;

(2) Each school shall provide written or an electronic form of notification within 30 days of public release of data to the parent or legal guardian of any student who attends that school. The written or an electronic form of notification shall include the current federal and state accountability school classification which includes a graphic of the star ratings, include the link to the school report card and may include additional information such as school programs;

(3) In case of a change to the school's federal and state accountability classification, schools shall update the display or conduct an advertised public meeting and provide written or an electronic form of notification to the parent or legal guardian. [audience that received the incorrect information, using the same medium by which it conveyed the original information. (27 Ky.R. 881; Am. 2148; eff. 1-18-2001; 32 Ky.R. 1775; eff. 6-2-2006; 35 Ky.R. 1277; 2052; eff. 2-12-2009; 38 Ky.R. 1391; 39 Ky.R. 31; eff. 7-13-2012.)]

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 C. BROWN, Interim Commissioner
DAVID KAREM, Chairperson

APPROVED BY AGENCY: April 14, 2020

FILED WITH LRC: April 14, 2020 at 10 a.m.

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the standards for a school and district report card.

(b) The necessity of this administrative regulation:: KRS 158.6453 (17) requires the Kentucky Board of Education to promulgate an administrative regulation to define the implementation and the components of a school and district report card that clearly communicates with parents and the public about school and district performance.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides information necessary for the state report card program. The regulation relates to the reporting requirements of KRS 158.6453, KRS 158.6455 and the requirements of 20 U.S.C. 6311(h).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides requirements for school and district report cards.

(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 align the school and district report cards to the new federal and state requirements. It also adds a new section on communication around federal and state school accountability classifications.

(b) The necessity of the amendment to this administrative regulation: The amendment aligns the school and district report card program to federal and state guidelines.

(c) How the amendment conforms to the content of the authorizing statute: The amendment provides information necessary for the report card program. The amendment relates to reporting data from requirements of KRS 158.6453, KRS 158.6455 and the Every Student Succeeds Act of 2015.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will provide definitions and components required in the school and district report card.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All public school districts in Kentucky and supporting staff at the Kentucky Department of Education.

(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 regulation will impact schools and districts by providing school and district report card requirements.

(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: Schools and school districts will have to verify information and data in the report cards for accuracy. In addition, schools will have to place the accountability ratings in a prominent location in the school building, or hold an advertised public meeting to discuss the school's accountability rating, plan for sustainability or improvement. In addition, each school shall provide a written or electronic form of communication that states the accountability rating, which includes star ratings, program offered, and a link to the school report card.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Amendments to the regulation may impact school budgets. Schools may be responsible for printing and mailing costs associated with written notifications to parents and guardians, along with minimal costs associated with displaying accountability classifications in a prominent location. The Kentucky Department

of Education will provide templates to districts as guidance for the letters and displays.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Kentucky schools and districts will have a clear communication tool on academic performance, educational opportunities, transition readiness, school accountability, school safety and financial transparency.

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

(a) Initially: Additional costs are not anticipated.

(b) On a continuing basis: Additional costs are not anticipated. Only costs for the KDE to continue to work with a school report card vendor.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Kentucky Department of Education operating funds

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative 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 school districts.

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? School districts

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 158.6453, KRS 158.6455, Every Student Succeeds Act of 2015, 20 U.S.C. 6311

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no additional revenue generated by this administrative regulation.

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

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

(c) How much will it cost to administer this program for the first year? Amendments to 703 KAR 5:140 will have no impact on state funds. However, amendments to the regulation may impact school budgets. Schools may be responsible for printing and mailing costs associated with written notifications to parents and guardians, along with minimal costs associated with displaying accountability classifications in a prominent location. The Kentucky Department of Education will provide templates to districts as guidance for the letters and displays.

(d) How much will it cost to administer this program for subsequent years? Amendment adds no additional costs.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: Regulation does not generate revenue or establish fees.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Kentucky Board of Education Department of Education (Amended After Comments)

704 KAR 7:090. Homeless Children and Youth Education Program and ensuring educational stability of children in foster care.

RELATES TO: KRS 156.029, 156.035, [~~156.029,~~] 156.160, 20 U.S.C. 6311(g)(1)(E), 20 U.S.C. 6312(c)(5)(B), 42 U.S.C. 11431 et seq. [11432]

STATUTORY AUTHORITY: KRS 156.070, 156.160[~~, 156.070~~]

NECESSITY, FUNCTION, AND CONFORMITY: In accordance with the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act), as amended under the Every Student Succeeds Act of 2015 (ESSA), the Kentucky Department of Education (department), when applying to the U.S. Department of Education for participation in programs for homeless children and unaccompanied youth under the McKinney-Vento Act, shall submit an approvable plan and satisfactory assurances that all requirements of the law set forth in 42 U.S.C. Section 11432 shall be met. This administrative regulation [implements] aligns with the Kentucky Board of Education's duties, pursuant to KRS 156.029 and 156.035, to develop [education policy, to] administrative regulations governing activities within the department and implement [acts of Congress] Congressional action appropriating [and apportioning] funds to the state [and to provide for the proper implementation of federal law] in accordance with state and federal law and Kentucky's consolidated State plan under ESSA [the state's current plan]. Specifically, this [This] administrative regulation establishes criteria regarding residency policies[~~, the provision of~~] and provides for a free, appropriate public education [to] for homeless children and unaccompanied youth[~~, provides~~] informal procedures for resolving [resolution of] disputes regarding the educational placement of homeless children and unaccompanied youth[~~, provides~~] grants to local educational agencies (LEAs) for the enrollment, retention, and educational success of homeless children and unaccompanied youth[~~, and, provides for~~] an annual count of homeless children and unaccompanied youth. Additionally, this administrative regulation requires LEAs to have procedures for awarding credit, including partial credit, for coursework satisfactorily completed by homeless children and unaccompanied youth in another school as well as for conferring high school diplomas to homeless children and unaccompanied youth in accordance with KRS 156.160. Consistent with 20 U.S.C. 6311(g)(1)(E) and 20 U.S.C. 6312(c)(5)(B), this administrative regulation also promotes the educational stability of children in foster care through the implementation of the foster care liaison within each LEA.

Section 1. Definitions. (1) "Foster care" shall have the same meaning as defined in KRS 620.020. ["Homeless child", "homeless children", and "homeless student" means a child or children who are between the ages of birth and twenty-one (21) years inclusive and who lack a fixed, regular, and adequate nighttime residence. The term includes children and youth who are:

(a) ~~Sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;~~

(b) ~~Are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations;~~

(c) ~~Are living in emergency or transitional shelters;~~

(d) ~~Are abandoned in hospitals;~~

(e) ~~Have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;~~

(f) ~~Are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and~~

(g) ~~Migratory children who qualify as homeless because they are living in circumstances described above.]~~

(2) "Free, appropriate public education" means the educational programs and services [that are] provided to the children of a

resident of a state~~], and that are~~ consistent with state school attendance laws. These educational programs and services, for which the child meets the eligibility criteria, may include:

- (a) Magnet schools;
- (b) Charter schools;
- (c) Compensatory education programs for the disadvantaged;
- (d) Educational programs for the handicapped and students with limited English proficiency;
- (e) Programs in vocational education;
- (f) Programs for the gifted and talented;
- (g) School meals programs;
- (h) Extended school programs;
- (i) Preschool programs; and
- (j) Programs developed by the family resource and youth services centers.

(3) "Homeless child," "homeless children," and "homeless student" mean a child or children who are between the ages of birth and twenty-one (21) years, inclusive, and who lack a fixed, regular, and adequate nighttime residence. This definition includes children and youth who:

- (a) Are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;
- (b) Are living in motels, hotels, trailer parks, or camping grounds due to lack of alternative adequate accommodations;
- (c) Are living in emergency or transitional shelters;
- (d) Are abandoned in hospitals;
- (e) Have a primary nighttime residence that is a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings;
- (f) Are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; or
- (g) Are migratory children who qualify as homeless because they are living in circumstances described above.

(4) "School of origin" means the school that the homeless child or youth attended when permanently housed~~;~~ or the school in which the homeless child or youth was last enrolled. ~~[Consistent with McKinney-Vento as reauthorized by ESSA,] This [this]~~ shall include preschool and designated receiving schools at the grade level for all feeder schools when a student completes the final grade level served by the school of origin.

(5) "Student attendance day" shall have the same meaning as defined in KRS 158.070.

(6) [(4)] "Unaccompanied youth" means a youth **that meets the definitions of unaccompanied youth and homeless included in the McKinney-Vento Homeless Assistance Act [not in the physical custody of a parent or guardian]** ~~[means a youth that meets the definitions of unaccompanied youth and homeless included in the McKinney-Vento Homeless Assistance Act].~~

Section 2. Criteria for Homeless Children and Youth Education Program Implementation. (1) Homeless children and ~~or~~ unaccompanied youth who reside within the boundaries of an LEA ~~[a local school district]~~ shall be provided a free, appropriate public education. ~~[Programs for homeless children and unaccompanied youth shall be provided in a timely fashion and shall be ensured by the following actions:]~~

(2) [(1)] Each LEA ~~[local district]~~ shall designate a person ~~[in the district]~~ to be a homeless child education ~~[liaison]~~ (liaison). ~~[shall]~~ submit the name of the person acting as liaison to the ~~department~~ [Kentucky Department of Education], and ~~[shall]~~ allocate sufficient time to the homeless child education liaison to perform the required responsibilities.

(3) The homeless child education liaison~~[liaison's]~~ shall be responsible for ~~[responsibilities shall be to:]~~

(a) Obtaining~~[Obtain]~~ all necessary records, including birth certificates and immunization records, of each homeless student and unaccompanied youth identified as living within the boundaries of the LEA ~~[school district]~~ and immediately placing ~~[place the]~~ each homeless student and unaccompanied youth in appropriate programs. ~~[In cases where] Where~~ educational records are not readily available, the liaison shall **personally make direct contact with** ~~[make personal, direct contact to]~~ the LEA(s) ~~[school~~

~~district(s)]~~ or schools of last attendance for verbal confirmation of essential information, including coursework that has been satisfactorily completed. The liaison shall assist the homeless student or unaccompanied youth to obtain essential records which are not in existence;

(b) Receiving ~~[Receive]~~ and resolving ~~[resolve]~~ any requests for resolution of disputes related to the educational placement of homeless students and ~~[or]~~ unaccompanied youth within the LEA ~~[district]~~. The liaison shall provide the necessary information to the ~~department~~ [Department of Education] for final resolution whenever such ~~[a request] requests cannot be~~ [is received and is not] resolved at the local level;

(c) Assisting ~~[Assist]~~ the homeless student or unaccompanied youth to obtain the appropriate program and services, including transportation and referrals to medical, dental, mental health, and other appropriate programs and services;

(d) Developing ~~[Develop]~~ procedures to ensure that homeless student or unaccompanied youth records are readily available upon request by a new receiving LEA or school ~~[district]~~;

(e) Developing relationships ~~[a relationship]~~ with known homeless service providers and state agencies in the community to identify and enroll homeless students or unaccompanied youth living there;

(f) Reviewing ~~[Review]~~ local data indicating the prevalence of homelessness in the community and assessing ~~[assess]~~ needs of local homeless children and unaccompanied youth with LEA administrators based on the review of data;

(g) Ensuring ~~[Ensure]~~ school personnel providing McKinney-Vento services receive professional development and other support related to addressing the challenges of homelessness and supporting homeless children and unaccompanied youth, including runaway youth;

(h) Ensuring ~~[Ensure]~~ unaccompanied youth are enrolled and receive support to accrue credits and access higher education; and

(i) Receiving ~~[Receive]~~ annual department-approved training to cover at least the following topic areas:

1. The rights and services provided for homeless children and unaccompanied youth;
2. Identification of homeless children and unaccompanied youth;
3. The state dispute resolution process, data utilization, monitoring, and reporting requirements under this regulation; and
4. Best practices to serve homeless children and unaccompanied youth.

(4) Consistent with KRS 156.160(1)(p), and to the extent feasible, homeless children and unaccompanied youth shall be awarded credit, including partial credit, for all coursework satisfactorily completed.

(5) To ensure credit, including partial credit, is awarded for all coursework satisfactorily completed by homeless children and unaccompanied youth, an LEA shall adopt written procedures addressing:

(a) The tool or methodology the LEA shall use to calculate credit, including partial credit, to be awarded for all coursework satisfactorily completed by homeless children and unaccompanied youth;

(b) The consolidation of partial credit, where appropriate, to provide opportunities for credit accrual that eliminate academic and nonacademic barriers for homeless children and unaccompanied youth;

(c) How the LEA shall provide students experiencing homelessness access to extracurricular and summer programs, credit transfer and electronic course services, and after-school tutoring and other extended school services available in the district to the fullest extent practicable and at nominal or no costs;

(d) The ways in which the LEA shall lessen the impact of school transfers for homeless children and unaccompanied youth, which shall include:

1. Identifying systems that are in place to ease the transition of students experiencing homelessness, particularly during the first two weeks at a new school;
2. Requiring counselors to provide timely assistance and advice to improve college and career readiness for students

experiencing homelessness; and

3. Granting priority placement in classes offered by the LEA that meet state minimum graduation requirements for students who change schools at least once during a school year as a result of homelessness;

(e) How and in what circumstances the LEA shall allow a student experiencing homelessness who was previously enrolled in a course required for high school graduation to complete that course at no cost before the beginning of the next school year as required by KRS 156.160(1)(p)(2); and

(f) The required review of credit accrual and the personal graduation plan for each homeless student and unaccompanied youth that is not on track to receive a high school diploma before the fifth year of high school enrollment.

(6) To ensure credit, including partial credit, is awarded for all coursework satisfactorily completed by homeless children and youth, an LEA may adopt procedures providing for:

(a) The timely placement of a student experiencing homelessness in electives comparable to those in which the student was enrolled in or earned partial credit for the successful completion of at the previous school(s);

(b) Engaging homeless students and unaccompanied youth by offering curricula that connect schoolwork with college and careers;

(c) Flexibility for homeless students and unaccompanied youth to complete credits, particularly those required for high school graduation, which may include flexible scheduling options, open entry and exit, extended year programming, or self-paced learning-based on competency;

(d) Small, personalized learning environments for students experiencing homelessness;

(e) Blended learning opportunities such as computer-based or digital learning options for students experiencing homelessness;

(f) Work-based learning programs, apprenticeships, or alternative education programs that allow homeless students and unaccompanied youth to recover credits or earn income while completing credits; or

(g) The integration of content standards from multiple subject areas into a single course for which students can earn simultaneous credit. Curriculum for integrated courses addresses standards across subject matters and may emphasize interdisciplinary connections from technical or academic areas.

(7) An LEA shall adopt written procedures for awarding a high school diploma to homeless children and unaccompanied youth who transfer after completion of the second year of high school and meet the requirements outlined in KRS 156.160(1)(p).]

(2) Each local district shall designate a person in the district to be a foster care liaison, shall submit the name of the person to the Kentucky Department of Education, and shall allocate sufficient time to the foster care liaison to perform required responsibilities. The foster care liaison may also be the homeless education liaison. The foster care liaison's responsibilities shall be to ensure that:

(a) A child in foster care remains in his or her school of origin, unless it is determined that remaining in the school of origin is not in that child's best interest;

(b) If it is not in the child's best interest to stay in his or her school of origin, the child is immediately enrolled in the new school even if the child is unable to produce records normally required for enrollment; and

(c) That the new (enrolling) school immediately contacts the school of origin to obtain relevant academic and other records.]

Section 3. Residency and Enrollment in the Homeless Children and Youth Education Program. (1) [The school district of residence shall be the district in which the homeless student or unaccompanied youth physically resides with his or her parent or legal custodian, unless by reason of marriage, emancipation, or basic physical necessity the child resides elsewhere.] In the best interest of the homeless student or unaccompanied youth, an LEA serving a homeless student or unaccompanied youth [The school district of residence] shall ensure that:

(a) [The homeless student or unaccompanied youth is enrolled in the school attendance area in which he or she is physically located or that] The homeless student's or unaccompanied youth's

education is continued in the school of origin for the duration of homelessness; [remainder of the academic year, or in any case in which the family becomes homeless between academic years, for the following academic year;]

1. In any case in which the homeless child or unaccompanied youth becomes homeless between academic years or during an academic year; and

2. For the remainder of the academic year, if the homeless child or unaccompanied youth becomes permanently housed during an academic year; or

(b) The homeless student or unaccompanied youth is enrolled [enroll the child or youth] in any school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend[, whichever is in the best interest of the homeless student or unaccompanied youth].

(2) In determining the best interests of the homeless child or unaccompanied youth for purposes of making a school assignment under Section 3(1) of this administrative regulation, an LEA serving a homeless student or unaccompanied youth shall: [consideration shall be given to a request made by the parent or unaccompanied youth regarding school selection]

(a) Presume that it is in the best interest of the homeless child or unaccompanied youth to remain in the school of origin, unless doing so is contrary to a request made by the unaccompanied youth or by the parent or guardian of the homeless child regarding school selection;

(b) Consider student-centered factors, including the impact of mobility on achievement, education, health, and safety, giving priority to a request made by the unaccompanied youth or by the parent or guardian of the homeless child regarding school selection;

(c) If, after conducting the best interest determination based on the presumption in paragraph (a) of this subsection and on the student-centered factors in paragraph (b) of this subsection, the LEA determines that it is not in the homeless child's or unaccompanied youth's best interest to attend the school of origin or the school requested by the unaccompanied youth or by the parent or guardian of the homeless child, provide a written determination explaining the reasons for the determination to the unaccompanied youth or the parent or guardian of the homeless child in a manner and form that is understandable. The written determination shall also contain information regarding the rights of the unaccompanied youth or the parent or guardian of the homeless child to dispute the determination pursuant to the procedures set forth in Section 4 of this administrative regulation; and

(d) In the case of an unaccompanied youth, ensure the homeless child education liaison assists in placement or enrollment decisions, gives priority to the views of the unaccompanied youth, and provides notice to such youth of the right to dispute his education placement pursuant to the procedures set forth in Section 4 of this administrative regulation.

(4) The school selected for purposes of making a school assignment under Section 3(1) of this administrative regulation shall immediately enroll the homeless child or unaccompanied youth, even if the student is unable to produce records normally required for enrollment, or has missed application or enrollment deadlines during any period of homelessness.

(5) [(3)] A homeless student or unaccompanied youth shall not be denied enrollment [in the school district of residence] due to the absence of a parent or a court-appointed guardian or custodian. Such a homeless student or unaccompanied youth shall be enrolled and provided educational services until such time that the LEA [school district] can substantiate that the enrollment is contrary to the best interests of the child or youth pursuant to Section 3(2) of this administrative regulation [Section 1(2) of this administrative regulation].

(6) [(4)] In the absence of a parent[,] and a court-appointed custodian or guardian, any medical, dental, and other health services may be rendered to a homeless student or unaccompanied youth who is a minor of any age when, in the judgment of the school principal or other professional, [that] the risk to the minor's health is of such a nature that treatment should be

given without delay and the requirements of consent would result in delay or denial of treatment as stated in KRS 214.185(3)(4).

(7) [(5)] Homeless children or unaccompanied youth shall not include any individual imprisoned or otherwise detained by act of Congress or a state law. Nor shall a child be classified as "homeless" to circumvent state law and administrative regulations which:

(a) Prohibit the attempted enrollment of nonresident students for the express purposes of obtaining school accommodations and services without the payment of tuition to the nonresident LEA [school-district] or for the purpose of obtaining specific programs not available in the school of residence; or

(b) Regulate interschool athletic recruiting by the Kentucky High School Athletic Association. (8) [(6)] LEA [School-district] policy, including policies related to guardianship issues, shall not delay or deny the immediate provision of educational placement and appropriate services to the homeless student or unaccompanied youth[, including policies related to guardianship issues].

Section 4. Resolution of Disputes Arising in the Homeless Children and Youth Education Program. (1) Disputes arising between and among more than one LEA regarding the enrollment of a homeless student or unaccompanied youth shall be resolved by the state homeless education coordinator in accordance with the procedures established in Section 4(4) through (8) of this administrative regulation.

(2) All other disputes [Disputes arising between or among the school district of residency; another school district; and the parent, youth, or person in parental relationship to the homeless student or unaccompanied youth] regarding [the school district in which the child shall attend school or the educational placement] eligibility, school selection, or enrollment of [the] a homeless student or unaccompanied youth shall be received and resolved by the LEA in which enrollment is sought in accordance with the procedures established in Section 4(3) of this administrative regulation. [resolved through the following procedures:]

(3) Within thirty (30) student attendance days after notice of a dispute is received, the LEA in which enrollment is sought by a homeless child or unaccompanied youth shall resolve the dispute using the following procedures:

(a) [(1)] The [local district] homeless child education liaison in the LEA in which enrollment is sought shall ensure immediate enrollment and the provision of services to the homeless child or unaccompanied youth throughout the dispute resolution process;[-]

(b) [(2)] All concerns regarding the education of a homeless child or unaccompanied youth shall be referred to the [local district] homeless child education liaison in the LEA of enrollment. If a complaint arises regarding services or placement of a homeless child or unaccompanied youth, the [school district's] homeless child education liaison in the LEA of enrollment shall inform the homeless student or unaccompanied youth of his or her rights under the McKinney-Vento Act and state law, including this administrative regulation;[-]

(c) [(3)] The homeless child education liaison in the LEA of enrollment shall promptly and thoroughly document all communications, determinations, and evidence. All documentation shall be subject to the provisions of the Family Educational Rights and Privacy Act, 20 U.S.C. 1232(g);

(d) The [local district] homeless child education liaison in the LEA of enrollment shall make a determination on the dispute within a reasonable number of days [as to the complaint. The liaison will document this and all subsequent communications, determinations, and evidence.] and provide a [A] copy of that determination [shall be presented] to the complainant;[-]

(e) If the [complaint] dispute is not resolved, the complainant shall [will] be advised by the [local district] homeless child education liaison in the LEA of enrollment of the opportunity to present a written request for mediation and, at the request of the complainant, assist the complainant with completing [-The local district liaison shall assist the representative to complete] a written request for mediation, including documenting [an indication of] the specific point at issue;[-]

(f) [(4)] The mediation, if requested by the complainant, shall be facilitated by the homeless child education liaison in the LEA of enrollment and shall be scheduled within a reasonable number of days of the written request and on a day and time reasonably calculated to be [shall be] convenient to the needs of the homeless student or unaccompanied youth. The [district liaison, the] LEA [district(s)] representative(s);[-] and the [child's] representative(s) of the homeless child or unaccompanied youth shall have the opportunity to be present at the mediation;[representative. The local district homeless liaison shall facilitate the mediation.]

(g) [(5)] During the mediation, the LEA representative(s) [school district(s)] shall discuss considerations that led to the placement decision and the specific point at [in] issue as determined previously and specified within the written request for mediation. The mediation may also include discussion of the ability of the LEA [school district] of enrollment to provide continuity in educational programs, the need of the homeless student or unaccompanied youth for special instructional programs, the amount of time and arrangements required to transport the student to the [original] school in which enrollment is sought [district], the age of the homeless student or unaccompanied youth, [and] the school placement of siblings to the homeless student or unaccompanied youth, and the time remaining until the end of the semester or [the end of the] school year;[-] and

(h) The homeless child education liaison in the LEA of enrollment shall document mediation [Documentation regarding these] proceedings and [must be] provide[d] such documentation [with any appeal] to the state homeless education coordinator with any request made pursuant to Section 4(4) of this administrative regulation.

(4) [(6)] Where an agreement cannot be reached by the parties, Any [either] party to the dispute may request review by the state homeless education coordinator. Upon written request, the state homeless education coordinator shall make a determination and communicate with the involved parties to discuss available alternatives and seek to resolve the dispute. Any party requesting review by the state homeless education coordinator must provide reasoning for the review, including specific questions of law or fact.

(5) [(7)] Where such a request for the review [assistance] of the state homeless education coordinator is made, the LEA of enrollment [school district of residence] shall provide sufficient information as required by the department, including:

(a) A description of the situation that prompted the complaint and subsequent request for review by the state homeless education coordinator;

(b) The name(s) and age(s) of the homeless child or children or unaccompanied youth involved;

(c) The name(s) of the involved LEA [school district] personnel and the LEA(s) [school district or districts] involved; and

(d) Copies of any documentation that served as the basis [used up to that point including reasoning] for LEA [district] decisions;[- appropriate evidence to substantiate reasoning.] and other documentation [evidence] the LEA deems [district sees] relevant and appropriate for consideration by the state homeless education coordinator.

[(e) All information is subject to the provisions of the Family Educational Rights and Privacy Act, 20 U.S.C. 1232(g).]

(6) [(8)] The state homeless education coordinator shall collect and review appropriate documentation [evidence, review such evidence,] and provide an initial decision to the parties to the complaint within twenty (20) student attendance days after a request for review is received by the department pursuant to Section 4(4) of this administrative regulation.

(7) Any party [Parties] to the complaint may request that the state homeless education coordinator's decision be reviewed by a three (3) member panel which shall be convened by the state homeless education coordinator within the department, and the [Department of Education. The] three (3) member panel shall [review the state coordinator's decision and] either adopt or reject the state homeless education coordinator's decision within a reasonable number of days after being convened [or reject it].

(8) If the three (3) member panel rejects the state homeless education coordinator's decision [rejected], the panel shall provide

an alternative finding, which shall be supported with appropriate reasoning. The panel's decision is a final decision and not appealable. [A final decision will be rendered within a reasonable number of days after receiving a complaint.]

(9) ~~Students must be immediately enrolled in the school in which enrollment is being sought in the case of a dispute, including unaccompanied youth. Enrollment must continue until the final resolution of the dispute, including all available appeals.~~

~~(10) Unaccompanied youth as well as parents or guardians of homeless children shall [have the right to] receive [such] written notice[, as well as parents or guardians accompanying their children. Written explanation is required] of decisions made by the LEA(s), state homeless education coordinator, or the three (3) member panel described in Section 4(7) of this administrative regulation, and such written notice shall be provided [school, LEA, or SEA and must be] in an understandable form.~~

Section 5. Annual Count for the Homeless Children and Youth Education Program. The department [Department of Education] shall annually conduct a count of all homeless children and unaccompanied youth in the state as follows:

(1) LEAs [Local school districts] shall utilize the state student information system for the collection of data regarding homeless children and unaccompanied youth;[-]

(2) LEAs [Local school districts] shall report an unduplicated count by school of homeless children and unaccompanied youth via the state student information system to the department [Department of Education] according to the time lines provided;[-] and

(3) The department [Department of Education] shall develop procedures, as needed or required, to ensure that the homeless child count is accurate and verifiable.

Section 6. Local Education Agency Grants for the Education of Homeless Children and Unaccompanied Youth. (1) The department [Kentucky Department of Education] shall make grants to LEAs [local education agencies (LEAs)] when such funds become available through a competitive application process. Grants shall be awarded to LEAs based upon the review and rating of their applications.

(2) [(1)] Not less than fifty (50) percent of amounts provided under a grant to LEAs [local districts] shall be used to provide primary services of tutoring, remedial education services, or other education services to homeless children or unaccompanied youth.

(3) [(2)] Not less than thirty-five (35) nor more than fifty (50) percent of amounts provided to LEAs [local districts] shall be used for related activities for homeless children or unaccompanied youth including expedited evaluations, professional development for school personnel, referrals for medical, dental, mental and other health services, transportation, before- and after-school care, and school supplies.

(4) [(3)] An LEA [A local district] that desires to receive a grant shall submit an application to the department [Kentucky Department of Education]. Each application shall include:

(a) The number of homeless children and unaccompanied youth enrolled in preschool, elementary and secondary school, the needs of such children, and the ability of the LEA [district] to meet these needs;

(b) A description of the services and programs for which assistance is sought and the problems sought to be addressed through the provision of such services and programs (i.e., enrollment, retention, and educational success);

(c) An assurance that assistance under the grant shall supplement and not supplant funds used before the award of the grant for purposes of providing services to homeless children and unaccompanied youth;

(d) A description of policies and procedures that the LEA [district] shall implement to ensure that activities carried out by the LEA [district] shall not isolate or stigmatize homeless children and unaccompanied youth;

(e) A description of coordination with other local and state agencies that serve homeless children and unaccompanied youth; and

(f) Other criteria the department [Kentucky Department of Education] deems appropriate.

Section 7. Ensuring Educational Stability for Children in Foster Care. (1) Each LEA shall:

(a) Designate a person to be the foster care liaison;

(b) Submit the name of the foster care liaison to the department; and

(c) Allocate sufficient time to the foster care liaison to perform required responsibilities.

(2) The foster care liaison may also be the homeless child education liaison.

(3) The foster care liaison shall ensure that:

(a) A child in foster care enrolls or remains in his school of origin, unless it is determined that remaining in the school of origin is not in the child's best interest;

(b) If it is determined that it is not in the child's best interest to remain in his school of origin, the child is immediately enrolled in a new school, even if the child is unable to produce records normally required for enrollment; and

(c) The enrolling school immediately contacts the child's school of origin to obtain relevant academic and other records.

(4) LEAs shall develop and implement clear written procedures that comply with 20 U.S.C. 6312(c)(5)(B) and govern how transportation shall be provided, arranged, and funded to maintain a child in foster care in the school of origin, unless it is determined that remaining in the school of origin is not in the child's best interest.

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 C. BROWN, Interim Commissioner

DAVID KAREM, Chairperson

APPROVED BY AGENCY: April 14, 2020

FILED WITH LRC: April 14, 2020 at 10 a.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: The McKinney-Vento Homeless Assistance Act, specifically subtitle VII-B, is the primary piece of federal legislation related to the education of children and youths experiencing homelessness. Under the McKinney-Vento Education for Homeless Children and Youth (McKinney-Vento) program, state educational agencies shall ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths. To ensure homeless children and youths have equal access to public education, the Kentucky Department of Education (KDE) is required to review regulations and other practices and policies that may act as barriers to the identification, enrollment, attendance, or educational successes of homeless children and youths. This regulation provides the legal framework for Kentucky's homeless education program, including but not limited to criteria for program implementation, requirements related to residency and enrollment, and procedures for the resolution of disputes.

(b) The necessity of this administrative regulation: This regulation is necessary because it provides the legal framework for Kentucky's homeless education program, including but not limited to criteria for program implementation, requirements related to residency and enrollment, and procedures for the resolution of disputes. This amended regulation is also necessary to implement House Bill (HB) 378 (2019), which amended KRS 156.160 to require the Kentucky Board of Education (KBE) to provide through administrative regulation: (1) Procedures that ensure homeless

children and youths are awarded credit, including partial credit, for all coursework satisfactorily completed while enrolled at another school; (2) Procedures for homeless children and youths who were previously enrolled at another school in a course required for graduation to be provided the opportunity, to the extent practicable, to complete that course at no cost before the beginning of the next school year; and, (3) Authority for a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p) to be awarded a high school diploma.

(c) How this administrative regulation conforms to the content of the authorizing statute: In compliance with McKinney-Vento, which requires KDE to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths, this regulation provides the legal framework for Kentucky's homeless education program, including but not limited to criteria for program implementation, requirements related to residency and enrollment, and procedures for the resolution of disputes. This amended regulation also implements changes HB 378 (2019) made to KRS 156.160, which now requires the KBE to provide through administrative regulation: (1) Procedures that ensure homeless children and youths are awarded credit, including partial credit, for all coursework satisfactorily completed while enrolled at another school; (2) Procedures for homeless children and youths who were previously enrolled at another school in a course required for graduation to be provided the opportunity, to the extent practicable, to complete that course at no cost before the beginning of the next school year; and, (3) Authority for a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p) to be awarded a high school diploma.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation ensures that homeless children and youths in Kentucky have equal access to the same free, appropriate public education as provided to other children and youths by providing the legal framework for our state's homeless education program, including but not limited to criteria for program implementation, requirements related to residency and enrollment, and procedures for the resolution of disputes. This amended regulation also implements changes HB 378 (2019) made to KRS 156.160 by prescribing: (1) Procedures that ensure homeless children and youths are awarded credit, including partial credit, for all coursework satisfactorily completed while enrolled at another school; (2) Procedures for homeless children and youths who were previously enrolled at another school in a course required for graduation to be provided the opportunity, to the extent practicable, to complete that course at no cost before the beginning of the next school year; and, (3) Authority for a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p) to be awarded a high school diploma.

(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: Substantive amendments to 704 KAR 7:090 align with HB 378 (2019) and include, for example, a requirement for each Local education agency (LEA) to adopt a methodology for calculating credit, including partial credit; lessen the impact of transfers for homeless children by, among other items, granting priority placement in classes that meet state minimum graduation requirements; and, have written procedures clarifying how and what circumstances a homeless child will be able to complete before the beginning of the next school year and at no cost any course required for graduation in which he or she was previously enrolled. The regulation also provides authority for a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p) to be awarded a high school diploma. Additional substantive changes are related to the resolution of disputes arising in the Homeless Children and Youth Education Program, including: (1) Requiring disputes arising

between two or more LEAs to be handled by the state homeless education coordinator; (2) Clarifying other disputes arising at the local level are to be resolved by the homeless liaison in the student's LEA of enrollment; (3) Requiring the homeless liaison in the LEA of enrollment to resolve disputes within 30 student attendance days; and, (4) Requiring the state homeless education coordinator to resolve disputes within 20 student attendance days.

(b) The necessity of the amendment to this administrative regulation: Substantive amendments to 704 KAR 7:090 are necessary to implement HB 378 (2019), which amended KRS 156.160 to require the KBE to provide through administrative regulation: (1) Procedures that ensure homeless children and youths are awarded credit, including partial credit, for all coursework satisfactorily completed while enrolled at another school; (2) Procedures for homeless children and youths who were previously enrolled at another school in a course required for graduation to be provided the opportunity, to the extent practicable, to complete that course at no cost before the beginning of the next school year; and, (3) Authority for a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p) to be awarded a high school diploma. Additional substantive amendments are necessary to comply with McKinney-Vento, which requires KDE to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths.

(c) How the amendment conforms to the content of the authorizing statute: Substantive amendments to 704 KAR 7:090 conform to HB 378 (2019), which revised KRS 156.160 to require the KBE to provide through administrative regulation: (1) Procedures that ensure homeless children and youths are awarded credit, including partial credit, for all coursework satisfactorily completed while enrolled at another school; (2) Procedures for homeless children and youths who were previously enrolled at another school in a course required for graduation to be provided the opportunity, to the extent practicable, to complete that course at no cost before the beginning of the next school year; and, (3) Authority for a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p) to be awarded a high school diploma. Additional substantive amendments conform to McKinney-Vento, which requires KDE to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths.

(d) How the amendment will assist in the effective administration of the statutes: Substantive amendments to 704 KAR 7:090 assist in the effective administration of HB 378 (2019), which revised KRS 156.160 to require the KBE to provide through administrative regulation: (1) Procedures that ensure homeless children and youths are awarded credit, including partial credit, for all coursework satisfactorily completed while enrolled at another school; (2) Procedures for homeless children and youths who were previously enrolled at another school in a course required for graduation to be provided the opportunity, to the extent practicable, to complete that course at no cost before the beginning of the next school year; and, (3) Authority for a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p) to be awarded a high school diploma. Additional substantive amendments assist in the effective administration of McKinney-Vento, which requires KDE to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: LEAs, the KBE, and KDE will be impacted by this regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified

in question (3) will have to take to comply with this administrative regulation or amendment: LEAs will take measures intended to improve the education outcomes of homeless children and youths, including, for example, adopting a methodology for calculating credit, including partial credit; lessening the impact of transfers for homeless children by, among other items, granting priority placement in classes that meet state minimum graduation requirements; and, having written procedures clarifying how and what circumstances a homeless child will be able to complete before the beginning of the next school year and at no cost any course required for graduation in which he or she was previously enrolled. LEAs will also issue a high school diploma to a homeless child or youth transferring schools after successful completion of the second year of high school and meeting the requirements outlined in KRS 156.160(1)(p). Finally, LEAs will comply with the amended dispute resolution requirements, including the requirement that the homeless liaison in the LEA of enrollment resolve disputes within 30 student attendance days. The KBE and KDE will implement the amended regulation, which aligns with HB 378 (2019) as well as McKinney-Vento. KDE will also comply with the amended dispute resolution requirements, including the requirement that disputes arising between two or more LEAs to be handled by the state homeless education coordinator as well as the requirement that the state homeless education coordinator to resolve disputes within 20 student attendance days.

(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 budget impact related to the amendment of this administrative regulation for LEAs, the KBE, or KDE.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): It is anticipated that compliance with this regulation will result in improved educational outcomes for homeless children and youths in Kentucky. Further, this amended regulation conforms to federal and state statutes, including McKinney-Vento and KRS 156.160, and conformance with authorizing statutes ensures clarity and legal compliance for the entities identified in question (3).

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

(a) Initially: McKinney-Vento, which was amended by the Every Student Succeeds Act in 2015, requires KDE to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths. Specifically, to ensure homeless children and youths have equal access to public education, KDE is required to review regulations and other practices and policies that may act as barriers to the identification, enrollment, attendance, or educational successes of homeless children and youths. Because the KBE and KDE have already been complying with McKinney-Vento, there is no initial cost for monitoring and support.

(b) On a continuing basis: KDE incurs continuing costs as a result of the obligations in McKinney-Vento to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths by reviewing regulations and other practices and policies that may act as barriers to the identification, enrollment, attendance, or educational successes of homeless children and youths. Kentucky receives approximately \$1,328,000 in federal funding under the McKinney-Vento program to promote educational successes for students who are experiencing homelessness.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There are no additional anticipated costs for the implementation and enforcement of the amendment of this administrative regulation; however, KDE incurs continuing costs as a result of the obligations in McKinney-Vento to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths. Kentucky receives approximately \$1,328,000 in federal funding under the McKinney-Vento program to promote educational successes for students who are experiencing homelessness.

(7) Provide an assessment of whether an increase in fees or

funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not anticipated to be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees or directly or indirectly increase fees.

(9) TIERING: Is tiering applied? Tiering is not applied because the amendment to this administrative regulation applies equally to all local education agencies.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Local education agencies, the Kentucky Board of Education (KBE), and the Kentucky Department of Education (KDE).

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.029, 156.035, 156.160, 20 U.S.C 6311(g)(1)(E), 20 U.S.C. 6312(c)(5)(B), and 42 U.S.C. 11431 et seq.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There are no additional anticipated costs for the implementation and enforcement of the amendment of this administrative regulation; however, KDE incurs continuing costs as a result of the obligations in the McKinney-Vento Education for Homeless Children and Youth (McKinney-Vento) program to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths. Kentucky receives approximately \$1,328,000 in federal funding under the McKinney-Vento program to promote educational successes for students who are experiencing homelessness.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? N/A

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? N/A

(c) How much will it cost to administer this program for the first year? McKinney-Vento, which was amended by the Every Student Succeeds Act in 2015, requires KDE to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths. Specifically, to ensure homeless children and youths have equal access to public education, KDE is required to review regulations and other practices and policies that may act as barriers to the identification, enrollment, attendance, or educational successes of homeless children and youths. Because the KBE and KDE have already been complying with McKinney-Vento, there is no initial cost for monitoring and support.

(d) How much will it cost to administer this program for subsequent years? KDE incurs continuing costs as a result of the obligations in McKinney-Vento to ensure that homeless children and youths have equal access to the same free, appropriate public education as provided to other children and youths. Kentucky receives approximately \$1,328,000 in federal funding under the McKinney-Vento program to promote educational successes for students who are experiencing homelessness.

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

Revenues (+/-): N/A

Expenditures (+/-): NA

Other Explanation: N/A

PUBLIC PROTECTION CABINET
Department of Insurance
(Amended After Comments)

806 KAR 5:025. Credit for reinsurance.

RELATES TO: KRS 304.5-140

STATUTORY AUTHORITY: KRS 304.2-110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the Commissioner [~~Executive Director~~] of Insurance may promulgate administrative regulations necessary to implement the Kentucky Insurance Code, KRS Chapter 304. This administrative regulation implements KRS 304.5-140 by establishing credit for reinsurance.

Section 1. Definitions. [As used in this section:]

(1) "Beneficiary" means:

(a) The entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law; and

(b) If a court of law appoints a successor in interest to the named beneficiary, the named beneficiary shall be the court appointed domiciliary receiver, including the conservator, rehabilitator or liquidator.

(2) "Evergreen clause" means [mans] a provision in a letter of credit or its confirmation that prevents the expiration of the letter of credit or its confirmation without written notice to the beneficiary from the issuing or confirming bank or trust company as provided by this administrative regulation.

(3) "Grantor" means:

(a) The entity that has established a trust for the sole benefit of the beneficiary; and

(b) If the trust is established in conjunction with a reinsurance agreement, the unlicensed, unaccredited assuming insurer.

(4) "Mortgage-related security" means an obligation that is rated AA or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC and that either:

(a) Represents ownership of one or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates or participation), that:

1. Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 U.S.C. Section 5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located; and

2. Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 U.S.C. Sections 1709 and 1715b, or, where the notes involve a lien on the manufactured home, by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 U.S.C. Section 1703; or

(b) Is secured by one or more promissory notes or certificates of deposit or participations [participants] in the notes (with or without recourse to the insurer of the notes) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of Items (a)(1) and (a)(2) of this subsection;

(5) [(3) "Evergreen clause" mans a provision in a letter of credit or its confirmation that prevents the expiration of the letter of credit or its confirmation without written notice to the beneficiary from the issuing or confirming bank or trust company as provided by this administrative regulation.

(4) "Obligations", as used in Section 8[2](11)(c) of this administrative regulation, means:

(a) Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;
(b) Reserves for reinsured losses reported and outstanding;
(c) Reserves for reinsured losses incurred but not reported;
and

(d) Reserves for allocated reinsured loss expenses and unearned premiums.

(6) "Promissory note," when used in connection with a manufactured home, shall also include a loan, advance or credit sale as evidenced by a retail installment sales contract or other instrument.

Section 2. Reinsurer Licensed in Kentucky. The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is authorized to transact insurance or reinsurance in Kentucky as of any date on which statutory financial statement credit for reinsurance is claimed.

Section 3. Accredited Reinsurers. The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is accredited as a reinsurer in Kentucky as of the date on which statutory financial statement credit for reinsurance is claimed.

(1) To gain accreditation, a reinsurer shall:

(a) File a properly executed Form AR-1 as evidence of its submission to Kentucky's jurisdiction and authority to examine its books and records;

(b) File a certified copy of a certificate of authority or other acceptable evidence that it is licensed to transact insurance or reinsurance in at least one state, or, in the case of a U.S. branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

(c) File annually a copy of its annual statement filed with the insurance department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and

(d) Maintain a surplus as regards policyholders in an amount not less than \$20,000,000, or obtain affirmative approval of the commissioner upon a finding that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers.

(2) If the commissioner determines that the assuming insurer has failed to meet or maintain any of the qualifications established by Section 3(1), the commissioner may suspend or revoke the accreditation.

(3) Credit shall not be allowed a domestic ceding insurer under this section if the assuming insurer's accreditation has been revoked by the commissioner, or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the commissioner.

Section 4. Reinsurer Domiciled in Another State. The commissioner shall allow a credit for reinsurance ceded by a domestic insurer to an assuming insurer that satisfies all requirements of KRS 304.5-140(3)(c) and files a properly executed Form AR-1.

Section 5. Reinsurers Maintaining Trust Funds. (1) The commissioner shall allow [a] credit for reinsurance ceded by a domestic insurer to an assuming insurer which, as of any date on which statutory financial statement credit for reinsurance is claimed, and thereafter for so long as credit for reinsurance is claimed, maintains a trust fund in an amount prescribed below in a qualified U.S. financial institution as defined in KRS 304.5-140(1)(b), for the payment of valid claims of its U.S. domiciled ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the commissioner substantially the same information as that required to be reported on the National Association of Insurance Commissioners (NAIC) annual statement form by licensed insurers, to enable the commissioner to determine the sufficiency of the trust fund.

(2) Credit for reinsurance shall not be granted unless the form

of the trust and any amendments to the trust have been approved by either the commissioner of the state where the trust is domiciled or the commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also shall be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall satisfy all requirements of KRS 304.5-140(1)(d)(5), (6), and include that contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States.

(3) (a) Notwithstanding any other provision in the trust agreement, if the trust fund is inadequate because it contains an amount less than the amount required by this subsection or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund.

(b) The assets shall be distributed by and claims shall be filed with and valued by the commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies.

(c) If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. beneficiaries of the trust, the commissioner with regulatory oversight over the trust shall return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement.

(d) The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this provision.

(4) For purposes of this section, the term "liabilities" shall mean the assuming insurer's gross liabilities attributable to reinsurance ceded by U.S. domiciled insurers excluding liabilities that are otherwise secured by acceptable means, and, shall include:

(a) For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance:

1. Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer;

2. Reserves for losses reported and outstanding;

3. Reserves for losses incurred but not reported;

4. Reserves for allocated loss expenses; and

5. Unearned premiums.

(b) For business ceded by domestic insurers authorized to write life, health and annuity insurance:

1. Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums;

2. Aggregate reserves for accident and health policies;

3. Deposit funds and other liabilities without life or disability contingencies; and

4. Liabilities for policy and contract claims.

(5) Assets deposited in trusts established pursuant to KRS 304.5-140(3)(d) and this section shall be valued according to their current fair market value and shall consist only of cash in U.S. dollars, certificates of deposit issued by a U.S. financial institution as defined in KRS 304.5-140(1)(a), clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified U.S. financial institution, as defined in KRS 304.5-140(1)(a), and investments of the type specified in this subsection, but investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust shall not exceed five percent (5%) of total investments. No more than twenty percent (20%) of the total of the investments in the trust may be foreign investments authorized under Paragraphs (a)5., (c), (e)(2) or (f) of this subsection, and no more than ten percent (10%) of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated

in U.S. dollars and representing rights conferred by a foreign security shall be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of KRS 304.5-140 shall be invested only as follows:

(a) Government obligations that are not in default as to principal or interest, that are valid and legally authorized and that are issued, assumed or guaranteed by:

1. The United States or by any agency or instrumentality of the United States;

2. A state of the United States;

3. A territory, possession or other governmental unit of the United States;

4. An agency or instrumentality of a governmental unit referred to in Subparagraphs (2) and (3) of this paragraph if the obligations shall be by law (statutory or otherwise) payable, as to both principal and interest, from taxes levied or by law required to be levied or from adequate special revenues pledged or otherwise appropriated or by law required to be provided for making these payments, but shall not be obligations eligible for investment under this paragraph if payable solely out of special assessments on properties benefited by local improvements; or

5. The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

(b) Obligations that are issued in the United States, or that are dollar denominated and issued in a non U.S. market, by a solvent U.S. institution (other than an insurance company) or that are assumed or guaranteed by a solvent U.S. institution (other than an insurance company) and that are not in default as to principal or interest if the obligations:

1. Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated;

2. Are insured by at least one authorized insurer (other than the investing insurer or a parent, subsidiary or affiliate of the investing insurer) licensed to insure obligations in this state and, after considering the insurance, are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC; or

3. Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC;

(c) Obligations issued, assumed or guaranteed by a solvent non-U.S. institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of U.S. corporations issued in a non-U.S. currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC;

(d) An investment made pursuant to the provisions of Paragraph (a), (b) or (c) of this subsection shall be subject to the following additional limitations:

1. An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities shall not exceed five percent (5%) of the assets of the trust;

2. An investment in any one mortgage-related security shall not exceed five percent (5%) of the assets of the trust;

3. The aggregate total investment in mortgage-related securities shall not exceed twenty-five percent (25%) of the assets of the trust; and

4. Preferred or guaranteed shares issued or guaranteed by a solvent U.S. institution are permissible investments if all of the institution's obligations are eligible as investments under Paragraphs (b)(1.) and (b)(3.) of this subsection, but shall not exceed two percent (2%) of the assets of the trust.

(e) Equity Interests.

1. Investments in common shares or partnership interests of a solvent U.S. institution are permissible if:

a. Its obligations and preferred shares, if any, are eligible as

investments under this subsection; and

b. The equity interests of the institution (except an insurance company) are registered on a national securities exchange as provided in the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a to 78kk or otherwise registered pursuant to that Act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority, or successor organization. A trust shall not invest in equity interests under this paragraph an amount exceeding one percent (1%) of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company;

2. Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development, if:

a. All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC; and

b. The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development;

3. An investment in or loan upon any one institution's outstanding equity interests shall not exceed one percent (1%) of the assets of the trust. The cost of an investment in equity interests made pursuant to this paragraph, when added to the aggregate cost of other investments in equity interests then held pursuant to this paragraph, shall not exceed ten percent (10%) of the assets in the trust;

(f) Obligations issued, assumed or guaranteed by a multinational development bank, provided the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC.

(g) Investment Companies.

1. Securities of an investment company registered pursuant to the Investment Company Act of 1940, 15 U.S.C. § 80a, are permissible investments if the investment company:

a. Invests at least ninety percent (90%) of its assets in the types of securities that qualify as an investment under Paragraph (a), (b) or (c) of this subsection or invests in securities that are determined by the commissioner to be substantively similar to the types of securities set forth in Paragraph (a), (b) or (c) of this subsection; or

b. Invests at least ninety percent (90%) of its assets in the types of equity interests that qualify as an investment under Paragraph (e)(1) of this subsection;

2. Investments made by a trust in investment companies under this paragraph shall not exceed the following limitations:

a. An investment in an investment company qualifying under Subparagraph (1)(a) of this paragraph shall not exceed ten percent (10%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall not exceed twenty-five percent (25%) of the assets in the trust; and

b. Investments in an investment company qualifying under Subparagraph (1)(b) of this paragraph shall not exceed five percent (5%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies shall be included when calculating the permissible aggregate value of equity interests pursuant to Paragraph (e)(1) of this subsection.

(h) Letters of Credit

1. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the commissioner), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

2. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence, willful misconduct, or both.

(6) A specific security provided to a ceding insurer by an

assuming insurer pursuant to Section 7 [8] of this regulation shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this section.

Section 6. Certified Reinsurers. (1) The commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commissioner. The security shall be in a form consistent with the provisions of KRS 304.5-140(3)(e) and sections 10, 11, or [and] 12 of this regulation. The amount of security required in order for full credit to be allowed shall correspond with the following requirements:

(a) Ratings	Security Required:
Secure – 1	0%
Secure – 2	10%
Secure – 3	20%
Secure – 4	50%
Secure – 5	75%
Vulnerable – 6	100%

(b) Affiliated reinsurance transactions shall receive the same opportunity for reduced security requirements as all other reinsurance transactions.

(c) The commissioner shall require the certified reinsurer to post one hundred percent (100%), for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer.

(d) In order to facilitate the prompt payment of claims, a certified reinsurer shall not be required to post security for catastrophe recoverables for a period of one year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the commissioner. The one year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral:

1. Line 1: Fire;
2. Line 2: Allied Lines;
3. Line 3: Farmowners multiple peril;
4. Line 4: Homeowners multiple peril;
5. Line 5: Commercial multiple peril;
6. Line 9: Inland Marine;
7. Line 12: Earthquake; and
8. Line 21: Auto physical damage.

(e) Credit for reinsurance under this section shall apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, shall only be subject to this section with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract.

(f) Nothing in this section shall prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under this section.

(2) Certification process.

(a) Upon receipt of an application for certification, the commissioner shall promptly post notice at insurance.ky.gov, including instructions on how members of the public may respond to the application.

(b) No fewer than thirty (30) days after posting the notice

required by this paragraph, the commissioner shall issue written notice to an assuming insurer that has made application and been approved as a [of approval to the applying] certified reinsurer, which shall include the rating assigned the certified reinsurer in accordance with Subsection 1 of this section.

(c) To be eligible for certification, the assuming insurer shall:

1. Be domiciled and licensed to transact insurance or reinsurance in a Qualified Jurisdiction, as determined by the commissioner pursuant to Subsection 3 of this section.

2. Maintain capital and surplus, or its equivalent, of no less than \$250,000,000 calculated in accordance with Subparagraph (d)(8) of this subsection. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least \$250,000,000 and a central fund containing a balance of at least \$250,000,000.

3. Maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner. These ratings shall be based on interactive communication between the rating agency and the assuming insurer and shall not be based solely on publicly available information. These financial strength ratings will be one factor used by the commissioner in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following:

a. Standard & Poor's;

b. Moody's Investors Service;

c. Fitch Ratings;

d. A.M. Best Company; or

e. Any other Nationally Recognized Statistical Rating Organization.

4. Comply with any other requirements reasonably imposed by the commissioner.

(d) Each certified reinsurer shall be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors considered as part of the evaluation process may include:

1. The certified reinsurer's financial strength rating from an acceptable rating agency. The commissioner shall use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification; [3]

2. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations;

3. For certified reinsurers domiciled in the U.S., a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F or Schedule S;

4. For certified reinsurers not domiciled in the U.S., a review annually of Form CR-F or Form CR-S;

5. The reputation of the certified reinsurer for prompt payment of claims under reinsurance[Section 2. Requirements for Trust] agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than ninety (90) days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership;

6. Regulatory actions against the certified reinsurer;

7. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in Subparagraph (8) below;

8. For certified reinsurers not domiciled in the U.S., audited financial statements, regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor, with a translation into English). Upon the initial application for certification, the commissioner will consider audited financial statements for the last two (2) years filed with its non-U.S. jurisdiction supervisor;

9. The liquidation priority of obligations to a ceding insurer in

the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding;

10. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The commissioner shall receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and

11. Any other information deemed relevant by the commissioner.

(e) Based on the analysis conducted under Subparagraph (d)(5) of a certified reinsurer's reputation for prompt payment of claims, the commissioner may make appropriate adjustments in the security the certified reinsurer is required to post to protect its liabilities to U.S. ceding insurers, provided that the commissioner shall, at a minimum, increase the security the certified reinsurer is required to post by one rating level under Subparagraph (d)(1) if the commissioner finds that:

1. More than fifteen percent (15%) of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of ninety (90) days or more which are not in dispute and which exceed \$100,000 for each cedent; or

2. The aggregate amount of reinsurance recoverables on paid losses which are not in dispute that are overdue by ninety (90) days or more exceeds \$50,000,000.

(f) The assuming insurer shall submit a properly executed Form CR-1 as evidence of its submission to the jurisdiction of this state, appointment of the commissioner as an agent for service of process in this state, and agreement to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment. The commissioner shall not certify any assuming insurer that is domiciled in a jurisdiction that the commissioner has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards.

(g) The certified reinsurer shall agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers **that is [which are]** not otherwise public information subject to disclosure shall be exempted from disclosure under the Kentucky Open Records Act, KRS 61.872 to 61.884, and shall be withheld from public disclosure. The applicable information filing requirements are, as follows:

1. Notification within ten (10) days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefore;

2. Annually, Form CR-F or CR-S, as applicable;

3. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in Subsection (4) below;

4. Annually, the most recent audited financial statements, regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor, with a translation into English). Upon the initial certification, audited financial statements for the last two (2) years filed with the certified reinsurer's supervisor;

5. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers;

6. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and

7. Any other information that the commissioner may reasonably require.

(h) Change in Rating or Revocation of Certification.

1. In the case of a downgrade by a rating agency or other disqualifying circumstance, the commissioner shall upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of Subparagraph (d)(1).

2. The commissioner shall have the authority to suspend.

revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in payment by the certified reinsurer, lead the commissioner to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations.

3. If the rating of a certified reinsurer is upgraded by the commissioner, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the commissioner shall require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the commissioner, the commissioner shall require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer.

4. Upon revocation of the certification of a certified reinsurer by the commissioner, the assuming insurer shall be required to post security in accordance with Section 7 [41] in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with Section 5, the commissioner may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three (3) months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commissioner to be at high risk of uncollectibility.

(i) The commissioner shall publish a list of all certified reinsurers and their ratings.

(3) Qualified Jurisdictions. (a) If, upon conducting an evaluation under this section with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the commissioner determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the commissioner shall publish notice and evidence of such recognition in an appropriate manner. The commissioner may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified.

(b) To determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner shall evaluate the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. The commissioner shall determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the commissioner as eligible for certification. A qualified jurisdiction shall agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the commissioner, include:

1. The framework under which the assuming insurer is regulated.

2. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance.

3. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction.

4. The form and substance of financial reports required to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used.

5. The domiciliary regulator's willingness to cooperate with U.S. regulators in general and the commissioner in particular.

6. The history of performance by assuming insurers in the domiciliary jurisdiction.

7. Any documented evidence of substantial problems with the

enforcement of final U.S. judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the commissioner has determined that it does not adequately and promptly enforce final U.S. judgments or arbitration awards.

8. Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization.

9. Any other matters deemed relevant by the commissioner.

(c) A list of qualified jurisdictions shall be published through the NAIC Committee Process. The commissioner shall consider this list in determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner shall provide thoroughly documented justification with respect to the criteria provided under Subsection (3)(b)1. to 9. of this section [6(3)(c)(1) to (9)].

(d) U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions.

(4) Recognition of Certification Issued by an NAIC Accredited Jurisdiction. (a) If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR1 and such additional information as the commissioner requires. The assuming insurer shall be considered to be a certified reinsurer in this state.

(b) Any change in the certified reinsurer's status or rating in the other jurisdiction shall apply automatically in this state as of the date it takes effect in the other jurisdiction. The certified reinsurer shall notify the commissioner of any change in its status or rating within 10 days after receiving notice of the change.

(c) The commissioner may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with Subsection (2)(h) of this section.

(d) The commissioner may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the commissioner suspends or revokes the certified reinsurer's certification in accordance with Subsection (2)(h) of this section, the certified reinsurer's certification shall remain in good standing in this state for a period of three (3) months, which shall be extended if additional time is necessary to consider the assuming insurer's application for certification in this state.

(5) Mandatory Funding Clause. In addition to the clauses required under Section 13, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

(6) The commissioner shall comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions.

Section 7. (1) Pursuant to KRS 304.5-140(4), the commissioner shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of KRS 304.5-140(3) in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under the reinsurance contract. The security shall be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in KRS 304.5-140(1)(b). This security may be in the form of any of the following:

(a) Cash;

(b) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and

Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets:

(c) Clean, irrevocable, unconditional and “evergreen” letters of credit issued or confirmed by a qualified United States institution, as defined in KRS 304.5-140(10)(a), effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution’s subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or

(d) Any other form of security acceptable to the commissioner.

(2) An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to this section shall be allowed only when the requirements of Section 13 and the applicable portions of Sections 10, 11, or 12 of this regulation have been satisfied.

Section 8. Requirements for Trust Agreements. Qualified under KRS 304.5-140(3). (1) The trust agreement shall be entered into between the beneficiary, the grantor, and a trustee which shall be a qualified United States financial institution as defined in KRS 304.5-140(1)(b)[(a)].

(2) The trust agreement shall create a trust account into which assets shall be deposited.

(3)(a) Except as provided by paragraph (b) of this subsection, assets in the trust account shall be held by the trustee at the trustee's office in the United States.

(b) A bank may apply for the executive director's permission to use a foreign branch office of the bank as trustee for trust agreements. If the executive director approves the use of a foreign branch office as trustee, its use shall be approved by the beneficiary in writing. The trust agreement shall provide that the written notice described in subsection (4)(a) of this section shall be presentable, as a matter of legal right, at the trustee's principal office in the United States.

(4) The trust agreement shall provide that:

(a) The beneficiary shall:

1. Have the right to withdraw assets from the trust account at any time after giving written notice to the trustee; and

2. Not be required to give notice to the grantor;

(b) The beneficiary:

1. May be required to acknowledge receipt of withdrawn assets; and

2. Shall not be required to present other statements or documents in order to withdraw assets. (c) The agreement shall not be subject to conditions or qualifications outside of the trust agreement; and

(d) The agreement shall not contain references to other agreements or documents except as provided by subsection (11) of this section.

(5) The trust agreement shall be established for the sole benefit of the beneficiary.

(6) The trust agreement shall require the trustee to:

(a) Receive and hold all assets in a safe place;

(b) Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may negotiate any assets whenever necessary, without consent or signature from the grantor or any other person or entity;

(c) Furnish to the grantor and the beneficiary a statement of all assets in the trust account both at the inception and at intervals no less frequent than the end of each calendar quarter;

(d) Notify the grantor and the beneficiary within ten (10) days, of any deposits to or withdrawals from the trust account;

(e) Upon written demand of the beneficiary, immediately take all steps necessary to:

1. Transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary; and

2. Deliver physical custody of the assets to the beneficiary; and

(f) Allow no substitutions or withdrawals of assets from the trust account, except upon:

1. Written instructions from the beneficiary; or

2. The call or maturity of a trust asset, the trustee may withdraw the asset so long as the proceeds are paid into the trust account without the consent of the beneficiary and after notice to the beneficiary.

(7) The trust agreement shall provide that at least thirty (30) days, but not more than ~~forty-five~~[fortyfive] (45) days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

(8) The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established.

(9) The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to or reimbursing the expenses of the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the commissioner), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

(10) The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith.

(11)(a) The trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer for the purposes permitted by paragraphs (b) through (d) of this subsection, if:

1. A trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities, and accident and health; and

2. It is customary practice to provide a trust agreement for a specific purpose.

(b) To pay or reimburse the ceding insurer for the:

1. Assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer; or

2. Unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

(c) To make payment to the assuming insurer of any amounts held in the trust account that exceed 102 percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

(d)1. To withdraw amounts equal to the obligations and deposit them in a separate account as provided by subparagraph 2 of this paragraph, if the:

a. Ceding insurer has received notification of termination of the trust account; and

b. Assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date.

2. Amounts withdrawn pursuant to subparagraph 1 of this paragraph shall be deposited:

a. In the name of the ceding insurer; and

b. In a qualified United States financial institution as defined in KRS 304.5-140(1) apart from its general assets; and

c. In trust for the uses and purposes specified in paragraphs (a) and (b) of this subsection that may remain executory after the withdrawal for any period after the termination date,

(12) The reinsurance agreement entered into in conjunction with the trust agreement may contain the provisions required by Section 10[4](1)(b) of this administrative regulation, so long as the conditions required by this section are included in the trust agreement.

(13) Either the reinsurance agreement or trust agreement must stipulate that assets deposited in the trust account shall be valued according to their their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and

investments permitted by the Insurance Code or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed five percent (5%) of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities or accident and health risks, then the provisions required by this paragraph must be included in the reinsurance agreement.

Section 9[3]. Permitted Conditions for Trust Agreements Qualified under KRS 304.5-140(3). (1) The trust agreement may provide that the:

- (a) Trustee may resign only if written notice of resignation is:
 1. Given to the beneficiary and grantor; and
 2. Effective not less than ninety (90) days after receipt of the notice.
- (b) Grantor may remove the trustee if written notice is:
 1. Given to the trustee and beneficiary;
 2. Effective not less than ninety (90) days after receipt of the notice;
- (c) Resignation or removal of the trustee shall not be effective until:
 1. A successor trustee has been duly appointed and approved by the beneficiary and the grantor; and
 2. All assets in the trust have been duly transferred to the new trustee.
- (2)(a) The grantor may have the full and unqualified right to:
 1. Vote any shares of stock in the trust account; and
 2. Receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account.
- (b) Interest or dividends shall be:
 1. Forwarded promptly upon receipt to the grantor; or
 2. Deposited in a separate account established in the grantor's name.
- (3) The trustee may be given authority to invest and accept substitutions of funds in the account with prior approval of the beneficiary, unless the trust agreement:
 - (a) Specifies categories of investments acceptable to the beneficiary; and
 - (b) Authorizes the trustee to invest funds, and accept substitutions that the trustee determines are:
 1. At least equal in market value to the assets withdrawn; and
 2. Consistent with the restrictions in Section 10[4](1)(b) of this administrative regulation.
- (4) The trust agreement may:
 - (a) Provide that the beneficiary may designate a party to which all or part of the trust assets are to be transferred; and
 - (b) Condition the transfer upon the trustee receiving, prior to or simultaneously, other specified assets.
- (5) The trust agreement may provide upon termination of the trust account that all assets not previously withdrawn by the beneficiary shall be delivered over to the grantor with written approval by the beneficiary.

Section 10[4]. Additional Conditions for Reinsurance Agreements Qualified under KRS 304.5-140(3). (1) A reinsurance agreement, which is entered into in conjunction with a trust agreement and the establishment of a trust account, may contain provisions that:

- (a) Require the assuming insurer to:
 1. Enter into a trust agreement;
 2. Establish a trust account for the benefit of the ceding insurer; and
 3. Specify what the agreement is to cover.
- (b) Except as provided by paragraph (e) of this subsection, stipulate that assets deposited in the trust account shall:
 1. Be valued according to the current fair market value of the assets; and
 2. Consist of:
 - a. Cash that is United States legal tender;
 - b. Certificates of deposit, issued by a United States bank and

payable in United States legal tender;

- c. Investments permitted by the insurance code; or
- d. A combination of the items specified in subparagraphs a through c of this paragraph;

(c) As provided by paragraph (b) of this subsection, specify the types of investments to be deposited.

(d) Investments permitted by paragraph (b) of this subsection shall be issued by an institution that is not the parent, subsidiary, or affiliate of the grantor or beneficiary.

(e) If a trust agreement is entered into in conjunction with a reinsurance agreement that covers risks other than life, annuities and accident and health, the trust agreement, rather than the reinsurance agreement, may contain the provisions required by paragraphs (c) and (d) of this subsection.

(f) Require the assuming insurer, prior to depositing assets with the trustee, to:

1. Execute assignments or endorsements in blank; or
2. Transfer legal title to the trustee of shares, obligations, or other assets requiring assignments, so that the ceding insurer, or the trustee on the direction of the ceding insurer, may negotiate the as-sets without the consent or signature of the assuming insurer or any other entity whenever necessary.

(g) Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and

(h)1. As provided by subparagraph 2 of this paragraph, stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement.

2. The assets shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver, or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming[~~assuming~~] insurer, only for the following purposes:

- a. To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of the policies;
- b. To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;
- c. To fund an account with the ceding insurer in an amount at least equal to the deduction for reinsurance ceded from the ceding insurer liabilities for policies ceded under the agreement. The account shall include but not be limited to amounts for policy reserves, claims and losses incurred (including losses incurred but not reported), loss adjustment expenses, and unearned premium reserves; and
- d. To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

(2) The reinsurance agreement may also contain provisions that:

(a) Give the assuming insurer the right to seek approval from the ceding insurer to withdraw all or a part of the trust assets from the trust account and transfer the withdrawn assets to the assuming insurer provided that:

1. The assuming insurer shall at the time of withdrawal replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain the deposit in the required amount at all times; or
2. After withdrawal and transfer, the market value of the trust account is no less than 102 percent of the required amount.

3. The ceding insurer shall not unreasonably or arbitrarily withhold its approval.

(b) Provide for:

1. The return of any amount withdrawn in excess of the actual amounts required for subsection (1)(h)1, 2 and 3 of this section or for payments under subsection (1)(h)4 of this section, amounts that are subsequently determined not to be due; and

2. Interest payments at a rate not in excess of the prime rate of interest on the amounts held pursuant to subsection (1)(e)3.

(c) Permit the award by an arbitration panel or court of competent jurisdiction of:

1. Interest at a rate different from that provided in paragraph (b)2 of this subsection;
2. Court of arbitration costs;
3. Attorney's fees; and
4. Other reasonable expenses.

(3)(a) If established on or before the date of filing the financial statement of the ceding insurer, a trust agreement may be used to reduce a liability for reinsurance ceded to an unauthorized ~~assuming~~~~[assum-ing]~~ insurer in financial statements that are required to be filed with the office pursuant to this administrative regulation.

(b) The amount of a reduction for the existence of an acceptable trust account:

1. May be lesser than or equal to the current fair market value of acceptable assets that are available to be withdrawn from the trust account at the time of withdrawal; and
2. Shall not be greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

(4) A trust agreement or underlying reinsurance agreement in existence prior to January 1, 1996, shall:

- (a) Be acceptable until January 1, 1997; and
- (b) Beginning January 1, 1997, not be acceptable if it does not comply with the provisions of this administrative regulation.

(5) The failure of a trust agreement to specifically identify the beneficiary shall not be construed to affect actions or rights which the ~~commissioner~~~~[executive-director]~~ may take or possess pursuant to the provisions of the laws of this state.

Section 11[5]. Letters of Credit Qualified under KRS 304.5-140(3). (1) A letter of credit shall:

- (a) Be clean, irrevocable and unconditional;
- (b) Issued or confirmed by a qualified United States financial institution;
- (c) Contain an issue date, and date of expiration;
- (d) State that it is not subject to a condition or qualification not contained in the letter of credit;
- (e) Stipulate that in order to obtain funds, the beneficiary need only draw and present a sight draft under the letter of credit; and
- (f) Except as provided by subsection (9)(a) of this section, not contain a reference to other agreements, documents, or entities.

(2) The heading of a letter of credit may include a boxed section that: (a) Contains the name of the applicant, and other appropriate notations that provide a reference for the letter of credit; and

(b) Is clearly marked to indicate that the information is only for internal identification purposes.

(3) The letter of credit shall contain a statement that the obligation of the qualified United States financial institution under the letter of credit is not contingent upon reimbursement with respect thereto.

(4) The term of the letter of credit shall be for at least one (1) year and shall contain an evergreen clause. The evergreen clause shall provide for a period of not less than thirty (30) days' notice prior to the date of expiration or nonrenewal.

(5) The letter of credit shall state:

(a) Whether it is governed by the:

1. Laws of Kentucky; [or]
2. [~~"Publication 500", of~~ The Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600;

3. International Standby Practices of the International Chamber of Commerce Publication 590; or

4. Any successor publication; and

(b) That a draft drawn under the letter of credit shall be presentable at an office in the United States of a qualified United States financial institution.

(6) A letter of credit shall provide for an extension of time to draw against it if it:

(a) Is made subject to paragraph (5)(a)2., 3., or 4. above [~~"Publication 500" of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce~~]; and

(b) An occurrence specified in Article 36[49] of "Publication 600[500]" of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce occurs.

(7) The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit, pursuant to KRS 304.5-140(1)(a).

(8) If a letter of credit is issued by a [qualified] United States financial institution authorized to issue letters of credit, other than a qualified United States financial institution described in subsection (7) of this section, the following additional requirements shall be met:

(a) The issuing [qualified] United States financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and

(b) The evergreen clause shall provide for thirty (30) days' notice prior to expiration date for nonrenewal.

(9) Reinsurance agreement provisions.

(a) The reinsurance agreement for which the letter of credit is obtained may contain provisions that:

1. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover.

2. Stipulate that the assuming insurer and ceding insurer shall agree that, the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement:

a. May be drawn upon at any time, notwithstanding other provisions in the agreement; and

b. Shall be utilized by the ceding insurer or its successors in interest only for one (1) or more of the reasons specified in subparagraph 3 of this paragraph.

3.a. To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

b. To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement;

c. To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer's liabilities for policies ceded under the agreement; and

d. To pay other amounts the ceding insurer claims are due under the reinsurance agreement.

4. The provisions of paragraph (a) of this subsection shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

(b) Nothing contained in paragraph (a) of this subsection shall preclude the ceding insurer and assuming insurer from providing for:

1. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to paragraph (a)2.[~~(a)3e~~] of this subsection; or

2. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, in the case of paragraph (a)3d of this subsection, any amounts that are subsequently determined not to be due.

(c) In lieu of the stipulation permitted by paragraph (a)2 of this subsection, a reinsurance agreement may require that the parties enter into a "Trust Agreement", that may be incorporated into the reinsurance agreement or be a separate document, if:

1. A letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and health; and

2. It is customary practice to provide a letter of credit for a specific purpose.

(10)(a) A letter of credit shall not be used to reduce a liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with the department unless

an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement.

(b) The reduction for the letter of credit may be up to the amount available under the letter of credit but not greater than the specific obligation under the reinsurance agreement which the letter of credit was intended to secure.

Section 12[6]. Other Security. A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

Section 13[7]. Reinsurance Contract. Upon the effective date of this administrative regulation, credit shall not be granted to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of KRS 304.5-140 unless the reinsurance agreement includes a:

(1) Proper insolvency clause pursuant to KRS 304.5-140(5) and 304.33-350 of the Insurance Code; and

(2) Provision pursuant to KRS 304.5-140(2)(f), if the assuming insurer, is an unauthorized assuming insurer, and has:

(a) Submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States;

(b) Agreed to comply with all requirements necessary to give the court or panel jurisdiction;

(c) Designated an agent upon whom service of process may be effected; and

(d) Agreed to abide by the final decision of the court or panel.

Section 14[8]. Contracts Affected. All new and renewal reinsurance transactions entered into after the effective date of the administrative regulation shall conform to the requirements[An assuming reinsurer shall file a "Certificate of Assuming Insurer", Form AR-1:

(1) To become accredited pursuant to KRS 304.5-140; and

(2) As evidence of KRS 304.5-140 and this administrative regulation if credit is [its submission to the jurisdiction of Kentucky and] to be given to the ceding insurer for such reinsurance [its authority to examine its books and records pursuant to KRS 304.5-140(2)(b)†].

Section 15[9]. Incorporation by Reference. (1) The following material is incorporated by reference: (a) "Certificate of Assuming Insurer," Form AR-1 December 95; and

(b) "Certificate of Certified Reinsurer," Form CR-1 (09/19);

(c) "Form CR-F" (09/19); and

(d) "Form CR-S" (09/19) [is incorporated by reference].

(2) It may be inspected, copied, or obtained from the Department[Office] of Insurance, 500 Mero St.[P.O. Box 517, 215 West Main Street], Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.].

~~Section 10. Contracts Affected. All new and renewal reinsurance transactions entered into after the effective date of the administrative regulation shall conform to the requirements of the Act and this administrative regulation if credit is to be given to the ceding insurer for such reinsurance.]~~

SHARON P. CLARK, Commissioner

KERRY HARVEY, Secretary

APPROVED BY AGENCY: April 7, 2020

FILED WITH LRC: April 8, 2020 at 10 a.m.

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: DJ Wasson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This

administrative regulation establishes requirements for reinsurers to become accredited, certified, or use trust agreements in Kentucky. The administrative regulation ensures the ceding insurer may credit amounts reinsured to these assuming insurers on their financial statements. The administrative regulation also stipulates the process for becoming a qualified jurisdiction where a reinsurer may be domiciled and become certified. The qualified jurisdiction is critical as it means the country has passed a specific regulatory test to provide certainty that insurers within its jurisdiction adhere to similar and strict regulatory rules. The changes included within the administrative commence the process of conforming Kentucky law to the United States covered agreements with the European Union and United Kingdom regarding reinsurance collateral requirements. It moves away from recognizing only 100% collateral as the way to judge financial stability, and moves to a more rounded approach and review of both the company and regulatory jurisdiction where the company is domiciled.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to conform Kentucky law to the United States Covered Agreement with the European Union or else face federal preemption from the Federal Insurance Office (FIO). Historically, U.S. regulators did not impose direct control over non-U.S. reinsurers. Instead, they regulated non-U.S. reinsurance markets by only allowing a statutory credit on the ceding insurer's balance sheet when the non-U.S. reinsurer maintained 100% collateral for its reinsurance obligations. U.S. regulators then began requesting more information from non-U.S. based reinsurers to ensure they were compliant with the requirement and the statutory credit was permissible. This created a tightening of the market for reinsurance, restricted the free flow of capital, and reduced the potential investments an insurer and reinsurer could make. It also created a global fragmented regulatory system, especially within the United States, creating a barrier for many reinsurance companies to operate. The United States Department of Treasury and the European Union entered into intense negotiations to develop a regulatory framework reforming the collateral requirements for reinsurers in and outside the United States, and on September 22, 2017, the parties entered into a Covered Agreement. The agreement requires states to eliminate reinsurance collateral requirements within five (5) years, or risk preemption under the Covered Agreement.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides further clarity on the manner to become an accredited or certified reinsurer pursuant to KRS 304.5-140.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides specific details and a process for the commissioner to accredit or certify reinsurers, as well as, determine qualified jurisdictions.

(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 incorporates a process to determine how reinsurers can be accredited or certified to permit ceding insurers to take a statutory credit for reinsurance. The processes were not available under the 2018 statutory amendment to KRS 304.5-140 expanded the potential options for ceding insurers to take a credit for reinsurance provided by assuming insurers that qualify under the new standards.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to include a specific process for accreditation and certification of reinsurers following the 2018 statutory amendments to KRS 304.5-140, and the United States covered agreement with the European Union and United Kingdom.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment uses the authority provided to the commissioner by KRS 304.5-140 to establish a system for accreditation and certification of reinsurers within the statutory guidelines.

(d) How the amendment will assist in the effective administration of the statutes: The amendment includes a specific

process and standards governing the accreditation and certification process for reinsurers. It is necessary to ensure reinsurers meet the new standards negotiated by the United States federal government and incorporated within KRS 304.5-140. Reinsurers satisfying the process will be able to meet different collateral requirements, which will free up capital for domestic insurers as they take advantage of the credit for reinsurance on their financial statements. This amendment is based on the most recent version of the NAIC's Model Regulation 786.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The administrative regulation will impact those domestic insurers that reinsure risks in the United States and through entities outside of the United States.

(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: Reinsurers interested in taking advantage of the new process will need to comply with the new filing requirements in order to become an accredited or certified reinsurer.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: The requirements included within the administrative regulation are part of an NAIC Model Law and Regulation, and are required to be enacted in every jurisdiction across the United States. In the event states do not uniformly enact the changes, the Federal Insurance Office will assert federal preemption based on the covered agreement. Therefore, it will not cost regulated entities any amount to comply with these requirements as they have been enacted in other jurisdictions previously.

(c) As a result of compliance, what benefits will accrue to the entities: The new requirements will expand the pool of reinsurance available to insurers, and allow them to utilize capital in more productive manners other than unnecessarily holding it in reserve. Additionally, more reinsurers will qualify to allow ceding insurers to take advantage of the credit, so reinsurance will be more widely available and potentially cheaper. Reinsurers will also greatly benefit from the uniform standards making it easier, cheaper, and more efficient for them to do business in the United States.

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

(a) Initially: The Commissioner will need to review documentation provided by the reinsurers seeking to become accredited or certified.

(b) On a continuing basis: The Commissioner will need to continue reviewing annual submissions from reinsurers, as well as, information submitted from jurisdictions seeking qualification. However, many of the submissions will be provided to lead states and the qualification process will ultimately be performed collaboratively through the NAIC.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department will use funds from its current operational budget to perform the tasks necessary. At this point, the Department does not believe additional staff will be necessary.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase of fees will not be necessary because additional personnel is likely unnecessary.

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

(9) TIERING: Is tiering applied? Explain why or why not. No, tiering is not applied as it applies to all ceding and assuming insurers equally.

(including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Department of Insurance.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.5-140 and the September 22, 2017 United States Covered agreement with the European Union and the United Kingdom.

(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? The administrative regulation will not generate any revenue for state or local government.

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

(c) How much will it cost to administer this program for the first year? The cost to administer the program is indeterminable.

(d) How much will it cost to administer this program for subsequent years? The cost to administer the program is indeterminable.

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: The program including receipt and review of new filings will be handled by internal personnel. At this point, the Department anticipates all duties will be handled by current personnel due to the minimal nature of Kentucky specific filings. If filings exceed expectations additional staff may become necessary; however, the overseas reinsurance is not large for the small number of Kentucky domestic insurers. Thus, we anticipate a low volume of overall filings.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government

PROPOSED AMENDMENTS

BOARDS AND COMMISSIONS

Board of Licensure of Marriage and Family Therapists
(Amendment)

201 KAR 32:110. Telehealth.

RELATES TO: KRS 335.305, 335.310, 335.320, 335.325, 335.380, 335.399

STATUTORY AUTHORITY: KRS 335.320(9), 335.380
NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.320(9) requires the Board of Licensure for Marriage and Family Therapists to promulgate administrative regulations to implement the purpose and scope of KRS 335.300 to 335.399. KRS 335.380 requires the board to promulgate administrative regulations to govern telehealth services in the provision of marriage and family therapy services. This administrative regulation establishes procedures for the use of telehealth by licensees and associates.

Section 1. Definitions.

(1) "Asynchronous" means a communication that does not occur simultaneously in real time.

(2) "Electronic communication" means the use of websites, cell phones, email, texting, online social networking, video, or other digital methods and technology used to send and receive messages or post information.

(3) "Encryption" means a mathematical process that converts text, video, or audio streams into a scrambled, unreadable format when transmitted electronically.

(4) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub L. No. 104-191, 110 Stat. 1936 (1996).

(5) "HITECH" means the Health Information Technology for Economic and Clinical Health Act of 2009, 42 U.S.C. 17901-17953.

(6) "Social media" means a Web-based communication tool that enables people to interact with each other by both sharing and consuming information.

(7) "Synchronous" means a communication that occurs simultaneously in real time.

(8) "Telehealth" is defined by KRS 335.380(3).

Section 2. Licensure, Standard of Practice, and Competency.

(1) License or permit required. Any licensed marriage and family therapist or marriage and family therapy associate practicing teletherapy in this state shall be licensed by the board or hold a permit issued by the board and comply with all statutes, administrative regulations, and ethics guidelines applicable to the practice of marriage and family therapy.

(2) Standard of appropriate practice. A licensed marriage and family therapist or marriage and family therapy associate providing telehealth services in this state shall be held to the same standards of practice as those applicable for in-person therapy settings.

(3) Competency. A licensed marriage and family therapist or marriage and family therapy associate shall only provide telehealth services in this state in those instances in which the licensed marriage and family therapist or marriage and family therapy associate has successfully completed all requirements set forth in Section 3(1) of this administrative regulation.

(4) Continued competency. A licensed marriage and family therapist or marriage and family therapy associate providing telehealth services in this state shall have an ongoing obligation to assess their technical and clinical competency to render these services by successfully completing all requirements set forth in Section 3(2) of this administrative regulation.

(5) Fee splitting. A licensed marriage and family therapist or marriage and family therapy associate providing telehealth services shall not split fees.

Section 3. Education and Continuing Education Requirements.

(1) Initial educational requirements. Effective January 1, 2020, a licensed marriage and family therapist or a marriage and family

therapy associate providing telehealth services in this state or a licensed marriage and family therapist who is supervising a marriage and family therapy associate providing telehealth services in this state shall have completed fifteen (15) hours of board-approved training in the practice of telehealth as provided in 201 KAR 32:060, Section 2(2), which shall include three (3) hours of ethics in the practice of telehealth. Each approved course shall be live or online. Areas to be covered in the training shall include:

- (a) Appropriateness of teletherapy;
- (b) Teletherapy theory and practice;
- (c) Modes of delivery;
- (d) Legal and ethical issues;
- (e) Handling online emergencies; and
- (f) Best practices and informed consent.

(2) Continuing education requirements. A licensed marriage and family therapist or marriage and family therapy associate who has completed the initial training in the practice of telehealth shall complete at least two (2) credit hours of continuing education approved by the board, in accordance with 201 KAR 32:060, in the practice of telehealth during each subsequent [licensure] renewal period.

(3) Credit hours earned to comply with subsections (1) and (2) above may be applied to continuing education requirements set forth in 201 KAR 32:060.

Section 4. Verification of the Client. Prior to providing telehealth services in this state a licensed marriage and family therapist or marriage and family therapy associate shall require the client to produce a valid photo identification.

Section 5. Client Assessment.

(1) Initial assessment. Prior to providing telehealth services in this state a licensed marriage and family therapist or marriage and family therapy associate shall conduct an initial assessment of the client to determine if telehealth is an appropriate delivery of treatment considering the professional, intellectual, or emotional needs of the client.

(2) Ongoing assessment. Throughout the duration of providing telehealth services in this state, a licensed marriage and family therapist or marriage and family therapy associate shall engage in a continual assessment of the appropriateness of providing these services to the client.

(3) Telehealth may not be appropriate if the client:

- (a) Recurrently experiences, or is likely to experience, crises or emergencies;
- (b) Is a suicide risk, or likely to become a suicide risk;
- (c) Is violent, or likely to become violent; or
- (d) Otherwise poses a risk to themselves or to others.

Section 6. Informed Consent. (1) Generally. Prior to providing telehealth services in this state, the licensed marriage and family therapist or marriage and family therapy associate providing these services shall obtain the informed consent of the client, which shall include:

(a) Disclosure of specific information regarding the marriage and family therapist's:

- 1. Training and credentials;
- 2. License number;
- 3. Physical location and contact information;
- 4. Social media policy;
- 5. Encryption policy; and
- 6. Collection, documentation, tracking, and storage of client information;

(b) Client confidentiality and the limits to confidentiality in electronic communication;

(c) Information on reporting complaints to the board and other appropriate licensing bodies;

(d) The specific services to be provided;

(e) The risks and benefits of engaging in telehealth in the clinical setting;

(f) The possibility of technology failure and alternate methods

of service delivery;

(g) Time zone differences, if any;

(h) Cultural or language differences that may affect the delivery of services;

(i) The possible denial of insurance benefits;

(j) The pertinent legal rights and limitations governing practice across state lines or international boundaries, if applicable; and

(k) Whether delivery of service will be asynchronous or synchronous.

(2) Minors. If the client is a minor, prior to providing telehealth services in this state the licensed marriage and family therapist or marriage and family therapy associate shall, pursuant to Section 4 of this administrative regulation, verify the identity of the parent, guardian, or other person consenting to the minor's treatment and obtain from that person the informed consent required by this section.

Section 7. Emergency Procedures, Coordination of Care and Referrals. Prior to providing telehealth services in this state, the licensed marriage and family therapist or marriage and family therapy associate shall establish with the client:

(1) Acceptable ways to contact the marriage and family therapist in an emergency;

(2) Emergency procedures to include emergency services at the client's location;

(3) Coordination of care with other professionals; and

(4) Conditions under which telehealth services may be terminated and a referral made to in-person care.

Section 8. Compliance with Privacy Laws, Documentation, and Recordkeeping. A licensed marriage and family therapist or marriage and family therapy associate performing telehealth services in this state shall:

(1) Comply with all privacy laws and regulations relating to the transmission and protection of protected health information, including HIPAA and HITECH; and

(2) Comply with all state and federal laws and regulations relating to the practice of telehealth, documentation of services delivered, and related recordkeeping.

DR. C. SHAWN OAK, Ph.D., LMFT, Board Chair

APPROVED BY AGENCY: March 30, 2020

FILED WITH LRC: March 30, 2020 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 AM EST on June 22, 2020 at 500 Mero Street, Room 127CW, Frankfort, Kentucky 40601. In the event the declaration of a State of Emergency in Executive Order 2020-215 and the State of Emergency Relating to Social Distancing in Executive Order 2020-243 are not rescinded by June 22, 2020, this hearing will be done by video teleconference. Members of the public wishing to attend may utilize the following link:

Join from PC, Mac, Linux, iOS or Android:
<https://zoom.us/j/153999547?pwd=NHpUQVNCVk4wV0VFbkthRUk5cHJtQT09>

Password: 649057

Or phone: Dial:

USA 713 353 0212

USA 888227517 (US Toll Free)

Conference code: 497796

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 EST on June 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: Bryan D. Morrow, Board Attorney, 500 Mero Street, 218 NC, phone +1 (502) 782-0766, fax +1 (502) 564-3969, email Bryan.Morrow@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Bryan D. Morrow

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 335.380 requires the board to promulgate administrative regulations to implement the practice of telehealth. This administrative regulation establishes procedures and education requirements for licensed marriage and family therapists and marriage and family therapy associates to provide telehealth services to patients in Kentucky.

(b) The necessity of this administrative regulation: This administrative regulation is required by KRS 335.380(2).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 335.380 requires the board to promulgate administrative regulations to implement the practice of telehealth, including: (1) preventing abuse and fraud through the use of telehealth services; (2) preventing fee-splitting; and (3) utilizing telehealth in the provision of marriage and family therapy services and in the provision of continuing education. This administrative regulation prevents fraud and abuse in six ways: (1) applying standards for in-person counseling to telehealth; (2) requiring verification of the client; (3) requiring an initial assessment to ensure the client is a proper candidate for telehealth services; (4) making that assessment an on-going concern; (5) obtaining the informed consent of the client; and (6) establishing procedures for the client in case of an emergency. This administrative regulation prohibits fee splitting in the delivery of services. Finally, the regulation sets forth education and continuing education requirements for telehealth services.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in the effective administration of KRS 335.380 by carrying out the legislative mandate for the board to establish a regulation regarding telehealth services.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will change the existing administrative regulation in two ways: (1) by allowing marriage and family therapy associates to practice telehealth; and (2) prohibiting fee splitting.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to allow marriage and family therapy associates to practice telehealth. This is especially crucial under the State of Emergency declared in Executive Order 2020-215 on March 6, 2020 and Executive Order 2020-243 signed by Governor Beshear on March 18, 2020 requiring social distancing. The amendment prohibiting fee splitting is necessary because it is required by KRS 335.380(2)(b).

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to KRS 335.380 which requires the board to promulgate regulations regarding telehealth services. It also conforms to KRS 335.380 which requires a prohibition on fee splitting in the delivering of telehealth services.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of KRS 335.380 by carrying out the legislative mandate for the board to establish a regulation regarding telehealth services.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect 728 licensed Marriage and Family Therapists and Marriage and Family Therapy Associates in Kentucky, as well as an unknown number of Marriage and Family Therapists from other jurisdictions seeking to provide telehealth to clients located in Kentucky.

(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: In order to use telehealth to practice marriage and family therapy in Kentucky, each licensed marriage and family therapist, marriage and family therapy associate, and licensed marriage and family therapist supervising an associate practicing telehealth will be required to complete initial training and continuing education each subsequent year. The licensed therapist and marriage and family therapy associate will also have to verify the client, continuously assess the client as an appropriate recipient of telehealth, obtain consent from the client, establish emergency procedures, and ensure compliance with applicable privacy laws.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This regulation should add no additional cost to the licensed marriage and family therapist or marriage and family therapy associate. Licensed marriage and family therapist and marriage and family therapy associates continuing education requirements are already in place as part of 201 KAR Chapter 32. The education and continuing education requirements specific to telehealth will count toward those hours licensed marriage and family therapists or marriage and family therapy associates are already required to obtain.

(c) As a result of compliance, what benefits will accrue to the entities: As a result of compliance, licensed marriage and family therapists and marriage and family therapy associates and clients will be permitted to engage in telehealth, increasing access and availability of needed services.

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

(a) Initially: This administrative regulation does not create a cost for the administrative body; a licensed marriage and family therapist or marriage and family therapy associate that provides telehealth will be governed by the same process as a licensed marriage and family therapists or marriage and family therapy associates in an office setting.

(b) On a continuing basis: This administrative regulation does not create a cost for the administrative body; a licensed marriage and family therapists or a marriage and family therapy associate that provides telehealth will be governed by the same process as a licensed marriage and family therapists or a marriage and family therapy associate in an office setting.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Marriage and Family Therapy Board is self-funded through the fees paid by licensees. No additional funding is necessary for the implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increases in fees or funding is necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No increases in fees or funding is necessary to implement this administrative regulation.

(9) TIERING: Is tiering applied? Tiering is not applied because similarly situated licensed marriage and family therapists and marriage and family therapy associates are treated similarly under this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 335.380

(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 regulation will not generate revenue for state or local government.

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

(c) How much will it cost to administer this program for the first year? A licensed marriage and family therapist or a marriage and family therapy associate providing telehealth services will abide by the same process as a licensed marriage and family therapist or a marriage and family therapy associate in an office setting so there will be no additional cost to administer this program.

(d) How much will it cost to administer this program for subsequent years? A licensed marriage and family therapist or a marriage and family therapy associate providing telehealth services will abide by the same process as a licensed marriage and family therapist or a marriage and family therapy associate in an office setting so there will be no additional cost to administer this program.

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

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None

JUSTICE AND PUBLIC SAFETY CABINET Department of Juvenile Justice (Amendment)

505 KAR 1:120. Department of Juvenile Justice Policies and Procedures Manual: Health and Safety Services.

RELATES TO: KRS 15A.065, 15A.067, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.067, 15A.160, 200.115, 605.150, 635.095, 635.100(7), 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.210, 15A.305(5), 605.150, 635.095 and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation incorporates by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program.

Section 1. Incorporation by Reference. (1) The "Department of Juvenile Justice Policy and Procedures Manual: Health and Safety Services", April 15, 2020 [August 14, 2018], is incorporated by reference and includes the following:

400	Health Services Definitions (Amended 04/15/20[03/30/18])
400.1	Health Services (Amended 04/15/20[03/30/18])
401	Health Services Administration and Personnel (Amended 03/30/18)
402	Access to Treatment and Continuity of Care (Amended 04/15/20[07/10/2018])
402.1	Continuity of Care and Medical Discharge (Amended 04/15/20[03/30/18])
403	Medical Records (Amended 04/15/20 [03/30/18])

VOLUME 46, NUMBER 11– MAY 1, 2020

404.1	Admission Screening for Physical and Behavioral Health Challenges (Amended 04/15/20[3/30/18])
404.2	Ectoparasite Control (Amended 03/30/18)
404.3	Health Assessment and Physical Examination (Amended 03/30/18)
404.4	Sick Call (Amended 03/30/18)
404.5	Access to Diagnostic Services (Amended 03/30/18)
404.6	Emergency Medical Services (Amended 03/30/18)
404.7	First Aid, AED, and First Aid Kits (Amended 03/30/18)
404.8	Hospital Care (Amended 03/30/18)
404.10	Special Needs Treatment Plans (Amended 03/30/18)
404.11	Perinatal Care (Amended 03/30/18)
404.12	Oral Screening and Oral Care (Amended 03/30/18)
404.13	Preventative Health Care (Amended 03/30/18)
404.14	Family Planning Services (Amended 03/30/18)
405	Behavioral Health Services Administration and Personnel (Amended 04/15/20[07/10/18])
405.1	Behavioral Health Screening and Evaluation (Amended 04/15/20[07/10/18])
405.2	Forced Psychotropic Medications (Amended 07/10/18)
405.3	Referral for Behavioral Health Services (Amended 04/15/20[07/10/18])
405.4	Suicide Prevention and Intervention (Amended 04/15/20[03/30/18])
405.5	Behavioral Health Emergencies (Amended 04/15/20[07/10/18])
405.6	Psychiatric Hospitalization (Amended 04/15/20[03/30/18])
406	Therapeutic Restraints (Amended 03/30/18)
407	Pharmaceuticals (Amended 03/30/18)
408.1	Forensic Information (Amended 03/30/18)
409	Substance Abuse and Chemical Dependency (Amended 03/30/18)
410	Orthoses, Prostheses, and Other Aids to Reduce the Effects of Impairment (Amended 08/14/18)
411	Notification in Emergencies (Amended 03/30/18)
414	Environmental Health and Safety (Amended 03/30/18)
415	Occupational Exposure to Bloodborne Pathogens (Amended 03/30/18)
416	HIV/AIDS/STI (Amended 03/30/18)
416.1	Infectious Communicable Disease (Amended 03/30/18)
424	Emergency Plans (Amended 03/30/18)
424.1	Emergency Plans for Central Office (Amended 03/30/18)
426	Dietary Services (Amended 03/30/18)
427	Maintenance (Amended 03/30/18)
427.1	Control and Use of Tools and Sharps (Amended 03/30/18)
428	Control and Accountability of Flammable, Toxic, Caustic and Other Hazardous Materials (Amended 03/30/18)
428.1	Control of Hazardous Materials in Central Office (Amended 03/30/18)
430	Pets and Domestic Animals (Amended 03/30/18)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Juvenile Justice, Office of the Commissioner, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, or at any department field office, Monday through Friday, 8 a.m. to 4:30 p.m.

LASHANA M. HARRIS, Commissioner

APPROVED BY AGENCY: April 14, 2020

FILED WITH LRC: April 15, 2020 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 24, 2020 at 10:00 a.m. Eastern Time at the Department of Juvenile Justice, 1025 Capital Center Drive, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be 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 June 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: William Codell, Assistant General Counsel, Department of Juvenile Justice, 1025 Capital Center Drive, Frankfort, Kentucky 40601, phone (502) 573-2738, fax (502) 573-0836, email William.Codell@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: William Codell

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures governing the health and safety of the youth serviced by the Department of Juvenile Justice, including the rights and responsibilities of the Department's employees, health and behavioral health care providers, and the residential youth population.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 15A.065 and KRS 15A.067.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation governs every aspect of the medical and behavioral health services for the youth population of the Department of Juvenile Justice.

(d) How this administrative regulation currently assists, or will assist, in the effective administration of the statutes: By providing clear and concise direction and information to the Department of Juvenile Justice employees as to their duties, rights, privileges, and responsibilities.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment shall bring the Department of Juvenile Justice in to compliance to reflect actual practice of the agency and compliance.

(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS 15A.065 and 15A.067.

(c) How the amendment conforms to the content of the authorizing statutes: It permits the Commissioner or authorized representative to implement or amend practices or procedures to ensure the safe and efficient operation of the Department of Juvenile Justice.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will help the Department of Juvenile Justice to operate more efficiently.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 453 employees of the Department of Juvenile Justice, approximately 850 youth serviced annually in all programs, and all visitors and volunteers to Department of Juvenile Justice.

(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: All entities will meet the minimum standards as dictated by federal and state law, American Correctional Association (ACA).

(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 Department of Juvenile Justice employees and volunteers will provide quality health care in accordance with standardized practice. The Department of Juvenile Justice youth shall receive health care prescribed by law and standardized by the American Correctional Association (ACA).

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No monetary cost will be incurred by the youth,

employees, or volunteers of the Department of Juvenile Justice.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Department will be accredited by the ACA and will provide all health care prescribed by law. The Department youth shall receive quality health care and reside within a safe environment.

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

(a) Initially: No Additional funding will be required.

(b) On a continuing basis: No Additional funding will be required on an annual basis

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds budgeted for this 2020-2022 biennium.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: None

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: None

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as the Sections 2 and 3 of the Kentucky Constitution.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Response: Department of Juvenile Justice

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. Response: KRS 15A.065 (1), 15A.067

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. The revised administrative regulations will only impact the Department of Juvenile Justice. There are no anticipated expenditures for initial staff training or annual training thereafter.

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

(c) How much will it cost to administer this program for the first year? Response: The revised administrative regulations will only impact the Department of Juvenile Justice. No Additional funding will be required for the first year.

(d) How much will it cost to administer this program for subsequent years? Response: No Additional funding will be required for the first year.

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

Revenues (+/-): No revenue will be generated from this regulation.

Expenditures (+/-): Expenditures relate to training staff and auditing programs to ensure compliance.

Other Explanation: This regulation will provide a clear and concise policies and procedures for all youth receiving services from the Department of Juvenile Justice, and reflect the treatment and practice of the agency.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Kentucky Board of Education Department of Education (Amendment)

702 KAR 6:040. Personnel; policies and procedures.

RELATES TO: KRS 156.010, [156.034,] 156.035, 42 U.S.C. 1751-1769b, 42 U.S.C. 1771-1789

STATUTORY AUTHORITY: KRS [156.034,] 156.035, 156.070
NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.010(5) requires the Department of Education to develop and approve state plans required by federal law as a prerequisite to receiving federal funds for elementary and secondary education. 42 U.S.C. 1751 to 1769b and 42 U.S.C. 1771 to 1789 establish the requirements for the federal school lunch and child nutrition programs. This administrative regulation establishes the requirements for local school nutrition personnel employed by school districts.

Section 1. Each school district shall employ school nutrition personnel in a procedure consistent with KRS 160.380[and 702 KAR 6:045].

Section 2. Each school district, through its superintendent, shall notify in writing each full-time school nutrition employee of the hours, terms and conditions of employment, lines of authority, and general responsibilities. Each district shall include an appropriate service termination policy for both the district and employee.

Section 3. Each school district shall establish and adopt a uniform pay scale for all full-time school nutrition employees.

Section 4. Each school district shall provide workers' compensation and fulfill minimum hourly wage rates for school nutrition personnel.

Section 5. The superintendent shall cause school nutrition personnel to avail themselves of training programs offered.

Section 6. Social Security participation for school nutrition personnel shall be in keeping with Social Security policies for other nonprofessional personnel.

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 C. BROWN, Interim Commissioner of Education
DAVID KAREM, Chairperson

APPROVED BY AGENCY: April 14, 2020

FILED WITH LRC: April 14, 2020 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 25, 2020, at 10:00 a.m. in the State Board Room, 5th Floor, 300 Sower Blvd, 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 June 30, 2020.

CONTACT PERSON: Todd G. Allen, Interim General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, KY 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: The amendment strikes the reference to 702 KAR 6:045. The Kentucky Board of Education (KBE) is seeking to repeal that regulation. Thus, it is necessary to amend 702 KAR 6:040 to delete the reference to the regulation that will be repealed and no longer exist.

(b) The necessity of this administrative regulation: It is necessary to amend this regulation to delete the reference to a regulation that is being repealed by the Kentucky Board of Education.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 156.035 authorizes the KBE to implement the provisions of any Act of Congress appropriating and apportioning funds to the state, and to provide for the proper apportionment and disbursement of such funds in accordance with state or federal laws. The amendment of this regulation is necessary to reflect the repeal of KRS 702 KAR 6:045. That regulation is being repealed to harmonize state and federal regulation regarding the training of nutrition employees of entities participating in the federal National School Lunch and School Breakfast Programs. KRS 156.070 authorizes the KBE to promulgate regulations as necessary for the efficient management, control and operations of schools.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The existing regulation relates to the employment of school district nutrition personnel. The amendment will remove reference to a regulation that the KBE is seeking to repeal.

(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: KRS 156.035 authorizes the KBE to implement the provisions of any Act of Congress appropriating and apportioning funds to the state, and to provide for the proper apportionment and disbursement of such funds in accordance with state or federal laws. The amendment of this regulation is necessary to reflect the repeal of KRS 702 KAR 6:045. That regulation is being repealed to harmonize state and federal regulation regarding the training of nutrition employees of entities participating in the federal National School Lunch and School Breakfast Programs. School nutrition employees of districts participating in the National School Lunch or School Breakfast Programs remain subject to federal program rules.

(b) The necessity of the amendment to this administrative regulation: It is necessary to amend this regulation to delete the reference to a regulation that is being repealed by the Kentucky Board of Education.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 156.035 authorizes the KBE to implement the provisions of any Act of Congress appropriating and apportioning funds to the state, and to provide for the proper apportionment and disbursement of such funds in accordance with state or federal laws. The amendment of this regulation is necessary to reflect the repeal of KRS 702 KAR 6:045. That regulation is being repealed to harmonize state and federal regulation regarding the training of nutrition employees of entities participating in the federal National School Lunch and School Breakfast Programs. KRS 156.070 authorizes the KBE to promulgate regulations as necessary for the efficient management, control and operations of schools.

(d) How the amendment will assist in the effective administration of the statutes: The existing regulation relates to the employment of school district nutrition personnel. The amendment will remove reference to a regulation that the KBE is seeking to repeal.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: School districts and school district employees.

(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 amendment of the regulation will

remove a reference to 702 KAR 6:045 which the KBE is seeking to repeal. Removing the reference and repealing 702 KAR 6:045 will remove an administrative burden created by state required food service training that is not in alignment with the federal rules for entities participating in the National School Lunch or School Breakfast Programs.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amendment will require no action on the part of the identified entities.

(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 expected fiscal impact from the proposed amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amendment and the repeal of 702 KAR 6:045 should reduce the administrative burden related to the confusing and overlapping state and federal training requirements by removing the state rules for certain nutrition employees.

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

(a) Initially: There is no expected fiscal impact from the proposed amendment.

(b) On a continuing basis: There is no expected fiscal impact from the proposed amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Kentucky Department of Education General Funds

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: There are no fees associated with this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: There are no fees associated with this amendment.

(9) TIERING: Is tiering applied? No, tiering was not used. There are no fees associated with this amendment.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.035 authorizes the KBE to implement the provisions of any Act of Congress appropriating and apportioning funds to the state, and to provide for the proper apportionment and disbursement of such funds in accordance with state or federal laws. The amendment of this regulation is necessary to reflect the repeal of KRS 702 KAR 6:045. That regulation is being repealed to harmonize state and federal regulation regarding the training of nutrition employees of entities participating in the federal National School Lunch and School Breakfast Programs. KRS 156.070 authorizes the KBE to promulgate regulations as necessary for the efficient management, control and operations of schools.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There is no expected fiscal impact from the proposed amendment on local school districts. There may be some undeterminable costs savings to school districts related to reducing the administrative training burden through the repeal of 702 KAR 6:045 and amendment of this 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? It is not anticipated that this amendment will generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent

years? It is not anticipated that this amendment will generate any revenue.

(c) How much will it cost to administer this program for the first year? This amendment is not expected to have any fiscal impact.

(d) How much will it cost to administer this program for subsequent years? This amendment is not expected to have any fiscal impact.

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: There is no expected fiscal impact from the proposed amendment on local school districts. There may be some undeterminable costs savings to school districts related to reducing the administrative training burden through the repeal of 702 KAR 6:045 and amendment of this regulation.

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:301. Adoption and extension of established federal standards.

RELATES TO: KRS 338.051, 338.061, 29 C.F.R. 1910 Subpart B

STATUTORY AUTHORITY: KRS 338.051(3), 338.061[,—29 C.F.R., 1910]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires [authorizes] the Kentucky Occupational Safety and Health Standards Board to [adopt—and] promulgate occupational safety and health administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. KRS 338.061 authorizes the board to establish, modify, or repeal standards and reference federal standards. [KRS 338.061(2) provides that the board may incorporate by reference established federal standards and national consensus standards. The following] This administrative regulation establishes [contains those] standards that are [to-be] enforced by the Department of Workplace Standards in [Division of Occupational Safety and Health Compliance in the area of] general industry.

Section 1. Definitions. (1) "Act" means KRS Chapter 338.

(2) "Assistant secretary [Secretary of Labor]" means the Secretary of Labor, Commonwealth of Kentucky or Commissioner, Department of Workplace Standards, Labor Cabinet.

(3) "Standard" is defined in KRS 338.015(3). [means the same as regulation or federal rule which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment.]

(4) "U.S. Department of Labor" means Kentucky Labor Cabinet, Department of Workplace Standards, 500 Mero Street, 3rd Floor [U.S. 127 South], Frankfort, Kentucky 40601, or the U.S. Department of Labor.

Section 2. Except as modified by Section 1 of this administrative regulation, general industry shall comply with the federal requirements published by the Office of the Federal Register, National Archives and Records Services, General Services Administration; 29 C.F.R. 1910 Subpart B, Adoption and Extension of Established Federal Standards. [Incorporation by Reference. (1) The following material is incorporated by reference:

(a) 29 C.F.R. 1910.11-1910.19 of the Code of Federal Regulations revised as of July 1, 1998, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration are incorporated by reference.

~~(b) The revision to 29 C.F.R. 1910.16, "Longshoring and marine terminals", as published in the Federal Register, Volume 63, Number 230, December 1, 1998.~~

~~(2) This material may be inspected, obtained, and copied at: Kentucky Labor Cabinet, Division of Occupational Safety and Health Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. — 4:30 p.m. (ET), Monday through Friday.]~~

LARRY ROBERTS, Secretary

APPROVED BY AGENCY: March 19, 2020

FILED WITH LRC: March 19, 2020 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation may be held June 23, 2020 at 10:00 a.m. (EDST) at the Labor Cabinet, 500 Mero Street, Frankfort, Kentucky. At the time of filing this amendment, all state government offices are closed to in-person services. A public hearing will be held if state government offices open to in-person services by June 23, 2020. An alternative method will be utilized if state government offices are closed. Individuals interested in being heard must notify this agency in writing five (5) working days prior to the hearing of their intent to be heard. Instructions for an alternative method will be provided. If notification of intent to be heard is not received by that date, the hearing may be canceled. This hearing, if held, is open to the public. Regardless, 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, you may submit written comments on the proposed administrative regulation. Written comments are accepted through June 30, 2020. Send written notification of intent to be heard or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Robin Maples, OSH Standards Specialist, Kentucky Department of Workplace Standards, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 564-4107, fax (502) 564-4769, email Robin.Maples@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Robin Maples

(1) Provide a brief summary of:

(a) What this administrative regulation does: Section 1 of this administrative regulation defines terms not found in the federal standard. Section 2 of this administrative regulation, effective since December 15, 1989, adopts the requirements of 29 C.F.R. 1910.11-19, which extends the applicability of established federal standards to every employer, employee, and place of employment.

(b) The necessity of this administrative regulation: This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5, which all require Kentucky OSH regulations to be as effective as the federal requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5, which all require Kentucky OSH regulations to be as effective as the federal requirements. This regulation complies and conforms with the authorizing statutes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation promotes worker safety and health throughout Kentucky and ensures the state is as effective as the federal requirement. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5.

(2) If this is an amendment to an existing administrative

regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Section 2 of this administrative regulation, effective since December 15, 1989, adopts the requirements of 29 C.F.R. 1910.11-19, which extends the applicability of established federal standards to every employer, employee, and place of employment. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations. Additionally, this regulation was reviewed and amended in accordance with House Bill 50 from the Regular Session of the 2018 General Assembly.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Amendments to this regulation are technical and maintain consistency with other regulations.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061. KRS 338.051(3) and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health rules and administrative regulations and standards.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements, providing all a clear understanding of the requirements. This amendment promotes employee health and safety throughout Kentucky and keeps the state consistent with the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional compliance duties are imposed and no immediate action is required.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection will result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

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

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the OSH Program 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: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal

mandate. Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5 to be at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements: This amendment does not impose stricter 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? This administrative regulation affects any unit, part, or division of local government covered by KRS 338 and engaged in general industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

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

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

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

(c) How much will it cost to administer this program for the first year? There 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 this amendment.

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

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: This amendment does not impose any additional requirements or expenditures to the employer.

LABOR CABINET

Department of Workplace Standards

Division of Occupational Safety and Health Compliance

Division of Occupational Safety and Health Education and Training (Amendment)

803 KAR 2:304. Exit routes and emergency planning.

RELATES TO: KRS Chapter 338, 29 C.F.R. [Part] 1910.33-1910.39

STATUTORY AUTHORITY: KRS 338.051(3), 338.061 [–29 C.F.R. Part 1940]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. KRS 338.061 authorizes the board to establish, modify, or repeal standards and reference federal standards. This administrative regulation establishes exit route, emergency action plan, and fire prevention plan standards that are [to be] enforced by the Department of Workplace Standards in general industry.

Section 1. Definitions. (1) "Employee" is defined in KRS 338.015(2).

(2) "Employer" is defined in KRS 338.015(1).

(3) "NFPA" means the National Fire Protection Association.

(4) "OSHA" means the Occupational Safety and Health Administration or the Kentucky Labor Cabinet, Division of Occupational Safety and Health.

(5) "Standard" is defined in KRS 338.015(3).

Section 2. Except as modified by the definitions in Section 1 of this administrative regulation, general industry shall comply with the [following] federal regulations published by the Office of the Federal Register, National Archives and Records Administration [;]; 29 C.F.R. 1910 Subpart E, Adoption and Extension of Established Federal Standards.]

~~(1) 29 C.F.R. 1910.33 through 29 C.F.R. 1910.39 and Appendix, revised July 1, 2010; and (2) The amendments to 29 C.F.R. 1910.33, 1910.34, 1910.35, and 1910.36 as published in the June 8, 2011 Federal Register, Volume 76, Number 110.]~~

LARRY ROBERTS, Secretary

APPROVED BY AGENCY: March 19, 2020

FILED WITH LRC: March 19, 2020 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation may be held June 23, 2020 at 10:00 a.m. (EDST) at the Labor Cabinet, 500 Mero Street, Frankfort, Kentucky. At the time of filing this amendment, all state government offices are closed to in-person services. A public hearing will be held if state government offices open to in-person services by June 23, 2020. An alternative method will be utilized if state government offices are closed. Individuals interested in being heard must notify this agency in writing five (5) working days prior to the hearing of their intent to be heard. Instructions for an alternative method will be provided. If notification of intent to be heard is not received by that date, the hearing may be canceled. This hearing, if held, is open to the public. Regardless, 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, you may submit written comments on the proposed administrative regulation. Written comments are accepted through June 30, 2020. Send written notification of intent to be heard or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Robin Maples, OSH Standards Specialist, Kentucky Department of Workplace Standards, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 564-4107, fax (502) 564-4769, email Robin.Maples@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Robin Maples

(1) Provide a brief summary of:

(a) What this administrative regulation does: Section 1 of this administrative regulation defines terms not found in the federal standard. Section 2 of this administrative regulation, effective since December 15, 1989, adopts the requirements of 29 C.F.R. 1910.33-39, which establishes exit route, emergency action plan, and fire prevention plan standards in general industry. Additionally, this regulation was reviewed and amended in accordance with House Bill 50 from the Regular Session of the 2018 General

Assembly, hereinafter referred to as HB 50 2018.

(b) The necessity of this administrative regulation: This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5, which all require Kentucky OSH regulations to be as effective as the federal requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5, which all require Kentucky OSH regulations to be as effective as the federal requirements. This regulation complies and conforms with the authorizing statutes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation promotes worker safety and health throughout Kentucky and ensures the state is as effective as the federal requirement. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Section 2, effective since December 15, 1989, adopts the requirements of 29 C.F.R. 1910.33-39, which establishes exit route, emergency action plan, and fire prevention plan standards in general industry. Additionally, this regulation was reviewed and amended in accordance with HB 50 2018.

(b) The necessity of the amendment to this administrative regulation: The OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Amendments to this regulation are technical and intended to maintain consistency with other Kentucky OSH regulations.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This amendment maintains consistency with the federal requirements, providing all a clear understanding of the requirements. This amendment promotes employee health and safety throughout Kentucky and keeps the state program consistent with the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No additional compliance duties are imposed and no immediate action is required.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection will result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

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

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the program 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: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5

2. State compliance standards. The Kentucky OSH Program is mandated by Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5 to develop and enforce standards that are at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5 to be at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements: Not applicable

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects any unit, part, or division of local government covered by KRS Chapter 338 and engaged in general industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

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

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

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

(c) How much will it cost to administer this program for the first year? There 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 this

amendment.

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

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: This amendment does not impose any additional requirements or expenditures to the employer.

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:311. Fire protection.

RELATES TO: KRS Chapter 338, 29 C.F.R. 1910.155-1910.165[~~EO 2009-537~~]

STATUTORY AUTHORITY: KRS 338.051(3), 338.061[~~EO 2009-537~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires [authorizes] the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. [29 C.F.R. 1910.155 to 1910.165 ~~establish the federal requirements relating to fire protection.~~] KRS 338.061 authorizes the board to establish, modify, or repeal standards and reference federal standards. This administrative regulation establishes fire protection standards that are [to be] enforced by the Department of Workplace Standards in general industry.

Section 1. Definitions. (1) "Assistant secretary" means the Secretary of Labor, Commonwealth of Kentucky or Commissioner, Department of Workplace Standards, Labor Cabinet.

(2) "Employee" is defined in KRS 338.015(2).

(3) "Employer" is defined in KRS 338.015(1).

(4) "OSHA" means the Occupational Safety and Health Administration or the Kentucky Occupational Safety and Health Program.

(5) "Standard" is defined in KRS 338.015(3).

Section 2. Except as modified by the definitions [definition] in Section 1 of this administrative regulation, general industry shall comply with the federal requirements published by the Office of the Federal Register, National Archives and Records Services, General Services Administration; 29 C.F.R. 1910 Subpart L, Adoption and Extension of Established Federal Standards. [Except as modified by the definition in Section 1 of this administrative regulation, general industry shall comply with the following federal regulations published by the Office of the Federal Register, National Archives and Records Administration:

(1) ~~29 C.F.R. 1910.155 through 1910.165, and Appendices, revised July 1, 2008; and~~

(2) ~~the revisions to 29 C.F.R. 1910.156, as published in the December 12, 2008 Federal Register, Volume 73, Number 240.]~~

LARRY ROBERTS, Secretary

APPROVED BY AGENCY: March 19, 2020

FILED WITH LRC: March 19, 2020 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation may be held June 23, 2020 at 10:00 a.m. (EDST) at the Labor Cabinet, 500 Mero Street, Frankfort, Kentucky. At the time of filing this amendment, all state government offices are closed to in-person services. A public hearing will be held if state government offices open to in-person services by June 23, 2020. An alternative method will be utilized if state government offices are closed. Individuals interested in being heard must notify this agency in writing five (5) working days prior

to the hearing of their intent to be heard. Instructions for an alternative method will be provided. If notification of intent to be heard is not received by that date, the hearing may be canceled. This hearing, if held, is open to the public. Regardless, 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, you may submit written comments on the proposed administrative regulation. Written comments are accepted through June 30, 2020. Send written notification of intent to be heard or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Robin Maples, OSH Standards Specialist, Kentucky Department of Workplace Standards, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 564-4107, fax (502) 564-4769, email Robin.Maples@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Robin Maples

(1) Provide a brief summary of: (a) What this administrative regulation does: Section 1 of this administrative regulation defines terms not found in the federal standard. Section 2, effective since December 15, 1989, adopts the requirements of 29 C.F.R. 1910.155-165, which establishes the fire protection standards for general industry. Additionally, this regulation was reviewed in accordance with House Bill 50 from the Regular Session of the 2018 General Assembly, hereinafter referred to as HB 50 2018.

(b) The necessity of this administrative regulation: This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5, which all require Kentucky OSH regulations to be as effective as the federal requirements. Additionally, this regulation was reviewed in accordance with HB 50 2018.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5, which all require Kentucky OSH regulations to be as effective as the federal requirements. This regulation complies and conforms with the authorizing statutes. Additionally, this regulation was reviewed in accordance with HB 50 2018.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation promotes worker safety and health throughout Kentucky and ensures the state is as effective as the federal requirement. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Section 2 of this administrative regulation, effective since December 15, 1989, adopts the requirements of 29 C.F.R. 1910.155-165, which establishes the fire protection standards for general industry. Additionally, this regulation was reviewed in accordance with HB 50 2018.

(b) The necessity of the amendment to this administrative regulation: The OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Amendments to this regulation were technical and intended to maintain consistency with other regulations.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation promotes worker safety and health throughout Kentucky and

ensures the state is as effective as the federal requirement. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Not applicable

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection will result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

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

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the OSH Program 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: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5

2. State compliance standards. The Kentucky OSH Program is mandated by Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5 to develop and enforce standards that are at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5 to be at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements: Not applicable

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects any unit, part, or division of local government covered by KRS 338.051 and engaged in general industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

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

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

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

(c) How much will it cost to administer this program for the first year? There 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 this amendment.

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

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: This amendment does not impose any additional requirements or expenditures to the employer.

LABOR CABINET

Department of Workplace Standards

Division of Occupational Safety and Health Compliance

Division of Occupational Safety and Health Education and

Training

(Amendment)

803 KAR 2:312. Compressed gas and compressed air equipment.

RELATES TO: KRS 338.051, 338.061, 29 C.F.R. 1910.169

STATUTORY AUTHORITY: KRS 338.051(3), 338.061[–29 C.F.R. 1910]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires [and 338.061 authorize] the Kentucky Occupational Safety and Health Standards Board to [adopt and] promulgate occupational safety and health administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. [Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board.] KRS 338.061 authorizes the board to establish, modify, or repeal standards and reference federal standards. This [The following] administrative regulation establishes compressed gas and compressed air equipment [contains those] standards that are [to be] enforced by the Department of Workplace Standards in [Division of Occupational Safety and Health Compliance in the area of] general industry.

Section 1. Definitions [Applicable to this Part].

(1) "Act" means KRS Chapter 338.

(2) "Assistant secretary [Secretary of Labor]" means the Secretary of Labor, Commonwealth of Kentucky or Commissioner, Department of Workplace Standards, Labor Cabinet.

(3) "Employee" is defined in KRS 338.015(2). [means any

person employed except those employees excluded in KRS 338.021.]

(4) "Employer" is defined in KRS 338.015(1). [means any entity for whom a person is employed except those employers excluded in KRS 338.021.]

(5) "Established federal standard" means any operative occupational safety and health standard established by an agency of the United States Government.

(6) "National consensus standard" is defined in KRS 338.015(9). [means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.]

(7) "Standard" is defined in KRS 338.015(3). [means a standard which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule".

(8) An employer, required under these standards to report information to the U.S. Department of Labor, or any subsidiary thereof, shall instead report such information to the Kentucky Labor Cabinet, 500 Mero Street, 3rd Floor [U.S. 127 South], Frankfort, Kentucky 40601.]

Section 2. Except as modified by the definitions in Section 1 and the requirements of Section 3 of this administrative regulation, general industry shall comply with the federal requirements published by the Office of the Federal Register, National Archives and Records Services, General Services Administration; 29 C.F.R. 1910 Subpart M, Compressed Gas and Compressed Air Equipment. [Incorporation by Reference. (1) The following material is incorporated by reference:

(a) The material in 29 C.F.R. 1910, Subpart M, "Compressed Gas and Compressed Air Equipment", published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, revised as of July 1, 1995, is incorporated by reference.

(b) The revisions to 29 C.F.R. 1910.169, "Air Receivers", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, are incorporated by reference.

(c) The removal of 29 C.F.R. 1910.170, "Sources of Standards", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, are incorporated by reference.

(d) The removal of 29 C.F.R. 1910.171, "Standards Organizations", as published in the Federal Register, Volume 61, Number 46, March 7, 1996, are incorporated by reference.

(2) This material may be inspected, obtained, and copied at: Kentucky Labor Cabinet, Division of Occupational Safety and Health Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. – 4:30 p.m. (ET), Monday through Friday.]

Section 3. An employer required to report information to the U.S. Department of Labor, or any subsidiary thereof, shall instead report such information to the Kentucky Labor Cabinet, 500 Mero Street, 3rd Floor [U.S. 127 South], Frankfort, Kentucky 40601.

LARRY ROBERTS, Secretary

APPROVED BY AGENCY: March 19, 2020

FILED WITH LRC: March 19, 2020 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation may be held June 23, 2020 at 10:00 a.m. (EDST) at the Labor Cabinet, 500 Mero Street, Frankfort, Kentucky. At the time of filing this amendment, all state government offices are closed to in-person services. A public hearing will be held if state government offices open to in-person services by June 23, 2020. An alternative method will be utilized if state government offices are closed. Individuals interested in being heard must notify this agency in writing five (5) working days prior to the hearing of their intent to be heard. Instructions for an alternative method will be provided. If notification of intent to be heard is not received by that date, the hearing may be canceled. This hearing, if held, is open to the public. Regardless, 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, you may submit written comments on the proposed administrative regulation. Written comments are accepted through June 30, 2020. Send written notification of intent to be heard or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Robin Maples, OSH Standards Specialist, Kentucky Department of Workplace Standards, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 564-4107, fax (502) 564-4769, email Robin.Maples@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Robin Maples

(1) Provide a brief summary of:

(a) What this administrative regulation does: Section 1 of this administrative regulation defines terms not found in the federal standard. Section 2, effective since December 15, 1989, adopts the requirements of 29 C.F.R. 1910.166-169, which establishes the federal standards related to compressed air and equipment to be enforced in general industry. Section 3 clarifies that reporting requirements are fulfilled by reporting to the Labor Cabinet. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations. Additionally, this regulation was reviewed in accordance House Bill 50 from the Regular Session of the 2018 General Assembly, hereinafter referred to as HB 50 2018.

(b) The necessity of this administrative regulation: This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5, which all require Kentucky OSH regulations to be as effective as the federal requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5, which all require Kentucky OSH regulations to be as effective as the federal requirements. This regulation complies and conforms with the authorizing statutes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation promotes worker safety and health throughout Kentucky and ensures the state is as effective as the federal requirement. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Section 2 of this administrative regulation, effective since December 15, 1989, adopts the requirements of 29 C.F.R. 1910.166-169, which establishes the federal standards related to compressed air and equipment to be enforced in general industry. Section 3 clarifies that reporting requirements are to be fulfilled by reporting to the Kentucky Labor Cabinet. This amendment also updates this administrative regulation to meet KRS Chapter 13A considerations. Additionally, this regulation was reviewed in accordance HB 50 2018.

(b) The necessity of the amendment to this administrative regulation: The OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Amendments to this regulation were technical and intended to maintain consistency with other regulations

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How the amendment will assist in the effective

administration of the statutes: This amendment maintains consistency with the federal requirements, providing all a clear understanding of the requirements. This amendment promotes employee health and safety throughout Kentucky and keeps the state program consistent with the federal program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Not applicable

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection will result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

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

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the OSH Program 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: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5

2. State compliance standards. The Kentucky OSH Program is mandated by Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5 to develop and enforce standards that are at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5 to be at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Section 3 requires reporting information to the Kentucky Labor Cabinet in lieu of the United States Department of Labor.

5. Justification for the imposition of the stricter standard, or

additional or different responsibilities or requirements: Not applicable

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects any unit, part, or division of local government covered by KRS Chapter 338 and engaged in general industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

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

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

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

(c) How much will it cost to administer this program for the first year? There 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 this amendment.

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

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: This amendment does not impose any additional requirements or expenditures to the employer.

LABOR CABINET

Department of Workplace Standards

Division of Occupational Safety and Health Compliance Division of Occupational Safety and Health Education and Training (Amendment)

803 KAR 2:315. Hand and portable powered tools and other hand-held equipment.

RELATES TO: KRS 338.051, 338.061, 29 C.F.R. 1910.241-1910.244 [910-246]

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to [adopt and] promulgate occupational safety and health administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements [necessary to accomplish the purposes of KRS Chapter 338]. KRS 338.061 authorizes the board to establish, modify, or repeal standards and reference federal standards. 29 C.F.R. 1910.241 to 1910.244 [246] establishes the federal requirements relating to hand and portable powered tools and other hand-held equipment. This administrative regulation establishes the hand and portable powered tools and other hand-held equipment standards that are [to be] enforced by the Department of Workplace Standards in general industry.

Section 1. Definitions. (1) "Act" means KRS Chapter 338.

(2) "Assistant secretary [Secretary of Labor]" means Secretary, Labor Cabinet or Commissioner, Department of Workplace

Standards, Labor Cabinet.

(3) "C.F.R." means Code of Federal Regulations.

(4) "Employee" is defined by KRS 338.015(2).

(5) "Employer" is defined in KRS 338.015(1).

(6) "Standard" is defined in KRS 338.015(3).

Section 2. Except as modified by the definitions in Section 1 of this administrative regulation, general industry shall comply with the federal requirements published by the Office of the Federal Register, National Archives and Records Services, General Services Administration; Subpart P. [~~Except as modified by the definitions in Section 1 of this administrative regulation and the requirements in Section 3 of this administrative regulation, general industry shall comply with the following federal requirements published by the Office of the Federal Register, National Archives and Records Services, General Services Administration: 29 C.F.R. 1910.241-1910.246, revised July 1, 2008.~~]

LARRY ROBERTS, Secretary

APPROVED BY AGENCY: March 19, 2020

FILED WITH LRC: March 19, 2020 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation may be held June 23, 2020 at 10:00 a.m. (EDST) at the Labor Cabinet, 500 Mero Street, Frankfort, Kentucky. At the time of filing this amendment, all state government offices are closed to in-person services. A public hearing will be held if state government offices open to in-person services by June 23, 2020. An alternative method will be utilized if state government offices are closed. Individuals interested in being heard must notify this agency in writing five (5) working days prior to the hearing of their intent to be heard. Instructions for an alternative method will be provided. If notification of intent to be heard is not received by that date, the hearing may be canceled. This hearing, if held, is open to the public. Regardless, 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, you may submit written comments on the proposed administrative regulation. Written comments are accepted through June 30, 2020. Send written notification of intent to be heard or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Robin Maples, OSH Standards Specialist, Kentucky Department of Workplace Standards, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 564-4107, fax (502) 564-4769, email Robin.Maples@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Robin Maples

(1) Provide a brief summary of:

(a) What this administrative regulation does:

Section 1 of this administrative regulation defines terms not found in the federal standard. Section 2, effective since December 15, 1989, adopts the requirements of 29 C.F.R. 1910.241-244, which establishes the federal standards for hand and portable powered tools, as well as other hand-held equipment, to be enforced in general industry. Additionally, this regulation was reviewed in accordance with House Bill 50 from the Regular Session of the 2018 General Assembly, hereinafter referred to as HB 50 2018.

(b) The necessity of this administrative regulation: This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5, which all require Kentucky OSH regulations to be as effective as the federal requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5, which all

require Kentucky OSH regulations to be as effective as the federal requirements. This regulation complies and conforms with the authorizing statutes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation promotes worker safety and health throughout Kentucky and ensures the state is as effective as the federal requirement. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Section 2 of this administrative regulation, effective since December 15, 1989, adopts the requirements of 29 C.F.R. 1910.241-246, which establishes the standards for hand and portable power tools in general industry. Additionally, this regulation was reviewed in accordance with HB 50 2018.

(b) The necessity of the amendment to this administrative regulation: The OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Amendments to this regulation were technical and intended to maintain consistency with other regulations.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation promotes worker safety and health throughout Kentucky and ensures the state is as effective as the federal requirement. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Not applicable

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection will result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

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

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the OSH Program 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: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5

2. State compliance standards. The Kentucky OSH Program is mandated by Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5 to develop and enforce standards that are at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5 to be at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements: Not applicable

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects any unit, part, or division of local government covered by KRS Chapter 338 and engaged in general industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

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

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

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

(c) How much will it cost to administer this program for the first year? There 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 this amendment.

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

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: This amendment does not impose any additional requirements or expenditures to the employer.

LABOR CABINET
Department of Workplace Standards
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health Education and Training
(Amendment)

803 KAR 2:316. Welding, cutting, and brazing.

RELATES TO: KRS 338.051[(3)], 338.061, 29 C.F.R. 1910.251-1910.255

STATUTORY AUTHORITY: KRS 338.051[(3)], 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to ~~[adopt and]~~ promulgate occupational safety and health administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements ~~[necessary to accomplish the purposes of KRS Chapter 338. 29 C.F.R. 1910.251 to 1910.255 establishes the federal requirements relating to welding, cutting, and brazing]. KRS 338.061 authorizes the board to establish, modify, or repeal standards and reference federal standards.~~ This administrative regulation establishes the welding, cutting, and brazing standards ~~that are [to be]~~ enforced by the Department of Workplace Standards in general industry.

Section 1. Definitions. (1) "Act" means KRS Chapter 338.

(2) "Assistant ~~secretary~~ [Secretary of Labor]" means Secretary of Labor, Commonwealth of Kentucky, ~~[Labor Cabinet]~~ or Commissioner, Department of Workplace Standards, Labor Cabinet.

(3) "C.F.R." means Code of Federal Regulations.

(4) "Employee" is defined in KRS 338.015(2).

(5) "Employer" is defined in KRS 338.015(1).

(6) "Standard" is defined in KRS 338.015(3).

(7) "U.S. Department of Labor" means Kentucky Labor Cabinet, 500 Mero Street, 3rd Floor ~~[U.S. 127 South]~~, Frankfort, Kentucky 40601, or the U.S. Department of Labor.

Section 2. Except as modified by the definitions in Section 1 of this administrative regulation, general industry shall comply with the following federal requirements published by the Office of the Federal Register, National Archives and Records Services, General Services Administration:

(1) 29 C.F.R. 1910.251-1910.255 ~~[revised July 1, 2011; and~~

~~(2) The revisions to 29 C.F.R. 1910.252 as published in the March 26, 2012 Federal Register, Volume 77, Number 58].~~

LARRY ROBERTS, Secretary

APPROVED BY AGENCY: March 19, 2020

FILED WITH LRC: March 19, 2020 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation may be held June 23, 2020 at 10:00 a.m. (EDST) at the Labor Cabinet, 500 Mero Street, Frankfort, Kentucky. At the time of filing this amendment, all state government offices are closed to in-person services. A public hearing will be held if state government offices open to in-person services by June 23, 2020. An alternative method will be utilized if state government offices are closed. Individuals interested in being heard must notify this agency in writing five (5) working days prior to the hearing of their intent to be heard. Instructions for an alternative method will be provided. If notification of intent to be heard is not received by that date, the hearing may be canceled. This hearing, if held, is open to the public. Regardless, 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, you may submit written comments on the proposed administrative regulation. Written comments are accepted through June 30, 2020. Send written notification of intent to be heard or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Robin Maples, OSH Standards

Specialist, Kentucky Department of Workplace Standards, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 564-4107, fax (502) 564-4769, email Robin.Maples@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Robin Maples

(1) Provide a brief summary of:

(a) What this administrative regulation does:

Section 1 of this administrative regulation defines terms not found in the federal standard. Section 2, effective since December 15, 1989, adopts the requirements of 29 C.F.R. 1910.251-255, which establishes the federal standards for welding, cutting, and brazing, to be enforced in general industry. Additionally, this regulation was reviewed in accordance with House Bill 50 from the Regular Session of the 2018 General Assembly, hereinafter referred to as HB 50 2018.

(b) The necessity of this administrative regulation: This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5, which all require Kentucky OSH regulations to be as effective as the federal requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5, which all require Kentucky OSH regulations to be as effective as the federal requirements. This regulation complies and conforms with the authorizing statutes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation promotes worker safety and health throughout Kentucky and ensures the state is as effective as the federal requirement. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Section 2 of this administrative regulation, effective since December 15, 1989, adopts the requirements of 29 C.F.R. 1910.251-255, which establishes the federal standards for welding, cutting, and brazing, to be enforced in general industry. Additionally, this regulation was reviewed in accordance with HB 50 2018.

(b) The necessity of the amendment to this administrative regulation: The OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Amendments to this regulation were technical and intended to maintain consistency with other regulations.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation promotes worker safety and health throughout Kentucky and ensures the state is as effective as the federal requirement. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an

amendment, including: (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Not applicable

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection will result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

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

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the OSH Program 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: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5

2. State compliance standards. The Kentucky OSH Program is mandated by Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5 to develop and enforce standards that are at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5 to be at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements: Not applicable

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects any unit, part, or division of local government covered by KRS Chapter 338 and engaged in general industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

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

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

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

(c) How much will it cost to administer this program for the first year? There 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 this amendment.

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

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: This amendment does not impose any additional requirements or expenditures to the employer.

LABOR CABINET

Department of Workplace Standards

Division of Occupational Safety and Health Compliance

Division of Occupational Safety and Health Education and Training

(Amendment)

803 KAR 2:319. Commercial diving operations.

RELATES TO: KRS Chapter 338.051, 338.061 [KRS Chapter 338], 29 C.F.R. Part 1910.401-1910.440

STATUTORY AUTHORITY: KRS 338.051[(3)], 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements [necessary to accomplish the purposes of KRS Chapter 338]. KRS 338.061 authorizes the board to establish, modify, or repeal standards and reference federal standards. This administrative regulation establishes commercial diving operations standards that are [to be] enforced by the Department of Workplace Standards in general industry [Office of Occupational Safety and Health in the area of general industry].

Section 1. Definitions. (1) "Assistant secretary [Secretary of Labor]" means the Secretary of Labor, Commonwealth of Kentucky or Commissioner, Department of Workplace Standards[of the Department of Labor, Commonwealth of Kentucky].

(2) "Employee" is defined in KRS 338.015(2).

(3) "Employer" is defined in KRS 338.015(1).

(4) "Standard" is defined in KRS 338.015(3).

Section 2. Except as modified by the definitions in Section 1 and the requirements in Section 3 of this administrative regulation, general industry shall comply with the following federal regulations published by the Office of the Federal Register, National Archives and Records Administration: 29 C.F.R. 1910.401-1910.444, and Appendices[:

(1) 29 C.F.R. 1910.401-1910.440, and Appendices, revised July 1, 2011; and

(2) The amendments to 29 C.F.R. 1910.440 as published in the December 27, 2011 Federal Register, Volume 76, Number 248].

Section 3. Reporting Requirement. An employer required [by

~~this administrative regulation~~ to report information to the United States Department of Labor, or any subsidiary thereof, shall instead report such information to the Kentucky Labor Cabinet, 500 Mero Street, 3rd Floor~~[U.S. Highway 127 South, Suite 4]~~, Frankfort, Kentucky 40601.

LARRY ROBERTS, Secretary

APPROVED BY AGENCY: March 19, 2020

FILED WITH LRC: March 19, 2020 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation may be held June 23, 2020 at 10:00 a.m. (EDST) at the Labor Cabinet, 500 Mero Street, Frankfort, Kentucky. At the time of filing this amendment, all state government offices are closed to in-person services. A public hearing will be held if state government offices open to in-person services by June 23, 2020. An alternative method will be utilized if state government offices are closed. Individuals interested in being heard must notify this agency in writing five (5) working days prior to the hearing of their intent to be heard. Instructions for an alternative method will be provided. If notification of intent to be heard is not received by that date, the hearing may be canceled. This hearing, if held, is open to the public. Regardless, 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, you may submit written comments on the proposed administrative regulation. Written comments are accepted through June 30, 2020. Send written notification of intent to be heard or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Robin Maples, OSH Standards Specialist, Kentucky Department of Workplace Standards, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 564-4107, fax (502) 564-4769, email Robin.Maples@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Robin Maples

(1) Provide a brief summary of:

(a) What this administrative regulation does: Section 1 of this administrative regulation defines terms not found in the federal standard. Section 2, effective since December 15, 1989, adopts the requirements of 29 C.F.R. 1910.401-440, which establishes the federal standards for commercial diving operations to be enforced in general industry. Section 3 clarifies that reporting requirements are fulfilled by reporting to the Labor Cabinet. Additionally, this regulation was reviewed in accordance with House Bill 50 from the Regular Session of the 2018 General Assembly, hereinafter referred to as HB 50 2018.

(b) The necessity of this administrative regulation: This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5, which all require Kentucky OSH regulations to be as effective as the federal requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5, which all require Kentucky OSH regulations to be as effective as the federal requirements. This regulation complies and conforms with the authorizing statutes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation promotes worker safety and health throughout Kentucky and ensures the state is as effective as the federal requirement. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Section 2 of this administrative regulation, effective since December 15, 1989, adopts the requirements of 29 C.F.R. 1910.401-440, which establishes the federal standards for commercial diving operations to be enforced in general industry. Section 3 clarifies that reporting requirements are to be fulfilled by reporting to the Kentucky Labor Cabinet. Additionally, this regulation was reviewed in accordance with HB 50 2018.

(b) The necessity of the amendment to this administrative regulation: The OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. Amendments to this regulation were technical and intended to maintain consistency with other regulations.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation promotes worker safety and health throughout Kentucky and ensures the state is as effective as the federal requirement. This regulation is necessary to meet the requirements established in Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Not applicable

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Improved employee protection will result from the promulgation of this amendment, due to the consistency with the federal requirement, providing all a clear understanding of the requirements.

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

(a) Initially: There is no cost to the OSH Program to implement this administrative regulation.

(b) On a continuing basis: There is no continuing cost to the OSH Program 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: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29

C.F.R. 1953.1, and 29 C.F.R. 1953.5

2. State compliance standards. The Kentucky OSH Program is mandated by Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5 to develop and enforce standards that are at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by Section 18 of the OSH Act, 29 C.F.R. 1902.3(c), 29 C.F.R. 1902.3(d), 29 C.F.R. 1953.1, and 29 C.F.R. 1953.5 to be at least as effective as the federal requirement. Accordingly, in order to maintain the state program as effective as the federal program, Kentucky must adopt the federal requirement or develop an equivalent standard.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Section 3 requires reporting information to the Kentucky Labor Cabinet in lieu of the United States Department of Labor.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements: Not applicable

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation affects any unit, part, or division of local government covered by KRS Chapter 338 and engaged in general industry activities.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.061, Public Law 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 1953.

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

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

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

(c) How much will it cost to administer this program for the first year? There 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 this amendment.

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

Revenues (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: This amendment does not impose any additional requirements or expenditures to the employer.

PUBLIC PROTECTION CABINET Kentucky Horse Racing Commission (Amendment)

810 KAR 8:020. Drug, medication, and substance classification schedule and withdrawal guidelines.

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, 230.320, 230.370

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) authorizes 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 the drug classification schedule in effect in Kentucky and the withdrawal guidelines for permitted drugs, medications, and substances that may be administered to race horses competing in Kentucky.

Section 1. The Kentucky Horse Racing Commission Uniform Drug, Medication, and Substance Classification Schedule, KHRC 8-020-1, shall establish the respective classifications of all substances contained therein. The Kentucky Horse Racing Commission Withdrawal Guidelines Thoroughbred; Standardbred; Quarter Horse, Appaloosa, and Arabian, KHRC 8-020-2, shall provide certain mandatory treatment requirements and guidance and advice on withdrawal intervals as contained therein.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Kentucky Horse Racing Commission Uniform Drug, Medication, and Substance Classification Schedule", KHRC 8-020-1, 11/2018; and

(b) "Kentucky Horse Racing Commission Withdrawal Guidelines Thoroughbred; Standardbred; Quarter Horse, Appaloosa, and Arabian", KHRC 8-020-2, 04/2020[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., or on the commission's Web site at <http://khrc.ky.gov>.

FRANKLIN S. KLING, Jr., Chairman

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: April 14, 2020

FILED WITH LRC: April 15, 2020 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held at 9:00 AM on June 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 June 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 sets a medication classification schedule, as well as recommended medication withdrawal guidelines. It also sets mandatory medication threshold levels associated with those withdrawal guidelines.

(b) The necessity of this administrative regulation: This

regulation is necessary to clearly establish requirements and prohibitions concerning the use of medications before and during race meetings.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) authorizes 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 the drug classification schedule in effect in Kentucky, as well as the withdrawal guidelines and maximum thresholds for permitted drugs, medications, and substances that may be administered to race horses competing 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 and before racing dates, 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 updates the regulation's incorporated material: "Kentucky Horse Racing Commission Withdrawal Guidelines Thoroughbred; Standard-bred; Quarter Horse, Appaloosa, and Arabian", KHRC 8-020-2 ("Withdrawal Guidelines and Available Threshold Levels"). If this amendment is approved, the Withdrawal Guidelines and Available Threshold Levels will be brought into agreement with the regulation changes regarding medication, which were approved at the December 9, 2019 Kentucky Horse Racing Commission meeting. Specifically, this regulation will match the proposed changes to 810 KAR 8:010. It will also come in line with research and guidelines established by the Racing Medication and Testing Consortium ("RMTCC") and the European Horserace Scientific Liaison Committee ("EHSLC").

(b) The necessity of the amendment to this administrative regulation: First, this amendment is necessary to conform to an emerging industry consensus about proper medication usage in horse racing. Additionally, the incorporated Withdrawal Guidelines and Available Threshold Levels currently do not match the proposed changes in 810 KAR 8:010. This incorporated document must be amended to ensure regulatory and enforcement consistency regarding medication safety violations.

(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 the Withdrawal Guidelines and Available Threshold Levels, which pertain 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.

(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? 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.

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General Division of Certificate of Need (Amendment)

900 KAR 5:020. State Health Plan for facilities and services.

RELATES TO: KRS 216B.010-216B.130

STATUTORY AUTHORITY: KRS 194A.030, 194A.050(1), 216B.010, 216B.015(28), 216B.040(2)(a)2.a.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)2.a requires the cabinet to promulgate an administrative regulation, updated annually, to establish the State Health Plan. The State Health Plan is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS Chapter 216B. This administrative regulation establishes the State Health Plan for facilities and services.

Section 1. The 2020-2022 [2018 Update to the 2017-2019] State Health Plan shall be used to:

(1) Review a certificate of need application pursuant to KRS 216B.040; and

(2) Determine whether a substantial change to a health service has occurred pursuant to KRS 216B.015(29)(a) and 216B.061(1)(d).

Section 2. Incorporation by Reference. (1) The "2020-2022 [2018 Update to the 2017-2019] State Health Plan", April 2020 [November 2018], is incorporated by reference. (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Inspector General, Division of Certificate of Need, 275 East Main Street, 5E-A, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

ADAM D. MATHER, Inspector General

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 2, 2020

FILED WITH LRC: April 3, 2020 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 22, 2020, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by June 15, 2020, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until June 30, 2020. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. In accordance with KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the

administrative regulation shall be made available upon request.

CONTACT PERSON: 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Stephanie Brammer-Barnes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates by reference the 2020-2022 State Health Plan.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the content of the authorizing statutes.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes, KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a., by establishing the State Health Plan's review criteria, used for determinations regarding the issuance and denial of certificates of need.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing the review criteria for certificate of need determinations.

(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: In response to suggestions and comments submitted to the Cabinet by interested groups, this amendment makes the following changes to the State Health Plan (SHP):

Updates the title and edition date of the SHP on page i of the Plan; Updates the title of the SHP on page iii of the Plan under the heading "Purpose";

Adds language to page iii to establish a temporary waiver of certain certificate of need requirements as authorized by an Executive Order during a State of Emergency declared as the result of a public health crisis;

Adds language to the review criteria on page 37 to clarify the prohibition against transferring public intermediate care facility for individuals with an intellectual disability (ICF/IID) beds to a private ICF/IID;

Revises the language of the review criteria on page 39 to clarify that the addition of a cardiac catheterization program at a hospital shall be based on the existing program's utilization, rather than a specific laboratory's utilization; and

Revises the language of the review criteria on pages 52 – 54 to enable a Kentucky-licensed acute care hospital to establish an ambulatory surgical center in the same county as the hospital.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to address annual updates to the State Health Plan as required by KRS 216.015(28).

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes because it incorporates by reference the 2020-2022 State Health Plan.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of the statutes by establishing review criteria for certificate of need determinations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects certificate of need applicants and affected persons as defined by KRS 216B.015(3). In calendar year 2018, eighty-three (83) certificate of need applications were filed and in calendar year 2019, eighty-four (84) applications were filed.

(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 that submit a certificate of need application are subject to the criteria set forth in the 2020-2022 State Health Plan.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities subject to certificate of need approval must demonstrate that their proposal is consistent with the State Health Plan pursuant to KRS 216B.040(2)(a)2.a.

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

(a) Initially: No additional costs will be incurred to implement this administrative regulation.

(b) On a continuing basis: No additional costs will be incurred to implement this administrative regulation on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds and agency monies are used to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? (explain why or why not) Yes, tiering is used as there are different certificate of need review criteria for each licensure category addressed in the State Health Plan.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation impacts the Cabinet for Health and Family Services, Office of Inspector General, and may impact any government owned or controlled health care facility.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.010, 216B.015(28), and 216B.040(2)(a)2.a.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for state or local government.

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

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred to implement this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred to implement this administrative regulation on a continuing basis.

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

Revenues (+/-): See response above.

Expenditures (+/-): This administrative regulation is anticipated

to have minimal fiscal impact to the cabinet.

Other Explanation:

CABINET FOR HEALTH AND FAMILY SERVICES Department for Community Based Services Division of Family Support (Amendment)

921 KAR 3:025. Technical requirements.

RELATES TO: KRS 205.2005, 7 C.F.R. 273.4, 273.5, 273.7, 273.11, 45 C.F.R. 261.2, 7 U.S.C. 2011, 2014, 2015(d)

STATUTORY AUTHORITY: KRS 194A.050(1), 7 C.F.R. 271.4, 272, 273

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. 7 C.F.R. 271.4 requires the cabinet to administer a Supplemental Nutrition Assistance Program (SNAP) within the state. 7 C.F.R. 272 and 273 establish requirements for the cabinet to participate in the SNAP. In addition, 7 U.S.C. 2014 establishes that an otherwise-qualified alien who is blind or receiving a disability benefit, who has lived in the United States for at least five (5) years, or who is under eighteen (18) years of age shall be eligible to participate in SNAP regardless of the date he entered the United States. This administrative regulation establishes the technical eligibility requirements used by the cabinet in the administration of SNAP.

Section 1. Definitions. (1) "Certification period" means a period of time during which a household shall be eligible to receive SNAP benefits.

(2) "Exempt" means excused by the department from participation in the Supplemental Nutrition Assistance Program Employment and Training Program (E&T).

(3) "Qualified alien" is defined by 7 C.F.R. 273.4.

(4) "Student" means a person who is between the ages of eighteen (18) and forty-nine (49), physically and mentally fit, and enrolled at least half-time in an institution of higher education.

Section 2. Technical Eligibility. In accordance with federal regulations promulgated by the Food and Nutrition Service (FNS), of the United States Department of Agriculture, the cabinet shall utilize national uniform requirements of technical eligibility for SNAP.

Section 3. Technical Eligibility Criteria. Technical eligibility requirements shall apply to all households and consist of:

(1) Residency. A household:

(a) Shall reside in the county in which the household receives benefits; and

(b) May apply for benefits in any county in accordance with 921 KAR 3:030, Section 3.

(2) Identity.

(a) The applicant's identity shall be verified; and

(b) If an authorized representative applies for the household, the applicant's and the authorized representative's identities shall be verified.

(3) Citizenship and alien status.

(a) An individual shall satisfy the citizenship and alien status requirement if the individual is a:

1. Citizen of the United States;

2. U.S. noncitizen national; or

3. Qualified alien who is lawfully residing in Kentucky.

(b) Except as provided in paragraph (c) of this subsection, an individual whose status is questionable shall be ineligible to participate until verified.

(c) An individual whose status is pending verification from a federal agency shall be eligible to participate for up to six (6) months from the date of the original request for verification.

(d) A single household member shall attest in writing to the citizenship or alien status requirements as established in 921 KAR 3:030 for each household member.

(4) Household size. If information is obtained by the Department for Community Based Services (DCBS) that household size differs from the household's stated size, the size of household shall be verified through readily available documentary evidence or through a collateral contact.

(5) Students. A student shall be ineligible to participate unless the student is:

(a)1. Engaged in paid employment for an average of twenty (20) hours per week; or

2. If self-employed, employed for an average of twenty (20) hours per week and receiving weekly earnings at least equal to the federal minimum wage multiplied by twenty (20) hours;

(b) Participating in a state or federally financed work study program during the regular school year;

(c) Responsible for the care of a dependent household member under the age of six (6);

(d) Responsible for the care of a dependent household member who has reached the age of six (6), but is under age twelve (12) and for whom the cabinet has determined that adequate child care is not available to enable the individual to attend class and to satisfy the work requirements of paragraphs (a) or ~~and~~ (b) of this subsection;

(e) Receiving benefits from the Kentucky Transitional Assistance Program (K-TAP);

(f) Assigned to or placed in an institution of higher learning through a program pursuant to:

1. 29 U.S.C. 2801;

2. 45 U.S.C. 261.2; or

3. 19 U.S.C. 2296;

(g) Enrolled in an institution of higher learning as a result of participation in a work incentive program pursuant to 42 U.S.C. 681;

(h) Enrolled in an institution of higher learning as a result of participation in E&T in accordance with 921 KAR 3:042; or

(i) A single parent with responsibility for the care of a dependent household member under age twelve (12).

(6) Social Security number (SSN).

(a) Households applying for or participating in SNAP shall comply with SSN requirements by providing the SSN of each household member or applying for a number prior to certification.

(b) Failure to comply without good cause shall be determined for each household member and shall result in an individual's disqualification from participation in SNAP until this requirement is met.

(7) Work registration. All household members, unless exempt, shall be required to comply with the work registration requirements established in Section 4 of this administrative regulation.

(8) Work requirement.

(a) Except for individuals who may be eligible for up to three (3) additional months in accordance with Section 4 of this administrative regulation, an individual shall not be eligible to participate in SNAP as a member of a household if the individual received SNAP for more than three (3) countable months during any three (3) year period, during which the individual did not:

1. Work eighty (80) hours or more per month;

2. Participate in and comply with the requirements of the E&T component pursuant to 7 U.S.C. 2015(d) for twenty (20) hours or more per week;

3. Participate in and comply with the requirements of a program pursuant to:

a. 29 U.S.C. 2801 to 2945; or

b. 19 U.S.C. 2296;

4. Participate in and comply with the requirements established in 921 KAR 3:042; or

5. Receive SNAP benefits pursuant to paragraph (b), (c), or (d) of this subsection.

(b) Paragraph (a) of this subsection shall not apply to an individual if the individual is:

1. Under eighteen (18) or fifty (50) years of age or older;

2. Physically or mentally unfit for employment as determined

by the cabinet;

3. A parent or other adult member of a household containing a dependent child under the age of eighteen (18);

4. Exempt from work registration pursuant to Section 4(4) of this administrative regulation; or

5. Pregnant.

(c) Paragraph (a) of this subsection shall not apply if, pursuant to an approved waiver by FNS, the county or area in which the individual resides:

1. Has an unemployment rate of over ten (10) percent; or

2. Does not have a sufficient number of jobs to provide employment.

(d) Subsequent eligibility.

1. An individual denied eligibility pursuant to paragraph (a) of this subsection shall regain eligibility to participate in SNAP if, during a thirty (30) day period, the individual meets one of the conditions of paragraph (a)1. through 4. of this subsection, or the individual was not meeting the work requirements in accordance with paragraph (b) of this subsection.

2. An individual who regains eligibility pursuant to subparagraph 1. of this paragraph shall remain eligible as long as the individual meets the requirements of subparagraph 1. of this paragraph.

(e) Loss of employment or training.

1. An individual who regains eligibility pursuant to paragraph (d)1. of this subsection and who no longer meets the requirements of paragraph (a)1. through 4. of this subsection shall remain eligible for a consecutive three (3) month period, beginning on the date the individual first notifies the cabinet that the individual no longer meets the requirements of paragraph (a)1. through 4. of this subsection.

2. An individual shall not receive benefits pursuant to subparagraph 1. of this paragraph for more than a single three (3) month period in any three (3) year period.

(f) If the individual does not meet all other technical and financial eligibility criteria pursuant to 7 U.S.C. 2011, nothing in this section shall make an individual eligible for SNAP benefits.

(9) Quality control. Refusal to cooperate in completing a quality control review shall result in termination of the participating household's benefits.

(10) Drug felons. An individual convicted under federal or state law of an offense classified as a felony by the law of the jurisdiction involved and that has an element of possession, use, or distribution of a controlled substance as defined in 21 U.S.C. 862(a), may remain eligible for SNAP benefits if the individual meets the requirements established in ~~[pursuant to]~~ KRS 205.2005.[]

~~(11) Child Support Arrears.~~

~~(a) In accordance with 7 C.F.R. 273.11(q) to disqualify a noncustodial parent for refusing to cooperate, a noncustodial parent of a child under the age of eighteen (18) shall not be eligible to participate in SNAP if the individual is delinquent in payment of court-ordered support as determined by the Department for Income Support, Child Support Enforcement, unless the individual:~~

~~1. Is enrolled in a drug treatment program;~~

~~2. Is participating in a state or federally funded employment training program;~~

~~3. Meets good cause for nonpayment. Good cause shall include temporary situations of thirty (30) days or less resulting from illness, job change, or pendency of unemployment benefits;~~

~~4. Is a member of a SNAP household containing a child under the age of six (6);~~

~~5. Is pregnant or three (3) months post-partum; or~~

~~6. Is:~~

~~a. Within three (3) months of incarceration for a period of at least six (6) months; and~~

~~b. Cooperating with the Department for Income Support, Child Support Enforcement.~~

~~(b) The disqualification of an individual in accordance with paragraph (a) of this subsection shall be in place as long as the individual remains delinquent as determined by Department for Income Support, Child Support Enforcement.~~

~~(c) The income, expenses, and resources of an individual~~

~~disqualified in accordance with paragraph (a) of this subsection shall be processed in accordance with 921 KAR 3:035, Section 5(4):]~~

Section 4. Work Registration. (1) Unless a household member is exempt from work requirements as established in subsection (4) of this section, a household member shall register for work:

- (a) At the time of initial application for SNAP; and
- (b) Every twelve (12) months following the initial application.

(2) Work registration shall be completed by the:

- (a) Member required to register; or
- (b) Person making application for the household.

(3) Unless otherwise exempt, a household member excluded from the SNAP case shall register for work during periods of disqualification. An excluded person shall be an:

- (a) Ineligible alien; or
- (b) Individual disqualified for:
 1. Refusing to provide or apply for a Social Security number; or
 2. An intentional program violation.

(4) An individual meeting the criteria of 7 C.F.R. 273.7(b)(1) shall be exempt from work registration requirements.

(5) A household member who loses exemption status due to a change in circumstances shall register for work in accordance with 7 C.F.R. 273.7(b)(2).

(6) After registering for work, a nonexempt household member shall:

- (a) Respond to a cabinet request for additional information regarding employment status or availability for work;
- (b) In accordance with 7 C.F.R. 273.7(a)(1)(vi), accept a bona fide offer of suitable employment pursuant to 7 C.F.R. 273.7(h), at a wage not lower than the state or federal minimum wage; or
- (c) In accordance with 7 C.F.R. 273.7(a)(1)(ii), participate in the E&T Program if assigned by the cabinet.

(7) A household member making a joint application for SSI and SNAP in accordance with 921 KAR 3:035 shall have work requirements waived in accordance with 7 C.F.R. 273.7(a)(6).

(8) The cabinet's E&T worker shall explain to the SNAP applicant the:

- (a) Work requirements for each nonexempt household member;
- (b) Rights and responsibilities of the work-registered household members; and
- (c) Consequences of failing to comply.

Section 5. Determining Good Cause. (1) A determination of good cause shall be undertaken if a:

(a) Work registrant has failed to comply with work registration requirements as established in Section 4 of this administrative regulation; or

(b) Household member has, pursuant to Section 7 of this administrative regulation, voluntarily:

1. Quit a job; or
2. Reduced the household member's work effort.

(2) In accordance with 7 C.F.R. 273.7(i)(2), good cause shall be granted for circumstances beyond the control of the individual, such as:

- (a) Illness of the individual;
 - (b) Illness of another household member requiring the presence of the individual;
 - (c) A household emergency;
 - (d) Unavailability of transportation; or
 - (e) Lack of adequate care for a child who is six (6) to twelve (12) years of age for whom the individual is responsible.
- (3) Good cause for leaving employment shall be granted if:
- (a) A circumstance established in subsection (2) of this section exists;
 - (b) The employment became unsuitable in accordance with 7 C.F.R. 273.7(h); or
 - (c) A circumstance established in 7 C.F.R. 273.7(i)(3) exists.

Section 6. Disqualification. (1) A participant shall be disqualified from the receipt of SNAP benefits if the participant:

- (a) Fails to comply with the work registration requirements; or

(b) Is determined to have voluntarily, without good cause, quit a job or reduced the work effort as established in Section 5 of this administrative regulation.

(2) An individual disqualified from participation in SNAP shall be ineligible to receive SNAP benefits until the latter of the:

- (a) Date the individual complies; or
- (b) Lapse of the following time periods:
 1. Two (2) months for the first violation;
 2. Four (4) months for the second violation; or
 3. Six (6) months for the third or a subsequent violation.
- (3) Ineligibility shall continue until the ineligible member:

(a) Becomes exempt from the work registration; or

- (b) 1. Serves the disqualification period established in subsection (2)(b) of this section; and
2. Complies with the work registration requirements.

(4) A disqualified household member who joins a new household shall:

- (a) Remain ineligible for the remainder of the disqualification period established in subsection (2)(b) of this section;
- (b) Have income and resources counted with the income and resources of the new household; and
- (c) Not be included in the household size in the determination of the SNAP allotment.

Section 7. Disqualification for Voluntary Quit or Reduction in Work Effort. (1) Within thirty (30) days prior to application for SNAP or any time after application, an individual shall not be eligible to participate in SNAP if the individual voluntarily, without good cause:

- (a) Quits a job:
 1. Of thirty (30) hours or more per week; and
 2. With weekly earnings at least equal to the federal minimum wage times thirty (30) hours; or
- (b) Reduces the individual's work effort [to]:
 1. To less [Less] than thirty (30) hours per week; and
 2. So that after [After] the reduction, weekly earnings are less than the federal minimum wage times thirty (30) hours.

(2) The cabinet shall impose a disqualification period established in Section 6(2)(b) of this administrative regulation on an individual meeting subsection (1)(a) or (1)(b) of this section.

Section 8. Curing Disqualification for Voluntary Quit or Reduction in Work Effort. (1) Eligibility and participation may be reestablished by:

- (a) Securing new employment with salary or hours comparable to the job quit;
- (b) Increasing the number of hours worked to the amount worked prior to the work effort reduction and disqualification; or
- (c) Serving the minimum period of disqualification imposed pursuant to Section 6(2)(b) of this administrative regulation.

(2) If the individual applies again and is determined to be eligible, an individual may reestablish participation in SNAP.

(3) If an individual becomes exempt from work registration, the disqualification period shall end, and the individual shall be eligible to apply to participate in SNAP.

Section 9. Hearing Process. If aggrieved by a cabinet action or inaction that affects participation, a SNAP participant may request a hearing in accordance with 921 KAR 3:070.

ERIC C. FRIEDLANDER, Acting Secretary

APPROVED BY AGENCY: April 8, 2020

FILED WITH LRC: April 15, 2020 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 22, 2020, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by June 15, 2020, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment

on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until June 30, 2020. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the technical requirements to receive Supplemental Nutrition Assistance Program (SNAP) benefits.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the technical requirements for eligibility for SNAP.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes through its establishment of technical requirements for SNAP eligibility.

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

This administrative regulation assists in the effective administration of the statutes by establishing technical requirements for SNAP.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This administrative regulation amendment eliminates the optional component of the technical eligibility for SNAP recipients to disqualify non-custodial parents delinquent in any payment due under a court order for the support of a child of the individual. This amendment eliminates the SNAP disqualification policy for non-custodial parents in arrears on ordered child support. 7 C.F.R. 273.11(q), Action on households with special circumstances, provides states with the option to utilize the SNAP disqualification of non-custodial parents who are in arrears with court-ordered child support. This is an option, not a federal mandate, and this amendment reflects the change in policy to not utilize this method of disqualification following the enactment of this amendment. This disqualification method was found to entail significant administrative burden on staff and punitive measures being placed on a vulnerable population that otherwise would qualify for assistance in purchasing food, with no demonstration or evidence of benefitting the children involved. There are incentives to paying child support embedded within SNAP policy.

(b) The necessity of the amendment to this administrative regulation: The administrative regulation is being amended to eliminate the disqualification from SNAP due to arrears of court-ordered child support. The amendment is necessary to reflect this change in policy.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes through its establishment of technical requirements for SNAP eligibility. This amendment reflects a policy change in opting out of a federal SNAP option established in 7 C.F.R. 273.11.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes governing SNAP by removing an optional punitive measure for SNAP recipients.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: SNAP recipients who are non-custodial parents and are determined by the Division of Income Support to

be delinquent in any payment due under a court order for the support of a child are affected. As of November 2019, eligibility system reports show that 1,014 individuals with child support arrearages could have potentially been affected by this disqualification method.

(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 individuals affected by this administrative regulation amendment have no actions to complete; the agency will remove the SNAP disqualification processing procedures.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individuals with child support arrearages will not be denied SNAP benefits solely for that reason.

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

(a) Initially: There will be a one-time agency cost for design changes to the web-based eligibility system used for SNAP. This is estimated to be less than \$200,000.

(b) On a continuing basis: The amendment requires no ongoing costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: SNAP benefits are 100% federally funded by the U.S. Department of Agriculture. Program administrative costs are funded 50% federal and 50% state and have been appropriated in the enacted budget.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There are no increases in fees or funding required with this amendment.

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

(9) TIERING: Is tiering applied? Tiering is not applied as this administrative regulatory amendment will be applied in a like manner on a statewide basis.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 7 C.F.R. 271.4, 272, 273

2. State compliance standards. KRS 194A.050(1), 205.2005

3. Minimum or uniform standards contained in the federal mandate. 7 C.F.R. 271.4, 272, 273

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will not impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Community Based Services will be impacted by the administrative regulation amendment.

2. Identify each state or federal statute or federal regulation

that requires or authorizes the action taken by the administrative regulation. 7 C.F.R. 273.11(q) gives the option of using this disqualification method, but it is only an option and not a mandate.

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.

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 amendment to the administrative regulation will not generate revenue.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment to the administrative regulation will not generate revenue in future years.

(b) How much will it cost to administer this program for the first year? This amendment does not affect the cost of administering the SNAP program. There will be a one-time agency cost for design changes to the web-based eligibility system used for SNAP. This is estimated to be less than \$200,000.

(c) How much will it cost to administer this program for subsequent years? This amendment does not affect the on-going cost of administering the SNAP program.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

NEW ADMINISTRATIVE REGULATIONS

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Board of Education
Department of Education
(Repealer)

**702 KAR 6:046. Repeal of 702 KAR 6:045. Personnel;
school nutrition employee qualifications.**

RELATES TO: KRS 156.031, 156.160

STATUTORY AUTHORITY: KRS 156.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the Board of Education to adopt administrative regulations deemed necessary or advisable for the protection of the physical welfare and safety of public school children. 702 KAR 6:045 established necessary qualifications and training for school nutrition employees. The need for a state training regime has been supplanted by the federal school nutrition employee training regime established in 7 C.F.R. 210.31. The federal rule makes the state training requirements duplicative, burdensome, and no longer necessary.

Section 1. 702 KAR 6:045, Personnel; school nutrition employee qualifications, is hereby repealed.

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 C. BROWN, Interim Commissioner

DAVID KAREM, Chairperson

APPROVED BY AGENCY: April 14, 2020

FILED WITH LRC: April 14, 2020 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 25, 2020, at 10:00 a.m. in the State Board Room, 5th Floor, 300 Sower Blvd, 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 June 30, 2020.

CONTACT PERSON: Todd G. 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

(1) Provide a brief summary of:

(a) What this administrative regulation does: The regulation repeals the current state training and education requirements for local school district nutrition employees. Repeal of the state regulation makes nutrition employees of districts participating in the National School Lunch or School Breakfast Programs solely subject to the federal program training requirements found in 7 C.F.R. 210.30. One hundred seventy (170) of the One hundred seventy-two (172) school districts participate in a federal nutrition program. Beechwood Independent Schools and Ft. Thomas Independent School District as well as the Model Laboratory School at Eastern Kentucky University do not participate in any federal nutrition program and are not subject to federal program requirements. The current combined state and federal regulatory training scheme is overly burdensome and unnecessary for participating entities. The state regulations were promulgated prior

to the existing federal training requirements. Repeal will allow one training scheme and remove some of the burden and confusion for federal nutrition program participants and their nutrition employees. For the few districts that do not participate, the Kentucky Department of Education does not enforce or police state training requirements. These districts are subject to local health department requirements and inspections.

(b) The necessity of this administrative regulation: The state education and training requirements contained in the existing regulation are different from the federal nutrition program requirements. Repeal will create one regulatory (federal) training scheme that is less burdensome and confusing. The federal requirements render the state regulation no longer necessary.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The existing regulation was promulgated pursuant to KRS 156.160, which requires the Kentucky Board of Education to adopt administrative regulations deemed necessary or advisable for the protection of the physical welfare and safety of public school children. Subsequent to the promulgation of the existing state regulation, the federal government promulgated training requirements for nutrition employees (7 C.F.R. 210.30) of providers participating in the National School Lunch Program and/or the School Breakfast Program. The federal training requirements make the state regulation unnecessary and ripe for repeal. Local school districts and other providers participating in the aforementioned federal programs are subject to the federal requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The existing regulation deals with the education and training requirements for school nutrition employees. School districts that participate in the National School Lunch Program and/or the School Breakfast Program are subject to federal program rules. The state requirements are antiquated and their removal, through repeal, will lessen confusion and red tape by providing for one consistent set of training and education requirements.

(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 regulation repeals the current state training and education requirements for local school district nutrition employees. Employees of program participants remain subject to the federal training requirements found in 7 C.F.R. 210.30. Repeal will create one regulatory (federal) training scheme that is less burdensome and confusing.

(b) The necessity of the amendment to this administrative regulation: The regulation repeals the current state training and education requirements for local school district nutrition employees. Employees of participants in the National School Lunch and/or School Breakfast Programs are subject to the federal training requirements found in 7 C.F.R. 210.30. Repeal will create one federal regulatory training scheme that is less burdensome and confusing.

(c) How the amendment conforms to the content of the authorizing statutes: The existing regulation was promulgated pursuant to KRS 156.160, which requires the Kentucky Board of Education to adopt administrative regulations deemed necessary or advisable for the protection of the physical welfare and safety of public school children. Subsequent to the promulgation of the existing state regulation, the federal government promulgated training requirements for nutrition employees (7 C.F.R. 210.30). The federal training requirements make the state regulation unnecessary and ripe for repeal. Participating local school districts and other entities are subject to the federal program requirements. Repeal will create one regulatory (federal) training scheme that is less burdensome and confusing.

(d) How the amendment will assist in the effective administration of the statutes: Repeal of the regulation will create one training scheme.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this

administrative regulation: Local school districts participating in the National School Lunch and/or School Breakfast Programs, local school district administrators, local school district nutrition employees, and any other entity participating in the aforementioned federal nutrition programs.

(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: School nutrition employees of districts participating in the National School Lunch or the School Breakfast Programs are subject to federal training requirements. The repeal of the existing state regulation removes an unnecessary layer of redundancy and outdated onerous training requirements. It may also result in a cost savings to local school districts as well as other participating entities because they will not have the cost of providing the state required training to employees.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional or new costs are anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be a single set of training and education requirements for participating school district nutrition employees.

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

(a) Initially: Repeal of the existing regulation will have no negative financial impact on districts.

(b) On a continuing basis: Repeal of the existing regulation will have no negative financial impact on districts.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Kentucky Department of Education General Funds

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: Repeal of the existing regulation will not impact any fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: There are no fees associated with the regulation.

(9) TIERING: Is tiering applied? Explain why tiering was or was not used. Tiering was not applied.

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? School districts.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.160 requires the Kentucky Board of Education to adopt administrative regulations deemed necessary or advisable for the protection of the physical welfare and safety of public school children. 7 C.F.R. 210.30 sets forth the training requirements for the employees of participants in the National School Lunch or School Breakfast Programs. The state regulation predates the federal program requirements.

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? Repeal of 702 KAR 6:045 may result in minimal cost savings to local school districts and other participants in the National School Lunch or the School Breakfast Programs. Participants will no longer have to provide the state required trainings to new employees hired throughout the school years. As such, districts and others will not incur the costs of said trainings.

(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? Repeal of 702 KAR 6:045 is not anticipated to generate any revenue for local school districts or other federal program participants.

(c) How much will it cost to administer this program for the first year? Repeal of 702 KAR 6:045 is not anticipated to increase costs for local school districts or federal other program participants.

(d) How much will it cost to administer this program for subsequent years? There is no anticipated negative fiscal impact from the repeal of 702 KAR 6:045.

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: The existing regulation was promulgated pursuant to KRS 156.160, which requires the Kentucky Board of Education to adopt administrative regulations deemed necessary or advisable for the protection of the physical welfare and safety of public school children. Subsequent to the promulgation of the existing state regulation, the federal government promulgated training requirements for nutrition employees (7 C.F.R. 210.30) of entities participating in the National School Lunch or School Breakfast Programs. The federal training requirements make the state regulation unnecessary and ripe for repeal. Participants are subject to the federal program requirements. Repeal will create one regulatory (federal) training scheme that is less burdensome and confusing.

Repeal of 702 KAR 6:045 may result in minimal cost savings to local school districts and other entities participating in the National School Lunch or School Breakfast Programs. Districts will no longer have to provide the state required trainings to new employees hired throughout the school year. As such, districts and other participants will not incur the costs of said trainings, however, it is impossible to estimate the savings for all Kentucky school districts and other participants.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET Kentucky Board of Education Department of Education (Repealer)

780 KAR 1:011. Repeal of 780 KAR 1:010. Kentucky State Plan for Career and Technical Education.

RELATES TO: KRS 156.802(5)(b), 156.814, 156.852, 20 U.S.C. 2342

STATUTORY AUTHORITY: KRS 156.802(5)(b), 20 U.S.C. 2342(a)(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.802(5)(b) designates the Kentucky Board of Education as the sole state agency for developing and approving state plans required by federal law as prerequisites to receiving federal funds for vocational technical or technology education. KRS 156.852 authorizes the agency to promulgate administrative regulations to implement federal vocational education programs. 20 U.S.C. 2342(a)(1) requires the state agency to prepare a state plan for career and technical education as a prerequisite to receiving federal funds under 20 U.S.C. Chapter 44. 780 KAR 1:010 establishes and incorporates by reference the Kentucky State Plan for Career and Technical Education (December 2008). 780 KAR 1:010 and the document incorporated by reference are no longer in alignment with federal law, which was reauthorized in 2018 under the Strengthening Career and Technical Education for the 21st Century Act (Perkins V), 20 U.S.C. Chapter 44. Kentucky's updated Perkins V state plan is subject to approval by the Kentucky Board of Education, pursuant to such authority granted under KRS 156.802.

Section 1. 780 KAR 1:010, Kentucky State Plan for Career and Technical Education, is hereby repealed.

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 C. BROWN, Interim Commissioner
DAVID KAREM, Chairperson

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on June 25, 2020, at 10:00 a.m. in the State Board Room, 5th Floor, 300 Sower Blvd, 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 June 30, 2020.

CONTACT PERSON: Todd G. 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 repeals 780 KAR 1:010, Kentucky State Plan for Career and Technical Education and its corresponding document incorporated by reference.

(b) The necessity of this administrative regulation: KRS 156.850 acknowledges the state's agreement to carry out and comply with all provisions of the Acts of Congress of the United States related to Career and Technical Education (CTE), which includes the federal Carl D. Perkins legislation, referred to as 20 U.S.C. 2302. KRS 156.852 authorizes the Kentucky Board of Education (KBE) to carry out all purposes and provisions of such federal acts thereto, including the authority to promulgate administrative regulations and administer such programs.

(c) How this administrative regulation 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 of the state in relation to the management, control and operation of state-operated secondary area vocational education and technology centers. 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. Additionally, KRS 156.850 acknowledges the state's agreement to carry out and comply with all provisions of the Acts of Congress of the United States related to Career and Technical Education (CTE), which includes the federal Carl D. Perkins legislation, referred to as 20 U.S.C. 2302.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Repeal of 780 KAR 1:010 is necessary to ensure proper alignment to federal law.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: N/A

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

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

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

(3) List the type and number of individuals, businesses,

organizations, or state and local governments affected by this administrative regulation: Those affected by this regulation include: State-operated Area Technology Centers (ATCs) and local 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 repeal of 780 KAR 1:010 ensures proper and accurate implementation by schools and districts of the federal "Strengthening Career and Technical Education for the 21st Century" (Perkins V) Act (2018).

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The repeal of this administrative regulation does not require action by the regulated entities. Such entities who are annual recipients of Carl D. Perkins federal grant funds shall remain accountable for the provisions of this federal law and comply with the newly-revised Kentucky Perkins V State Plan, which shall no longer be incorporated by reference into an administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The repeal of 780 KAR 1:010 has no fiscal impact on state or federal funds.

(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 ATCs 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: N/A

(b) On a continuing basis: N/A

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: N/A

(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), local school districts and the Kentucky Department of Education (KDE).

(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. KRS 156.850 acknowledges the state's agreement to carry out and comply with all provisions of the Acts of Congress of the United States related to Career and Technical Education (CTE), which includes the federal Carl D. Perkins legislation, referred to as 20 U.S.C. 2302. KRS 156.852 authorizes the Kentucky Board of Education (KBE) to carry out all purposes and provisions of such federal acts thereto, including the authority to promulgate administrative regulations and administer such programs.

(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? N/A

(d) How much will it cost to administer this program for subsequent years? N/A

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

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: N/A

**PUBLIC PROTECTION CABINET
Kentucky Horse Racing Commission
(New Administrative Regulation)**

810 KAR 2:090. Temporary unsuitability of licensed premises.

RELATES TO: KRS Chapter 230

STATUTORY AUTHORITY: KRS 230.215, 230.225(5), 230.260, 230.361(1), 230.370

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) grants the Kentucky Horse Racing Commission the authority to regulate conditions under which thoroughbred racing shall be conducted in Kentucky. KRS 230.260(8) grants the commission the authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state. This administrative regulation addresses problems arising from a premises being rendered temporarily unsuitable for its intended use.

Section 1. If any Kentucky racing association's licensed premises is temporarily rendered unsuitable for its intended use, an association may, with commission approval, occupy an alternate facility during the period that its licensed premises is temporarily unsuitable, provided that the alternate facility meets the following conditions:

(1) the alternate facility must be within a sixty (60) mile radius of such racing association's track but not contiguous to track premises; and

(2) the alternate facility must not be within a sixty (60) mile radius of another racing association's licensed premises where live racing is conducted and must not be within a forty (40) mile radius of a simulcast facility, unless any affected track or simulcast facility agrees in writing to permit a noncontiguous facility within the protected geographic area.

MARC A. GUILFOIL, Executive Director

KERRY B. HARVEY, Secretary

APPROVED BY AGENCY: March 19, 2020

FILED WITH LRC: March 20, 2020 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held at 9:00 AM on June 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 June 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 new administrative regulation expands the commission's authority to allow each licensed Kentucky racing association to establish one (1) off-site facility, with commission approval, if its licensed premises are temporarily unsuitable for its intended use.

(b) The necessity of this administrative regulation: This new administrative regulation is necessary to avoid serious economic harm to association employees and to prevent the loss of significant tax revenue to the Commonwealth when Turfway Park, LLC closes from April 2020 through Summer 2021. This includes considerable revenue anticipated for the Derby and the Breeder's Cup.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) grants the Kentucky Horse Racing Commission the authority to regulate conditions under which thoroughbred racing shall be conducted in Kentucky. KRS 230.260(8) grants the commission the authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state. KRS 230.370 allows the commission to promulgate regulations to enforce the provisions of KRS Chapter 230. KRS 230.361 requires the commission to promulgate regulations to govern and regulate pari-mutuel wagering in Kentucky.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This new administrative regulation allows wagering to be conducted in accordance with KRS 230.361, even in the event that a licensed premises becomes temporarily unsuitable for its intended 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 not an amendment to an existing regulation.

(b) The necessity of the amendment to this administrative regulation: This is not an amendment to an existing regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment to an existing regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is not an amendment to an existing regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Five (5) Thoroughbred racing associations (Turfway Park, LLC ("Turfway Park"); Keeneland Association, Inc. ("Keeneland"); Churchill Downs Racetrack, LLC ("Churchill Downs"); Ellis Entertainment, LLC d/b/a Ellis Park ("Ellis Park"); and Kentucky Downs, LLC ("Kentucky Downs")) will be affected, as will all of their employees. This new administrative regulation will also impact two (2) Standardbred racing associations (WKY Development, LLC d/b/a Oak Grove Racing and Gaming, LLC ("Oak Grove Racing") and Lexington Trots Breeders Association, LLC d/b/a Red Mile ("Red Mile")) and their employees. Seven (7) state and local governments will be affected, as follows: the Commonwealth of Kentucky, Florence (Turfway Park), Lexington (Keeneland and Red Mile), Louisville (Churchill Downs), Henderson (Ellis Park), Oak Grove (Oak Grove Racing),

and Franklin (Kentucky Downs).

(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: No additional action is required. However, if a licensed Kentucky racing association wishes to utilize an off-site facility due to a temporary inability to use its licensed premises, the association may petition the commission for approval to do so.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: This new administrative regulation is not anticipated to generate any new or additional costs.

(c) As a result of compliance, what benefits will accrue to the entities: Five (5) Thoroughbred racing associations (Turfway Park, Keeneland, Churchill Downs, Ellis Park, and Kentucky Downs) and two (2) Standardbred racing associations (Oak Grove Racing and Red Mile) will be more protected against the deleterious economic impact of temporary unsuitability of their licensed premises. All of the employees of each racing association will also be affected, as their jobs will be more secure. The tax revenue streams of the state and local governments will be more secure as a result of this regulation.

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

(a) Initially: This new administrative regulation is not anticipated to generate any new or additional costs.

(b) On a continuing basis: This new administrative regulation is not anticipated to generate any new or additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This new administrative regulation is not anticipated to generate any new or additional costs.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: This new administrative regulation is not anticipated to generate any new or additional costs.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This new administrative regulation is not anticipated to generate any new or additional costs.

(9) TIERING: Is tiering applied? No. This new administrative regulation treats all impacted entities the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Seven (7) state and local governments will be affected, as follows: the Commonwealth of Kentucky, Florence (Turfway), Lexington (Keeneland and Red Mile), Louisville (Churchill Downs), Henderson (Ellis Park), Oak Grove (Oak Grove Race Track) and Franklin (Kentucky Downs).

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 230.215, 230.260, 230.225, 230.261, 230.361, and 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 mitigate the loss of significant of taxable revenue due to the anticipated temporary closure at Turfway Park. Additional funds may also be saved if other licensed Kentucky racing associations' licensed premises are temporarily

unsuitable for the intended uses during the pendency of this 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? This new administrative regulation is anticipated to mitigate the loss of significant taxable revenue in the event that an association's licensed premises becomes temporarily unsuitable for its intended use.

(c) How much will it cost to administer this program for the first year? This new administrative regulation is not anticipated to generate any new or additional costs.

(d) How much will it cost to administer this program for subsequent years? This new administrative regulation is not anticipated to generate any new or additional costs.

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

Revenues (+/-): This new administrative regulation will mitigate the loss of significant taxable revenue in the event that an association's licensed premises becomes temporarily unsuitable for its intended use.

Expenditures (+/-): This new administrative regulation is not anticipated to generate any new or additional costs.

Other Explanation: NA

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(New Administrative Regulation)

907 KAR 3:300. Enhanced and suspended Medicaid services and requirements if there is a declared national or state emergency.

RELATES TO: KRS 194A.060, 205.510(15), 205.559, 205.560, KRS Chapter 39A

STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.559(2), (7), 205.560

NECESSITY, FUNCTION, AND CONFORMITY: In accordance with KRS 194A.030(2), 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 any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the requirements for enhancing or suspending certain Medicaid services and requirements if there is a declared national or state emergency.

Section 1. General Provisions Relating to a Declared Emergency. (1) In accordance with all applicable federal law, the department shall respond to a declared national or state emergency that is related to or rationally related to healthcare or public health by temporarily enhancing, expanding, or suspending Medicaid services and requirements as necessary to respond to the declared emergency.

(2) The department shall provide information about specific expanded services via the use of the department's Web site, electronic provider letters, or other reliable methods of communication with members, providers, and stakeholders.

(3) The department may target any activity undertaken pursuant to this administrative regulation to a subpopulation based on criteria that include:

- (a) Geography;
- (b) Age;
- (c) Condition; or
- (d) Disease.

Section 2. Enhanced or Expanded Medicaid Benefits. Medicaid services and requirements that may be enhanced or expanded include:

- (1) Any appropriate health service related to or rationally related to the declared emergency;
- (2) Telehealth services, which may include:
 - (a) Those services that are otherwise designated as face-to-face only throughout Title 907 KAR;
 - (b) The use of equipment, such as a telephone, that would not customarily be allowable for a telehealth service pursuant to Title 907 KAR; or
 - (c) Expanded use of asynchronous telehealth or store-and-forward telehealth, including:
 1. Remote patient monitoring, as appropriate; or
 2. Any other telehealth service for which an evidence base exists to justify the safety and efficacy of the service when provided as asynchronous telehealth;
 - (3) The introduction or expansion of any appropriate telecommunication or electronically mediated health service as allowable pursuant to federal law; or
 - (4) "Telehealth" or "telehealth service" or "telehealth consultation" as it is defined throughout 907 Title KAR, which shall be equivalent to an in-person service or a service requiring physical presence.

Section 3. Eligibility. Pursuant to Section 1 of this administrative regulation, the department may:

- (1) Temporarily expand eligibility to include individuals with higher income than currently allowed pursuant to 907 KAR 20:100;
- (2) Temporarily suspend the requirement that a beneficiary eligible pursuant to 42 U.S.C. 1396a(a)(10)(A)(ii)(V) be institutionalized for at least thirty (30) days;
- (3) Implement a simplified electronic or paper application for use by designated providers; or
- (4) Extend the availability of presumptive eligibility to additional groups than allowed pursuant to 907 KAR 20:050.

Section 4. Temporary Enhancement of Rate or Rate Methodology. The department may temporarily enhance rates or rate methodology relating to a declared national or state emergency.

Section 5. Provider Enrollment. (1) In response to a declared national or state emergency, the department may:

- (a) Simplify any existing provider enrollment process to meet an existing or anticipated demand for health services; or
 - (b) Reenroll retired or previously enrolled providers.
- (2) Any enrollment or reenrollment process utilized pursuant to subsection (1) of this section shall exercise discretion when enrolling or not enrolling providers with a history of disenrollment for good cause or other negative criminal or registry record.

Section 6. Women, Infants, and Children (WIC) Program Services. (1) The department or any other agency of the Cabinet for Health and Family Services shall facilitate the provision of all appropriate WIC services via telehealth or as a telecommunications or other electronically mediated health service to the full extent allowable by federal or state law.

(2) For the purposes of all WIC services administered by the Cabinet for Health and Family Services, any requirement that a service be "face-to-face", "in-person", or "physically present" shall include a synchronous telehealth or telecommunication or other electronically mediated health service.

Section 7. Federal Financial Participation. A policy established in this administrative regulation may be null and void if the Centers for Medicare and Medicaid Services:

- (1) Denies federal financial participation for the policy; or
- (2) Disapproves the policy.

Section 8. If any policy stated in another administrative regulation within Title 907 of the Kentucky Administrative Regulations contradicts a policy stated in this administrative regulation, the policy stated in this administrative regulation shall supersede the policy stated elsewhere within Title 907.

LISA D. LEE, Commissioner

ERIC FRIEDLANDER, Acting Secretary

APPROVED BY AGENCY: March 19, 2020

FILED WITH LRC: March 19, 2020

PUBLIC HEARING AND PUBLIC COMMENT PERIOD:

A public hearing on this administrative regulation shall, if requested, be held on June 22, 2020, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by June 15, 2020, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until June 30, 2020. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Jonathan Scott and Donna Little

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes Department for Medicaid Services (DMS) policies relating to additional Medicaid services, benefits, enrollment, and eligibility that may be available during a declared emergency. This administrative regulation also allows for the expansion of telehealth or telecommunications services within the Women, Infants, and Children program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish and enhance DMS policies relating to activities that may be undertaken in response to a declared emergency.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by implementing and clarifying policies that may be undertaken in response to a declared emergency.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: In response to a declared emergency, DMS may need to undertake various actions. This administrative regulation will establish a process and clarifications relating to activities that DMS may immediately undertake to address a declared emergency.

(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 government affected by this administrative regulation: The Department for Medicaid Services, managed care organizations (MCOs), any enrolled and credentialed provider, and Medicaid members who may be impacted by a declared emergency. Similarly, the WIC program administered by the Department for Public Health is included to allow for telepresence applications.

(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: Providers and recipients and potential recipients will need to comply with departmental directions relating to any declared emergency.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). DMS does not anticipate initial costs as this administration authorizes future actions. However, depending on the department's response to a declared emergency, providers, MCOs, or DMS could experience some costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Entities will be able to access or provide additional services and benefits in response to a declared emergency.

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

(a) Initially: The department anticipates that it will incur no additional expenses in the implementation of this administrative regulation initially, as this administrative regulation simply authorizes future actions necessary if there is a declared emergency. If there is a declared emergency, there could be costs associated with the Department's response to the declared emergency.

(b) On a continuing basis: The department anticipates that it will incur no additional expenses in implementing this administrative regulation on a continuing basis, as this administrative regulation simply authorizes future actions necessary if there is a declared emergency. If there is a declared emergency, there could be costs associated with the Department's response to the declared emergency.

(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 of general fund appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding will be necessary to implement this administrative regulation.

(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 in the context that enhanced or expanded eligibility or services may be located within a specific area or limited to a specific disease or population.

for state or local government.

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

(c) How much will it cost to administer this program for the first year? The department anticipates that it will incur no additional expenses in the implementation of this administrative regulation initially, as this administrative regulation simply authorizes future actions necessary if there is a declared emergency. If there is a declared emergency, there could be costs associated with the Department's response to the declared emergency.

(d) How much will it cost to administer this program for subsequent years? The department anticipates that it will incur no additional expenses in implementing this administrative regulation on a continuing basis, as this administrative regulation simply authorizes future actions necessary if there is a declared emergency. If there is a declared emergency, there could be costs associated with the Department's response to the declared emergency.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services (DMS) and the Department for Public Health will be impacted by the 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 194A.010, 194A.030(2), and 205.520(3)

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation is not expected to generate revenue

VOLUME 46, NUMBER 11– MAY 1, 2020

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of April 2020

NONE

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.

NONE

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

K - 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

K - 16

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

K - 31

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

K - 46

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

K - 48

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					
<p>The administrative regulations listed under VOLUME 45 are those administrative regulations that were originally published in Volume year's) issues of the <i>Administrative Register of Kentucky</i> but had not yet gone into effect when <i>Register</i> year 46 began.</p>					
SYMBOL KEY:			016 KAR 003:090	2250	
*	Statement of Consideration not filed by deadline		As Amended	3387	7-5-2019
**	Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))		016 KAR 8:030		
***	Withdrawn before being printed in Register		Amended	3240	See 46 Ky.R.
IJC	Interim Joint Committee		031 KAR 004:120		
(r)	Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.		Amended	2152	
			101 KAR 002:034		
			Amended	2955	
			As Amended	3390	7-5-2019
			101 KAR 002:180		
			Amended	3443	See 46 Ky.R.
EMERGENCY ADMINISTRATIVE REGULATIONS			101 KAR 002:190	3592	See 46 Ky.R.
(Notes: Emergency regulations filed on or before 7/15/2019 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.)			101 KAR 003:045		
Emergency regulations filed after 7/15/2019 expire 270 days from the date filed; or 270 days from the date filed plus number of days of requested extension, or upon replacement or repeal, whichever occurs first.)			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	See 46 Ky.R.
			103 KAR 015:060		
			Repealed	3594	9-6-2019
009 KAR 001:010E	3382	5-15-2019	103 KAR 015:061(r)	3594	9-6-2019
Replaced	405	9-6-2019	103 KAR 017:120		
009 KAR 001:040E	3383	5-15-2019	Repealed	3595	9-6-2019
Replaced	405	9-6-2019	103 KAR 017:121(r)	3595	9-6-2019
200 KAR 003:020E	2304	1-4-2019	200 KAR 003:020	2528	
Replaced	28	8-2-2019	Am Comments	3190	See 46 Ky.R.
500 KAR 015:010E	3011	4-5-2019	200 KAR 014:200	3596	11-1-2019
Expired		10-2-2019	201 KAR 014:201(r)	3596	11-1-2019
601 KAR 002:030E	2310	1-8-2019	201 KAR 001:290	2802	
Withdrawn		8-7-2019	As Amended	3399	7-5-2019
803 KAR 025:270E	2316	12-27-2018	201 KAR 001:300		
Withdrawn		6-21-2019	Amended	2964	
907 KAR 001:604E	3015	3-15-2019	As Amended	3401	7-5-2019
Replaced	937	10-4-2019	201 KAR 001:310	2804	
921 KAR 002:015E	2322	12-28-2018	As Amended	3403	7-5-2019
Replaced	3232	7-5-2019	201 KAR 002:010		
921 KAR 002:055E	1501	11-1-2018	Amended	3447	See 46 Ky.R.
Replaced	2925	5-31-2019	201 KAR 002:090		
922 KAR 001:310E	3019	4-1-2019	Amended	3449	See 46 Ky.R.
Replaced	521	9-9-2019	201 KAR 002:095		
922 KAR 001:350E	3033	4-1-2019	Amended	3450	
Replaced	535	9-9-2019	201 KAR 002:100		
922 KAR 001:495E	3042	4-1-2019	Amended	3451	See 46 Ky.R.
Replaced	944	9-9-2019	201 KAR 002:116		
			Amended	3453	See 46 Ky.R.
ORDINARY ADMINISTRATIVE REGULATIONS:			201 KAR 002:165		
009 KAR 001:010			Amended	3454	11-1-2019
Amended	3439	See 46 Ky.R.	201 KAR 002:225		
009 KAR 001:040			Amended	3456	See 46 Ky.R.
Amended	3440	See 46 Ky.R.	201 KAR 002:240		
011 KAR 005:145			Amended	3458	See 46 Ky.R.
Amended	3239	8-2-2019	201 KAR 002:270		
016 KAR 003:010			Amended	3460	See 46 Ky.R.
Repealed	3387	7-5-2019	201 KAR 002:310		
016 KAR 003:011(r)	2801		Amended	3461	
As Amended	3387	7-5-2019	201 KAR 002:340		
016 KAR 003:020			Amended	3462	See 46 Ky.R.
Repealed	3387	7-5-2019	201 KAR 006:030		
016 KAR 003:030			Amended	3464	See 46 Ky.R.
Repealed	3387	7-5-2019	201 KAR 006:040		
016 KAR 003:040			Amended	3466	See 46 Ky.R.
Repealed	3387	7-5-2019	201 KAR 008:581		
016 KAR 003:050			Amended	3244	9-1

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
Amended	3246	See 46 Ky.R.	Amended	3504	See 46 Ky.R.
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	See 46 Ky.R.	Amended	3507	8-22-2019
201 KAR 013:060			302 KAR 016:101		
Amended	3253	See 46 Ky.R.	Amended	3509	8-22-2019
201 KAR 020:370			302 KAR 016:111		
Amended	3469	See 46 Ky.R.	Amended	3510	See 46 Ky.R.
201 KAR 020:506			302 KAR 016:121		
Amended	3471	8-19-2019	Amended	3511	See 46 Ky.R.
201 KAR 022:135			302 KAR 016:131		
Amended	3258	7-19-2019	Amended	3513	See 46 Ky.R.
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	See 46 Ky.R.
201 KAR 025:090			401 KAR 5:010		
Amended	3472	See 46 Ky.R.	Amended	3514	11-1-2019
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	See 46 Ky.R.	Amended	3519	11-1-2019
201 KAR 041:040			401 KAR 011:001		
Amended	3478	See 46 Ky.R.	Amended	3522	See 46 Ky.R.
201 KAR 041:060			401 KAR 011:030		
Amended	3480	9-6-2019	Amended	3524	See 46 Ky.R.
201 KAR 041:065			401 KAR 011:040		
Amended	3482	See 46 Ky.R.	Amended	3527	See 46 Ky.R.
201 KAR 041:070			401 KAR 011:050		
Amended	3483	See 46 Ky.R.	Amended	3531	See 46 Ky.R.
201 KAR 041:080			401 KAR 011:060		
Amended	3486	See 46 Ky.R.	Amended	3535	See 46 Ky.R.
201 KAR 046:010			405 KAR 010:001		
Amended	2967		Amended	2979	See 46 Ky.R.
As Amended	3403	7-5-2019	405 KAR 010:015		
201 KAR 046:020			Amended	2982	See 46 Ky.R.
Amended	2970	7-5-2019	500 KAR 009:011(r)	3354	
201 KAR 046:030			Withdrawn		3-4-2020
Amended	2971	7-5-2019	500 KAR 0015:010	3355	
201 KAR 046:040			601 KAR 002:030		
Amended	2972	7-5-2019	Withdrawn		8-7-2019
201 KAR 046:045			704 KAR 003:303		
Amended	2975	7-5-2019	Amended	2987	
201 KAR 046:081			As Amended	3410	7-5-2019
Amended	2976	7-5-2019	704 KAR 008:060	2810	
202 KAR 003:010			Am Comments	3193	
Amended	3259	9-6-2019	As Amended	3410	7-5-2019
202 KAR 007:520			803 KAR 002:180		
Amended	2760		Amended	2989	6-7-2019
As Amended	3405	7-5-2019	803 KAR 025:270	2534	
202 KAR 007:560			Am Comments	2928	See 46 Ky.R.
Amended	3489	See 46 Ky.R.	804 KAR 007:020		
202 KAR 007:575	2805		Amended	3262	See 46 Ky.R.
As Amended	3409	7-5-2019	804 KAR 007:030		
301 KAR 002:030			Repealed	3360	8-2-2019
Amended	3260	See 46 Ky.R.	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	See 46 Ky.R.
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	See 46 Ky.R.
Amended	3502	See 46 Ky.R.	806 KAR 009:030		
302 KAR 016:020			Amended	3539	See 46 Ky.R.
Amended	3503	See 46 Ky.R.	806 KAR 009:060		
302 KAR 016:040			Repealed	3361	1-3-2020

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
806 KAR 009:061(r)	3361	1-3-2020	902 KAR 045:075		
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	See 46 Ky.R.	902 KAR 045:120		
806 KAR 009:190			Amended	3571	8-19-2019
Amended	3542	See 46 Ky.R.	902 KAR 050:100		
806 KAR 009:200			Repealed	3364	7-19-2019
Amended	3543	See 46 Ky.R.	902 KAR 050:101(r)	3364	7-19-2019
806 KAR 009:310			902 KAR 050:110		
Amended	3269	See 46 Ky.R.	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	3600	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	See 46 Ky.R.	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	See 46 Ky.R.	908 KAR 001:341(r)	2538	8-19-2019
806 KAR 047:020			908 KAR 001:370		
Repealed	2997	9-6-2019	Amended	2500	
806 KAR 047:021(r)	2997	9-6-2019	Am Comments	3195	See 46 Ky.R.
806 KAR 047:030			908 KAR 001:372	2539	
Repealed	2997	9-6-2019	Am Comments	3215	See 46 Ky.R.
807 KAR 005:056			908 KAR 001:374	2546	
Amended	3272	See 46 Ky.R.	Am Comments	3222	See 46 Ky.R.
808 KAR 001:180	2266		910 KAR 002:020		
815 KAR 007:120			Amended	3322	See 46 Ky.R.
Amended	3274	8-2-2019	910 KAR 002:040		
815 KAR 007:125			Amended	3573	See 46 Ky.R.
Amended	3277	8-2-2019	911 KAR 001:010	2814	
831 KAR 001:010			Am Comments	3425	See 46 Ky.R.
Amended	3546	See 46 Ky.R.	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	See 46 Ky.R.	911 KAR 001:070		
902 KAR 002:070			Repealed	2828	7-19-2019
Amended	3279	See 46 Ky.R.	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	See 46 Ky.R.
902 KAR 007:010			921 KAR 002:015		
Amended	3560	See 46 Ky.R.	Amended	2520	
902 KAR 009:010			Am Comments	3232	7-5-2019
Amended	3564	See 46 Ky.R.	922 KAR 001:310		
902 KAR 015:010			Amended	3326	See 46 Ky.R.
Amended	3281	See 46 Ky.R.	922 KAR 001:350		
902 KAR 020:036			Amended	3340	See 46 Ky.R.
Amended	3286	See 46 Ky.R.	922 KAR 001:470		
902 KAR 020:111			Amended	3587	See 46 Ky.R.
Amended	2781		922 KAR 001:495		
Am Comments	3416	7-19-2019	Amended	3350	See 46 Ky.R.
902 KAR 045:065			922 KAR 001:510		
Amended	3294	See 46 Ky.R.	Amended	3589	See 46 Ky.R.
902 KAR 045:070					
Amended	3304	See 46 Ky.R.			

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	43 Ky.R. Page No.	Effective Date	Regulation Number	43 Ky.R. Page No.	Effective Date
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SYMBOL KEY:

* Statement of Consideration not filed by deadline
 ** Withdrawn, deferred more than twelve mont mhs (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.

REGISTER YEAR 46

EMERGENCY ADMINISTRATIVE REGULATIONS

(Notes: Emergency regulations filed on or before 7/15/2019 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.)

Emergency regulations filed after 7/15/2019 expire 270 days from the date filed; or 270 days from the date filed plus number of days of requested extension, or upon replacement or repeal, whichever occurs first.)

030 KAR 008:005E	2206	1-3-2020
101 KAR 002:120E	1771	10-22-2019
101 KAR 002:210E	1068	09-13-2019
105 KAR 001:149E	1775	11-15-2019
105 KAR 001:390E	6	6-12-2019
Replaced	883	10-4-2019
201 KAR 020:225E	2769	3-31-2020
201 KAR 020:470E	2771	3-31-2020
201 KAR 032:110E	2776	3-30-2020
300 KAR 001:010E	1070	8-23-2019
301 KAR 001:152E	9	5-24-2019
Replaced	150	9-10-2019
401 KAR 006:001E	311	7-11-2019
Replaced	1465	1-3-2020
401 KAR 006:310E	313	7-11-2019
Replaced	1468	1-3-2020
401 KAR 006:320E	323	7-11-2019
Replaced	1477	1-3-2020
401 KAR 006:350E	327	7-11-2019
Replaced	1481	1-3-2020
501 KAR 001:040E	1780	10-21-2019
501 KAR 001:071E	1786	10-21-2019
601 KAR 002:030E	849	8-7-2019
803 KAR 025:271E	333	6-21-2019
810 KAR 002:090E	2779	3-20-2020
895 KAR 001:002E	2211	12-27-2019
900 KAR 006:075E	2213	1-2-2020
902 KAR 020:430E	336	6-28-2019
Replaced	1389	12-9-2019
902 KAR 030:010E	2780	3-23-2020
902 KAR 045:090E	12	6-14-2019
Replaced	264	9-9-2019
907 KAR 001:604E	2593	3-13-2020
907 KAR 003:170E	18	6-14-2019
Replaced	1423	12-6-2019
907 KAR 003:300	2782	3-19-2020
907 KAR 010:830E	347	6-19-2019
Replaced	1154	11-1-2019
907 KAR 010:840E	1787	10-30-2019
907 KAR 015:005E	356	6-28-2019
Replaced	1875	12-9-2019
907 KAR 015:010E	359	6-28-2019
Replaced	1878	12-9-2019
907 KAR 015:015E	371	6-28-2019
Replaced	1888	12-9-2019
907 KAR 015:020E	374	6-28-2019
Replaced	1889	12-9-2019
907 KAR 015:022E	385	6-28-2019
Replaced	1890	12-9-2019
907 KAR 015:025E	396	6-28-2019
Replaced	1909	12-9-2019

921 KAR 002:015E	2216	12-27-2019
921 KAR 003:025E	2784	4-15-2020
922 KAR 001:320E	400	6-28-2019
Replaced	1573	12-9-2019
922 KAR 001:330E	855	8-14-2019
Replaced	2093	2-27-2020

ORDINARY ADMINISTRATIVE REGULATIONS

009 KAR 001:010		See 45 Ky.R.
As Amended	405	9-6-2019
009 KAR 001:040		See 45 Ky.R.
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	
As Amended	2597	
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	
As Amended	2598	
016 KAR 009:071(r)	2160	
030 KAR 008:005	2349	
032 KAR 001:060		
Repealed	281	10-4-2019
032 KAR 001:061(r)	281	10-4-2019
045 KAR 001:050		
Amended	998	
As Amended	1799	3-3-2020
101 KAR 001:325	2290	
101 KAR 002:102		
Amended	558	
As Amended	1080	11-1-2019
101 KAR 002:120		
Amended	1915	
As Amended	2686	
101 KAR 002:180		See 45 Ky.R.
As Amended	407	9-6-2019
101 KAR 002:190		See 45 Ky.R.
As Amended	409	9-6-2019
101 KAR 002:210		
Amended	1276	
101 KAR 002:230		
Amended	44	10-4-2019
101 KAR 003:015		
Amended	564	11-1-2019
102 KAR 001:032	778	12-6-2019
As Amended	1410	
102 KAR 001:035		
Amended	1580	
As Amended	2222	
102 KAR 001:036		
Amended	1581	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	46 Ky.R. Page No.	Effective Date	Regulation Number	46 Ky.R. Page No.	Effective Date
102 KAR 001:037			Amended	1278	
Amended	1583		As Amended	2023	
As Amended	2222		103 KAR 025:131		
102 KAR 001:100			Amended	570	
Amended	1584		As Amended	1084	11-1-2019
As Amended	2223		103 KAR 026:010		
102 KAR 001:125			Amended	67	10-4-2019
Amended	1585		103 KAR 026:030		
As Amended	2223		Amended	1280	
As Amended	2389		As Amended	2024	
102 KAR 001:135			103 KAR 026:050		
Amended	1586		Amended	1281	
As Amended	2223		As Amended	2024	
103 KAR 001:010			103 KAR 026:070		
Amended	46		Amended	571	
As Amended	862	10-4-2019	As Amended	1085	11-1-2019
103 KAR 001:060			103 KAR 026:080		
Amended	48		Amended	1919	
As Amended	862	10-4-2019	103 KAR 026:090		
103 KAR 001:120			Amended	574	
Amended	1588		As Amended	1087	11-1-2019
As Amended	2224		103 KAR 026:110		
103 KAR 002:005			Amended	1282	
Amended	50		103 KAR 026:120		
Withdrawn		7-24-2019	Amended	1920	
Amended	2104		As Amended	2389	
As Amended	2601		103 KAR 027:020		
103 KAR 002:030			Amended	1922	
Amended	51	10-4-2019	As Amended	2390	
103 KAR 005:150			103 KAR 027:080		
Repealed	282	10-4-2019	Amended	1284	
103 KAR 005:151(r)	282	10-4-2019	103 KAR 027:100		
103 KAR 005:160			Amended	1285	
Amended	53	10-4-2019	103 KAR 027:120		
103 KAR 007:030			Amended	1923	
Repealed	283	10-4-2019	As Amended	2391	
103 KAR 008:030			103 KAR 027:140		
Repealed	284	10-4-2019	Amended	69	10-4-2019
103 KAR 008:011(r)	284	10-4-2019	103 KAR 027:180		
103 KAR 008:110			Amended	577	
Amended	54	10-4-2019	As Amended	1088	11-1-2019
103 KAR 008:130			103 KAR 027:220		
Amended	55		Amended	1287	
As Amended	864	10-4-2019	As Amended	2025	
103 KAR 008:140			103 KAR 028:010		
Repealed	285	10-4-2019	Amended	578	
103 KAR 008:141(r)	285	10-4-2019	As Amended	1089	11-1-2019
103 KAR 008:150			103 KAR 030:170		
Repealed	285	10-4-2019	Amended	581	
103 KAR 008:160			As Amended	1091	11-1-2019
Amended	1591		As Amended	2602	
*Withdrawn		1-15-2020	103 KAR 028:090		
103 KAR 008:170	1718		Amended	1288	
As Amended	2225		103 KAR 030:260		
103 KAR 015:050		See 45 Ky.R.	Repealed	289	10-4-2019
As Amended	865	10-4-2019	103 KAR 030:261(r)	289	10-4-2019
103 KAR 016:200			103 KAR 030:170		
Amended	57		Amended	2105	
As Amended	866	10-4-2019	103 KAR 030:270		
103 KAR 016:250			Amended	1289	
Amended	60		As Amended	2025	
As Amended	868	10-4-2019	103 KAR 031:020		
103 KAR 016:400	286		Amended	1595	
As Amended	875	10-4-2019	103 KAR 031:030		
103 KAR 018:150			Amended	70	
Amended	1593		As Amended	877	10-4-2019
103 KAR 025:050			103 KAR 031:080		
Amended	1277		Amended	1597	
As Amended	2023		As Amended	2226	
103 KAR 025:060			103 KAR 031:090		

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	46 Ky.R. Page No.	Effective Date	Regulation Number	46 Ky.R. Page No.	Effective Date
Amended	1598		201 KAR 006:030		See 45 Ky.R. 8-19-2019
103 KAR 031:111			As Amended	415	
Amended	72		201 KAR 006:040		See 45 Ky.R. 8-19-2019
As Amended	878	10-4-2019	As Amended	416	
103 KAR 031:200			201 KAR 008:540		
Amended	1599		Amended	80	
As Amended	2226		Am Comments	1177	
103 KAR 040:010			As Amended	1410	11-18-2019
Amended	1601		201 KAR 008:550		
As Amended	2227		Amended	1928	
103 KAR 040:050			Am Comments	2646	
Amended	2107		201 KAR 008:590	2355	
103 KAR 040:091(r)	1377		201 KAR 009:270	2294	
103 KAR 041:031(r)	1378		Am Comments	2790	
As Amended	2026		201 KAR 010:050		
103 KAR 041:040			Amended	1607	
Amended	1602		201 KAR 010:080		
103 KAR 041:100			Amended	1608	
Amended	1603		As Amended	2228	
103 KAR 041:110			201 KAR 011:002(r)	780	
Amended	1604		As Amended	1805	12-16-2019
103 KAR 041:220	779	11-1-2019	201 KAR 011:011		
103 KAR 043:010			Amended	83	
Amended	1606		Am Comments	1180	
103 KAR 043:051(r)	1719		As Amended	1806	12-16-2019
103 KAR 043:101(r)	1996		201 KAR 011:030		
105 KAR 001:149	1997		Repealed	1805	12-16-2019
As Amended	2391		201 KAR 011:045		
105 KAR 001:200			Repealed	1805	12-16-2019
Amended	74		201 KAR 011:062		
As Amended	879	10-4-2019	Repealed	1805	12-16-2019
105 KAR 001:250			201 KAR 011:090		
Amended	1925		Repealed	1805	12-16-2019
As Amended	2395		201 KAR 011:095		
105 KAR 001:390			Repealed	1805	12-16-2019
Amended	76		201 KAR 011:100		
As Amended	883	10-4-2019	Repealed	1805	12-16-2019
105 KAR 001:445	2001		201 KAR 011:105		
As Amended	2396		Amended	86	
200 KAR 003:020		See 45 Ky.R. 8-2-2019	Am Comments	1183	
As Amended	28		As Amended	1808	12-16-2019
200 KAR 006:015			201 KAR 011:110		
As Amended	1800	3-3-2020	Repealed	1805	12-16-2019
201 KAR 001:100			201 KAR 011:115		
Amended	1001		Repealed	1805	12-16-2019
As Amended	1800	3-3-2020	201 KAR 011:121		
201 KAR 001:190			Amended	582	
Amended	1004		Am Comments	1438	
As Amended	1802	3-3-2020	As Amended	1810	
201 KAR 002:050	2682		As Amended IJC	2027	12-16-2019
201 KAR 002:010		See 45 Ky.R. 8-19-2019	201 KAR 011:135		
As Amended	410		Repealed	1805	12-16-2019
201 KAR 002:020			201 KAR 011:145		
Amended	1926	3-19-2020	Repealed	1805	12-16-2019
201 KAR 002:090		See 45 Ky.R. 8-19-2019	201 KAR 011:147		
As Amended	410		Repealed	1805	12-16-2019
201 KAR 002:100		See 45 Ky.R. 8-19-2019	201 KAR 011:170		
As Amended	411		Amended	588	
201 KAR 002:116		See 45 Ky.R. 8-19-2019	Am Comments	1444	
As Amended	412		As Amended	1814	12-16-2019
201 KAR 002:175	2683		201 KAR 011:175		
201 KAR 002:225		See 45 Ky.R. 8-19-2019	Repealed	1805	12-16-2019
As Amended	412		201 KAR 011:180		
201 KAR 002:230	2292		Repealed	1805	12-16-2019
201 KAR 002:240		See 45 Ky.R. 8-19-2019	201 KAR 011:190		
As Amended	413		Amended	596	
201 KAR 002:270		See 45 Ky.R. 8-19-2019	Am Comments	1453	
As Amended	414		As Amended	1822	12-16-2019
201 KAR 002:340		See 45 Ky.R. 8-19-2019	201 KAR 011:195		
As Amended	414		Repealed	1805	12-16-2019

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	46 Ky.R. Page No.	Effective Date	Regulation Number	46 Ky.R. Page No.	Effective Date
201 KAR 011:210			As Amended	1095	11-1-2019
Amended	599		201 KAR 015:050		
Am Comments	1457		Amended	95	
As Amended	1824		As Amended	1096	11-1-2019
As Amended IJC	2031	12-16-2019	201 KAR 015:080		
201 KAR 011:215			Amended	99	
Repealed	1805	12-16-2019	As Amended	1099	11-1-2019
201 KAR 011:220			201 KAR 015:110		
Amended	606		Amended	100	
Am Comments	1463		As Amended	1100	11-1-2019
As Amended	1829	12-16-2019	201 KAR 015:120		
201 KAR 011:225			Amended	104	
Repealed	1805	12-16-2019	As Amended	1102	11-1-2019
201 KAR 011:230			201 KAR 015:125	292	
Repealed	1805	12-16-2019	As Amended	1102	11-1-2019
201 KAR 011:232			201 KAR 016:011(r)	782	
Repealed	1805	12-16-2019	*Withdrawn	*	9-13-2019
201 KAR 011:235			201 KAR 016:012(r)	2161	
Repealed	1805	12-16-2019	201 KAR 016:200	784	
201 KAR 011:240			Withdrawn	*	9-13-2019
Repealed	1805	12-16-2019	201 KAR 016:210	786	
201 KAR 011:245			Withdrawn	*	9-13-2019
Repealed	1805	12-16-2019	201 KAR 016:212	788	
201 KAR 011:250			Withdrawn	*	9-13-2019
Repealed	1805	12-16-2019	201 KAR 016:214	790	
201 KAR 011:300			Withdrawn	*	9-13-2019
Repealed	1805	12-16-2019	201 KAR 016:216	791	
201 KAR 011:350			Withdrawn	*	9-13-2019
Repealed	1805	12-16-2019	201 KAR 016:220	793	
201 KAR 011:400			Withdrawn	*	9-13-2019
Repealed	1805	12-16-2019	201 KAR 016:230	794	
201 KAR 011:410			Withdrawn	*	9-13-2019
Repealed	1805	12-16-2019	201 KAR 016:240	795	
201 KAR 011:420			Withdrawn	*	9-13-2019
Repealed	290	12-16-2019	201 KAR 016:250	797	
201 KAR 011:430			Withdrawn	*	9-13-2019
Repealed	1805	12-16-2019	201 KAR 016:260	799	
201 KAR 011:440			Withdrawn	*	9-13-2019
Repealed	1805	12-16-2019	201 KAR 016:270	801	
201 KAR 011:450			Withdrawn	*	9-13-2019
Repealed	1805	12-16-2019	201 KAR 016:272	802	
201 KAR 011:460			Withdrawn	*	9-13-2019
Repealed	1805	12-16-2019	201 KAR 016:280	804	
201 KAR 011:461(r)	290	12-16-2019	Withdrawn	*	9-13-2019
201 KAR 012:030			201 KAR 016:290	805	
Amended	608		Withdrawn	*	9-13-2019
As Amended	1091	11-1-2019	201 KAR 016:300	807	
201 KAR 012:030	2298		Withdrawn	*	9-13-2019
201 KAR 012:060	2302		201 KAR 016:310	810	
201 KAR 012:082	2303		Withdrawn	*	9-13-2019
201 KAR 012:100			201 KAR 016:400	811	
Amended	2489		Withdrawn	*	9-13-2019
201 KAR 012:140	2307		201 KAR 016:500	1720	
201 KAR 012:260	2308		As Amended	2602	
201 KAR 013:040		See 45 Ky.R.	201 KAR 016:510	1723	
As Amended	417	8-19-2019	Am Comments	2460	
201 KAR 013:055		See 45 Ky.R.	As Amended	2604	
As Amended	419	8-19-2019	201 KAR 016:512	1725	
201 KAR 013:060		See 45 Ky.R.	Am Comments	2461	
As Amended	420	8-19-2019	As Amended	2605	
201 KAR 015:010			201 KAR 016:514	1726	
Amended	89		Am Comments	2463	
As Amended	1094	11-1-2019	As Amended	2606	
201 KAR 015:015			201 KAR 016:516	1728	
Amended	90	11-1-2019	Am Comments	2465	
201 KAR 015:030			As Amended	2608	
Amended	91		201 KAR 016:520	1730	
As Amended	1094	11-1-2019	As Amended	2608	
201 KAR 015:040			201 KAR 016:530	1731	
Amended	93		As Amended	2609	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	46 Ky.R. Page No.	Effective Date	Regulation Number	46 Ky.R. Page No.	Effective Date
201 KAR 016:540	1732		Amended	110	10-4-2019
Am Comments	2466		201 KAR 030:110		
As Amended	2610		Amended	112	
201 KAR 016:550	1735		As Amended	886	9-11-2019
Am Comments	2468		201 KAR 030:120		
As Amended	2611		Repealed	884	10-4-2019
201 KAR 016:560	1736		201 KAR 030:125		
Am Comments	2470		Repealed	884	10-4-2019
As Amended	2612		201 KAR 030:130		
201 KAR 016:570	1738		Amended	115	
As Amended	2614		201 KAR 030:150		
201 KAR 016:572	1740		Repealed	884	10-4-2019
Am Comments	2472		201 KAR 030:020		
As Amended	2615		Repealed	884	10-4-2019
201 KAR 016:580	1741		201 KAR 030:160		
Am Comments	2474		Amended	119	
As Amended	2616		As Amended	887	9-11-2019
201 KAR 016:590	1743		201 KAR 030:170		
Am Comments	2475		Repealed	884	10-4-2019
As Amended	2617		201 KAR 030:180		
201 KAR 016:600	1745		Repealed	884	10-4-2019
Am Comments	2477		201 KAR 030:200		
As Amended	2618		Repealed	884	10-4-2019
201 KAR 016:610	1747		201 KAR 030:310		
As Amended	2620		Repealed	884	10-4-2019
201 KAR 016:700	1749		201 KAR 030:015		
Am Comments	2479		Repealed	884	10-4-2019
Withdrawn		3-6-2020	201 KAR 030:330		
201 KAR 020:057	2684		Amended	127	
201 KAR 020:162	2688		As Amended	893	9-11-2019
201 KAR 020:230	2690		201 KAR 030:360		
201 KAR 020:370		See 45 Ky.R. 8-19-2019	Repealed	884	10-4-2019
As Amended	420		201 KAR 030:375		
Amended	2691		Repealed	884	10-4-2019
201 KAR 020:410	2693		201 KAR 030:380		
201 KAR 020:600	2162		Repealed	884	10-4-2019
201 KAR 020:610	2164		201 KAR 032:110		
201 KAR 020:620	2166		Amended	2821	
201 KAR 020:630	2168		201 KAR 036:060		
201 KAR 020:640	2170		Amended	1009	12-9-2019
201 KAR 020:650	2171		201 KAR 041:030		See 45 Ky.R.
Am Comments	2794		As Amended	423	9-6-2019
201 KAR 020:660	2172		201 KAR 041:040		See 45 Ky.R.
201 KAR 020:670	2174		Amended	424	9-6-2019
201 KAR 020:680	2176		201 KAR 041:065		See 45 Ky.R.
201 KAR 020:690	2177		As Amended	425	9-6-2019
Am Comments	2795		201 KAR 041:070		See 45 Ky.R.
201 KAR 022:170			As Amended	425	9-6-2019
Amended	2108		201 KAR 041:080		See 45 Ky.R.
201 KAR 023:070	2694		As Amended	427	9-6-2019
201 KAR 025:090		See 45 Ky.R. 8-19-2019	202 KAR 006:010		
As Amended	421		Amended	131	
201 KAR 029:015		12-9-2019	As Amended	894	9-10-2019
Amended	1007		202 KAR 006:020		
201 KAR 030:010		10-4-2019	Amended	133	
Amended	105		As Amended	895	9-10-2019
201 KAR 030:021(r)	293	10-4-2019	202 KAR 006:030		
As Amended	884		Amended	136	9-10-2019
201 KAR 030:020		10-4-2019	202 KAR 006:050		
Repealed	884		Amended	138	
201 KAR 030:030		10-4-2019	As Amended	897	9-10-2019
Repealed	884		202 KAR 006:060		
201 KAR 030:040		10-4-2019	Amended	140	
Amended	107		As Amended	898	9-10-2019
As Amended	885		202 KAR 006:070		
201 KAR 030:050		10-4-2019	Amended	141	
Repealed	884		As Amended	898	9-10-2019
201 KAR 030:060		10-4-2019	202 KAR 006:080		
Repealed	884		Amended	143	
201 KAR 030:070			As Amended	899	9-10-2019

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	46 Ky.R. Page No.	Effective Date	Regulation Number	46 Ky.R. Page No.	Effective Date
202 KAR 006:090			As Amended	433	8-22-2019
Amended	145		302 KAR 016:131		See 45 Ky.R.
As Amended	900	9-10-2019	As Amended	433	8-22-2019
202 KAR 006:100			302 KAR 020:011(r)		
Amended	147		Withdrawn	***	10-30-2019
As Amended	902	9-10-2019	302 KAR 020:012(r)	2178	
202 KAR 007:020			302 KAR 020:013(r)	2361	
Amended	1291		302 KAR 020:014(r)	2362	
As Amended	2036	2-27-2020	302 KAR 020:150	2179	
202 KAR 007:560		See 45 Ky.R.	302 KAR 021:011(r)	1750	
As Amended	428	8-19-2019	302 KAR 022:010	1379	
202 KAR 007:555	2311		As Amended	2627	
300 KAR 001:010			302 KAR 022:020	1380	
Amended	1294		As Amended	2628	
As Amended	2038		302 KAR 022:030	1751	
301 KAR 001:152			302 KAR 022:040	1381	
Amended	150	9-10-2019	As Amended	2628	
301 KAR 001:185	813		302 KAR 022:050	2263	
As Amended	1103	11-1-2019	302 KAR 022:070	1753	
301 KAR 001:201			As Amended	2628	
Amended	612		302 KAR 022:080	1382	
As Amended	1104	11-1-2019	As Amended	2629	
301 KAR 001:410			302 KAR 022:130	2366	
Amended	617	11-1-2019	302 KAR 022:150		
301 KAR 002:030		See 45 Ky.R.	Am Comments	2656	
As Amended	32	7-9-2019	302 KAR 031:040		
301 KAR 002:049			Amended	1621	
Amended	1012	3-3-2020	As Amended	2232	
301 KAR 002:090			302 KAR 034:010		
Amended	1016		Repealed	815	10-7-2019
As Amended	1830	3-3-2020	302 KAR 034:011(r)	815	10-7-2019
301 KAR 002:185			302 KAR 034:020		
Amended	620		Repealed	815	10-7-2019
As Amended	1110		302 KAR 034:030		
Withdrawn		4-24-2020	Repealed	815	10-7-2019
301 KAR 002:195			302 KAR 034:040		
Amended	2109		Repealed	815	10-7-2019
As Amended	2621		302 KAR 034:050		
301 KAR 002:251			Repealed	815	10-7-2019
Amended	1610		302 KAR 034:060		
As Amended	2397		Repealed	815	10-7-2019
301 KAR 002:300			302 KAR 035:011(r)	816	10-7-2019
Amended	2115		302 KAR 035:020		
As Amended	2625		Repealed	816	10-7-2019
301 KAR 003:100			302 KAR 035:030		
Amended	1303		Repealed	816	10-7-2019
301 KAR 004:090			302 KAR 035:040		
Amended	152	9-10-2019	Repealed	816	10-7-2019
Amended	2118		302 KAR 035:050		
Withdrawn		4-24-2020	Repealed	816	10-7-2019
302 KAR 010:011(r)	2357		302 KAR 056:060		
302 KAR 010:015	2358		Repealed	816	10-7-2019
302 KAR 010:025	2359		302 KAR 035:070		
302 KAR 010:100	2314		Repealed	816	10-7-2019
302 KAR 015:010			302 KAR 035:010		
Amended	1614		Repealed	816	10-7-2019
As Amended	2230		302 KAR 036:010		
302 KAR 015:020			Repealed	817	10-7-2019
Amended	1617		302 KAR 036:011(r)	817	10-7-2019
302 KAR 015:030			302 KAR 037:010		
Amended	1619		Amended	1626	
302 KAR 016:010		See 45 Ky.R.	As Amended	2236	
As Amended	430	8-22-2019	302 KAR 045:010	2315	
302 KAR 016:020		See 45 Ky.R.	302 KAR 050:050		
As Amended	430	8-22-2019	Amended	1306	
302 KAR 016:040		See 45 Ky.R.	As Amended	2048	
As Amended	431	8-22-2019	302 KAR 050:012(r)	2570	
302 KAR 016:111		See 45 Ky.R.	302 KAR 050:020		
As Amended	432	8-22-2019	Amended	2493	
302 KAR 016:121		See 45 Ky.R.	302 KAR 050:030		

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	46 Ky.R. Page No.	Effective Date	Regulation Number	46 Ky.R. Page No.	Effective Date
Amended	2508		401 KAR 058:005		
302 KAR 050:055	2571		Amended	230	
302 KAR 050:060			As Amended	904	9-10-2019
Amended	2520		401 KAR 051:010		
302 KAR 075:130			Amended	651	11-19-2019
Amended	622		401 KAR 052:100		
As Amended	1111	10-7-2019	Amended	1937	
302 KAR 076:100			As Amended	2399	
Amended	623		401 KAR 063:010		
As Amended	1111	10-7-2019	Amended	1941	
302 KAR 080:010			As Amended	2629	
Amended	625		405 KAR 005:002		
As Amended	1112	10-7-2019	Amended	1308	
302 KAR 081:010			As Amended	2238	
Amended	626		405 KAR 005:032		
As Amended	1112	10-7-2019	Amended	1312	
302 KAR 101:010		See 45 Ky.R.	As Amended	2241	
As Amended	433	9-6-2019	405 KAR 007:040		
400 KAR 001:110			Amended	1318	
Amended	1019		As Amended	2246	
As Amended	1832	3-3-2020	405 KAR 007:050		
401 KAR 005:091(r)	2003		Amended	1321	
401 KAR 006:001			As Amended	2248	
Amended	628		405 KAR 008:010		
Am Comments	1465	1-3-2020	Amended	1323	
401 KAR 006:200			As Amended	2249	
Repealed	818	1-3-2020	405 KAR 008:030		
401 KAR 006:211(r)	818	1-3-2020	Amended	1336	
401 KAR 006:310			As Amended	2261	
Amended	631		405 KAR 010:001		See 45 Ky.R.
Am Comments	1468	1-3-2020	As Amended	906	9-10-2019
401 KAR 006:320			405 KAR 010:015		See 45 Ky.R.
Amended	640		As Amended	908	9-10-2019
Am Comments	1477	1-3-2020	405 KAR 010:050		
401 KAR 006:350			Amended	1346	
Amended	645		As Amended	2271	
Am Comments	1481	1-3-2020	405 KAR 016:100		
401 KAR 008:030			Amended	1348	
Am Comments	947	11-1-2019	As Amended	2272	
401 KAR 008:050			405 KAR 016:210		
Am Comments	950	11-1-2019	Amended	1351	
401 KAR 010:001			As Amended	2274	
Amended	154		405 KAR 018:100		
Am Comments	1186	1-3-2020	Amended	1353	
401 KAR 010:026			As Amended	2274	
Amended	158		405 KAR 018:220		
Am Comments	1189	1-3-2020	Amended	1356	
401 KAR 010:029			As Amended	2277	
Amended	199		405 KAR 020:040		
Am Comments	1229	1-3-2020	Amended	1358	
401 KAR 010:030			As Amended	2277	
Amended	202		405 KAR 026:011(r)	1384	
Am Comments	1231		416 KAR 001:010		
As Amended	1840	1-3-2020	Amended	2120	
401 KAR 010:031			500 KAR 010:001		
Amended	222		Amended	2124	
Am Comments	1251		As Amended	2630	
As Amended	1858	1-3-2020	500 KAR 010:020		
401 KAR 011:001		See 45 Ky.R.	Amended	2126	
Am Comments	952	11-1-2019	As Amended	2630	
401 KAR 011:030		See 45 Ky.R.	500 KAR 010:030		
Am Comments	954		Amended	2128	
As Amended	1114	11-1-2019	As Amended	2632	
401 KAR 011:040		See 45 Ky.R.	500 KAR 010:040		
Am Comments	958		Amended	2130	
As Amended	1116	11-1-2019	As Amended	2632	
401 KAR 011:050		See 45 Ky.R.	500 KAR 010:050	2186	
Am Comments	962	11-1-2019	501 KAR 001:040		
401 KAR 011:060		See 45 Ky.R.	Amended	1943	
Am Comments	967	11-1-2019	Am Comments	2663	

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	46 Ky.R. Page No.	Effective Date	Regulation Number	46 Ky.R. Page No.	Effective Date
501 KAR 006:020	2318		704 KAR 007:090		
501 KAR 006:060			Amended	2152	
Amended	655		Am Comments	2804	
As Amended	1413	12-6-2019	704 KAR 008:080	1754	
501 KAR 006:110			As Amended	2278	
Amended	234		725 KAR 002:060	2698	
Am Comments	969		725 KAR 002:070	2701	
As Amended	1119	11-1-2019	739 KAR 002:140		
501 KAR 006:140			Amended	1949	
Amended	657		As Amended	2639	
As Amended	1414	12-6-2019	739 KAR 002:150	2005	
501 KAR 006:160			Withdrawn		2-3-2020
Amended	236		780 KAR001:011 (r)	2848	
As Amended	912	10-4-2019	780 KAR 002:040		
501 KAR 006:280	2320		Amended	1630	
505 KAR 001:120			As Amended	2279	
Amended	2823		780 KAR 002:060		
505 KAR 001:160			Amended	1632	
Amended	659		Am Comments	2481	
As Amended	1120	11-1-2019	As Amended	2640	
601 KAR 009:130			787 KAR 003:010		
Amended	237		Recodified from 803 KAR 1:010		6-14-2019
As Amended	906		Amended	258	
As Amended IJC	1415	9-30-2019	Am Comments	973	
601 KAR 013:090			As Amended	1122	10-3-2019
Amended	241		803 KAR 001:010		
Am Comments	1260		Recodified as 787 KAR 3:010		6-14-2019
As Amended	1418	11-18-2019	803 KAR 002:180		
601 KAR 013:100			Amended	2522	
Amended	244		803 KAR 002:300	2702	
Am Comments	1263		Amended		
As Amended	1420	11-18-2019	803 KAR 002:301		
603 KAR 005:150			Amended	2827	
Amended	248		803 KAR 002:304		
As Amended	916	9-9-2019	Amended	2828	
701 KAR 005:090			803 KAR 002:311		
Amended	249		Amended	2830	
Am Comments	971		803 KAR 002:312		
As Amended	1120	11-1-2019	Amended	2832	
702 KAR 003:130			803 KAR 002:315		
Amended	252		Amended	2834	
As Amended	1122	11-1-2019	803 KAR 002:316		
702 KAR 005:080			Amended	2836	
Amended	2132		803 KAR 002:319		
Am Comments	2796		Amended	2837	
702 KAR 006:040			803 KAR 002:320		
Amended	2825		Amended	2704	
702 KAR 006:046(r)	2847		803 KAR 002:400		
702 KAR 007:065			Amended	2709	
Amended	254		803 KAR 002:403		
As Amended	916	10-4-2019	Amended	2711	
702 KAR 007:125			803 KAR 002:404		
Amended	2137		Amended	2713	
As Amended	2633		803 KAR 002:406		
703 KAR 005:140			Amended	2715	
Amended	2142		803 KAR 002:407		
Am Comments	2801		Amended	2717	
703 KAR 005:240			803 KAR 002:418		
Amended	1029		Amended	2718	
703 KAR 005:270			803 KAR 002:422		
Amended	2144		Amended	2720	
703 KAR 005:280			803 KAR 002:425		
Amended	1032		Amended	2722	
Am Comments	2087		803 KAR 002:500		
As Amended	2402		Amended	2724	
704 KAR 003:303			803 KAR 025:010	2726	
Amended	1629		803 KAR 025:260	1385	
704 KAR 003:370			Am Comments	2284	
Amended	2149		As Amended	2406	
As Amended	2636		803 KAR 025:270		See 45 Ky.R.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	46 Ky.R. Page No.	Effective Date	Regulation Number	46 Ky.R. Page No.	Effective Date
As Amended	33	7-11-2019	Repealed	821	2-3-2020
804 KAR 007:020		See 45 Ky.R.	805 KAR 009:050		
As Amended	34	8-2-2019	Repealed	821	2-3-2020
804 KAR 010:040	295		805 KAR 009:060		
As Amended	919	10-4-2019	Repealed	821	2-3-2020
805 KAR 001:001	819		805 KAR 009:070		
Am Comments	1487		Repealed	821	2-3-2020
As Amended	2049	2-3-2020	805 KAR 009:080		
805 KAR 001:020			Repealed	821	2-3-2020
Amended	660		805 KAR 009:090		
Am Comments	1489		Repealed	821	2-3-2020
As Amended	2050	2-3-2020	806 KAR 003:230		
805 KAR 001:030			Amended	1364	
Amended	663		As Amended	2079	
As Amended	2052	2-3-2020	Reprint	2589	
805 KAR 001:050			806 KAR 003:240	296	
Amended	665		As Amended	919	10-4-2019
Am Comments	1491		806 KAR 005:025	2322	
As Amended	2053	2-3-2020	Am Comments	2811	
805 KAR 001:060			806 KAR 005:060		
Amended	667		Amended	1366	
Am Comments	1493		As Amended	2081	
As Amended	2054	2-3-2020	Reprint	2591	
805 KAR 001:080			806 KAR 007:021(r)	1388	
Amended	670		806 KAR 007:030		
Am Comments	1497		Repealed	1046	3-3-2020
As Amended	2056	2-3-2020	806 KAR 007:031(r)	1046	3-3-2020
805 KAR 001:110			806 KAR 009:001		
Amended	674		Repealed	1870	3-3-2020
Am Comments	1500		806 KAR 009:020		See 45 Ky.R.
As Amended	2058	2-3-2020	As Amended	1865	1-3-2020
805 KAR 001:120			806 KAR 009:025	1047	
Amended	681		As Amended	1866	3-3-2020
As Amended	2064	2-3-2020	806 KAR 009:030		See 45 Ky.R.
805 KAR 001:140			As Amended	1869	1-3-2020
Amended	682		806 KAR 009:070		
Am Comments	1506		Repealed	1870	3-3-2020
As Amended	2065	2-3-2020	806 KAR 009:110		See 45 Ky.R.
805 KAR 001:160			Am Comments	978	
Amended	1360		As Amended	1869	1-3-2020
As Amended	2066		806 KAR 009:190		See 45 Ky.R.
805 KAR 001:170			As Amended	1869	1-3-2020
Amended	685		806 KAR 009:200		See 45 Ky.R.
Am Comments	1509		As Amended	1870	1-3-2020
As Amended	2068	2-3-2020	806 KAR 009:220		
805 KAR 001:180			Repealed	1870	3-3-2020
Amended	689		806 KAR 009:221(r)	1050	
Am Comments	1513		As Amended	1870	3-3-2020
As Amended	2071	2-3-2020	806 KAR 009:265		
805 KAR 001:190			Amended	1368	
Amended	691		As Amended	2083	
Am Comments	1515		806 KAR 009:310		See 45 Ky.R.
As Amended	2072	2-3-2020	As Amended	1871	1-3-2020
805 KAR 001:200			806 KAR 009:350		See 45 Ky.R.
Amended	697		As Amended	1872	1-3-2020
Am Comments	1521		806 KAR 010:060		
As Amended	2077	2-3-2020	Repealed	1052	3-3-2020
805 KAR 003:110		See 45 Ky.R.	806 KAR 010:061(r)	1052	3-3-2020
As Amended	434	8-20-2019	806 KAR 013:040		
805 KAR 004:050			Amended	1634	
Amended	1363		As Amended	2279	
As Amended	2078		806 KAR 013:071(r)	1756	
Reprint	2589		806 KAR 013:101(r)	1757	
805 KAR 007:101(r)	1387		806 KAR 013:120		
805 KAR 009:010			Amended	262	
Repealed	821	2-3-2020	806 KAR 014:061(r)	1053	
805 KAR 009:011(r)	821	2-3-2020	806 KAR 015:090		
805 KAR 009:020			Amended	1635	
Repealed	821	2-3-2020	As Amended	2279	
805 KAR 009:030			806 KAR 017:480		

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	46 Ky.R. Page No.	Effective Date	Regulation Number	46 Ky.R. Page No.	Effective Date
Amended	1952		815 KAR 020:170		
As Amended	2408		Amended	1689	
806 KAR 047:010		See 45 Ky.R.	As Amended	2447	
Am Comments	39		815 KAR 020:180		
As Amended	434	9-6-2019	Amended	1691	
807 KAR 005:056		See 45 Ky.R.	815 KAR 020:191		
Am Comments	41		Amended	2558	
As Amended	435	8-20-2019	815 KAR 020:195		
808 KAR 001:170			Amended	1693	
Amended	699		As Amended	2449	
As Amended	1126	11-1-2019	831 KAR 001:010		See 45 Ky.R.
808 KAR 009:050			As Amended	436	9-6-2019
Amended	703	11-1-2019	831 KAR 001:030		See 45 Ky.R.
810 KAR 001:001	2738		As Amended	437	9-6-2019
810 KAR 002:001	2741		895 KAR 001:002		
810 KAR 002:090	2850		900 KAR 002:050		
810 KAR 004:030			Amended	1695	
Amended	2522		As Amended	2280	2-27-2020
810 KAR 005:001	2744		900 KAR 005:020		
810 KAR 005:060			Amended	2841	
Amended	2526		900 KAR 006:075	2332	
810 KAR 005:070			902 KAR 002:065	2334	
Amended	2531		902 KAR 002:070		See 45 Ky.R.
810 KAR 007:040			Am Comments	476	9-9-2019
Amended	2537		902 KAR 007:010		See 45 Ky.R.
810 KAR 008:010			Am Comments	979	
Amended	2542		As Amended	1128	11-1-2019
810 KAR 008:020			902 KAR 008:040		
Amended	2839		Amended	1698	2-27-2020
810 KAR 008:030	2747		902 KAR 008:060		
810 KAR 008:070	2574		Amended	1701	2-27-2020
811 KAR 001:250			902 KAR 008:070		
Amended	2556		Amended	1954	
815 KAR 020:010			As Amended	2450	3-19-2020
Amended	1637		902 KAR 008:080		
As Amended	2409		Amended	1704	2-27-2020
815 KAR 020:020			902 KAR 008:090		
Amended	1643		Amended	1956	3-19-2020
As Amended	2414		902 KAR 008:096		
815 KAR 020:030			Amended	1958	3-19-2020
Amended	1648		902 KAR 008:100		
As Amended	2418		Amended	1709	2-27-2020
815 KAR 020:050			902 KAR 008:110		
Amended	1651		Amended	1711	2-27-2020
As Amended	2420		902 KAR 008:120		
815 KAR 020:055			Amended	1963	
Amended	1654		As Amended	2452	3-19-2020
Am Comments	2286		902 KAR 008:140		
As Amended	2422		Amended	1968	3-19-2020
815 KAR 020:060			902 KAR 009:010		See 45 Ky.R.
Amended	1657		As Amended	439	8-19-2019
As Amended	2424		902 KAR 015:010		See 45 Ky.R.
815 KAR 020:070			Am Comments	478	9-9-2019
Amended	1664		902 KAR 020:036		See 45 Ky.R.
As Amended	2429		Am Comments	484	
815 KAR 020:080			As Amended	1132	
Amended	1667		902 KAR 020:280		
815 KAR 020:090			Amended	1370	1-23-2020
Amended	1668		902 KAR 020:370		
As Amended	2431		Amended	705	
815 KAR 020:111(r)	1758		Am Comments	1523	
815 KAR 020:120			As Amended	1873	12-9-2019
Amended	1674		902 KAR 020:430		
As Amended	2436		Amended	709	
815 KAR 020:130			Am Comment	1528	12-9-2019
Amended	1682		902 KAR 020:450	1389	
As Amended	2442		As Amended	2281	2-27-2020
815 KAR 020:150			902 KAR 021:020		
Amended	1686		Amended	719	11-1-2019
As Amended	2446		902 KAR 045:065		See 45 Ky.R.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	46 Ky.R. Page No.	Effective Date	Regulation Number	46 Ky.R. Page No.	Effective Date
Am Comments	492		Amended	1970	
As Amended	921		Am Comments	2670	
As Amended IJC	1138	9-9-2019	921 KAR 001:380		See 45 Ky.R.
902 KAR 045:070		See 45 Ky.R.	As Amended	472	8-19-2019
Am Comments	502		921 KAR 002:015	2337	
As Amended	929		921 KAR 003:025		
As Amended IJC	1146	9-9-2019	Amended	2842	
902 KAR 045:090			921 KAR 003:050		
Amended	264	9-9-2019	Amended	1973	3-19-2020
902 KAR 050:002			922 KAR 001:310		See 45 Ky.R.
Repealed	823	11-1-2019	Am Comments	521	9-9-2019
902 KAR 050:003(r)	823	11-1-2019	922 KAR 001:320		
902 KAR 050:005			Amended	766	
Amended	721	11-1-2019	Am Comments	1573	12-9-2019
902 KAR 055:070			922 KAR 001:330		
Amended	270	11-18-2019	Amended	1038	
902 KAR 055:120	824	11-1-2019	Am Comments	2093	2-27-2020
902 KAR 055:130	1760		922 KAR 001:350		See 45 Ky.R.
As Amended	2640		Am Comments	535	9-9-2019
907 KAR 001:604			922 KAR 001:470		See 45 Ky.R.
Am Comments	512		Am Comments	995	11-1-2019
As Amended	937		922 KAR 001:495		See 45 Ky.R.
907 KAR 003:170			Am Comments	545	
Amended	273		As Amended	944	
Am Comments	1267		As Amended IJC	1170	9-9-2019
As Amended	1423	12-6-2019	922 KAR 001:510		See 45 Ky.R.
907 KAR 003:300	2851		As Amended	475	8-19-2019
907 KAR 005:005			922 KAR 001:560		
Amended	1713		Amended	771	
Am Comments	2482		As Amended	1173	11-1-2019
907 KAR 010:830			922 KAR 001:565		
Amended	723		Amended	773	
As Amended	1154	11-1-2019	As Amended	1174	11-1-2019
907 KAR 010:840	2006		922 KAR 002:090		
As Amended	2456		Amended	1977	
907 KAR 015:005			Am Comments	2673	
Amended	733		922 KAR 002:100		
As Amended	1875	1-3-2020			
As Amended	2642				
907 KAR 015:010					
Amended	736				
Am Comments	1539				
As Amended	1878	1-3-2020			
907 KAR 015:015					
Amended	748				
As Amended	1888	1-3-2020			
907 KAR 015:020					
Amended	751				
Am Comments	1551				
As Amended	1889	1-3-2020			
907 KAR 015:022	826				
Am Comments	1563				
As Amended	1890	1-3-2020			
907 KAR 015:025					
Amended	762				
As Amended	1909	1-3-2020			
908 KAR 001:370		See 45 Ky.R.			
As Amended	441	8-19-2019			
908 KAR 001:372		See 45 Ky.R.			
As Amended	459	8-19-2019			
908 KAR 001:374		See 45 Ky.R.			
As Amended	464	8-19-2019			
910 KAR 002:020		See 45 Ky.R.			
Am Comments	516	9-9-2019			
910 KAR 002:040		See 45 Ky.R.			
Am Comments	984				
As Amended	1162	11-1-2019			
911 KAR 001:010		See 45 Ky.R.			
As Amended	906	8-19-2019			
920 KAR 001:070					

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.

KRS INDEX

KRS SECTION	REGULATION	KRS SECTION	REGULATION
2.013	201 KAR 011:210	49.250	103 KAR 001:010
2.015	902 KAR 020:370	58.200	815 KAR 020:191
	922 KAR 001:320	61.373	101 KAR 003:015
	922 KAR 001:565	61.394	101 KAR 002:102
2.110	920 KAR 001:070		101 KAR 003:015
13A	202 KAR 007:020	61.410	702 KAR 003:130
13A.310	016 KAR 006:031	61.505	105 KAR 001:390
	016 KAR 009:071	61.510	105 KAR 001:390
13B	103 KAR 008:170	61.510-61.705	105 KAR 001:149
	201 KAR 020:162	61.590	105 KAR 001:200
	810 KAR 005:070		105 KAR 001:390
	902 KAR 008:110	61.595	105 KAR 001:200
	922 KAR 001:320	61.623	105 KAR 001:200
	922 KAR 002:090	61.637	105 KAR 001:200
	922 KAR 002:100		105 KAR 001:390
13B.005-13B.170	013 KAR 001:020	61.645	105 KAR 001:445
13B.050	902 KAR 055:130	61.673	101 KAR 002:102
13B.080	902 KAR 055:130	61.680	105 KAR 001:200
13B.090	902 KAR 055:130	61.705	105 KAR 001:200
13B.110	902 KAR 055:130	61.805 – 61.850	702 KAR 007:065
13B.120	902 KAR 055:130	61.870 - 61.884	405 KAR 008:010
13B.140	907 KAR 010:830	61.872	902 KAR 008:070
15A.065	505 KAR 001:120	64.810	045 KAR 001:050
	505 KAR 001:160	65A	739 KAR 002:140
15A.067	505 KAR 001:120	65.7621	202 KAR 006:070
	505 KAR 001:160		202 KAR 006:080
16.576	105 KAR 001:200		202 KAR 006:090
16.577	105 KAR 001:200	65.7621 – 65.7643	202 KAR 006:010
16.645	105 KAR 001:200		202 KAR 006:020
17.500	902 KAR 020:430		202 KAR 006:030
	902 KAR 020:450		202 KAR 006:050
18A.005	101 KAR 001:325		202 KAR 006:060
18A.020	101 KAR 002:102		202 KAR 006:100
	101 KAR 003:015	65.7627	202 KAR 006:070
18A.030	101 KAR 002:102		202 KAR 006:080
	101 KAR 002:210		202 KAR 006:090
	101 KAR 002:230	65.7629	202 KAR 006:070
	101 KAR 003:015		202 KAR 006:080
18A.0751	101 KAR 001:325		202 KAR 006:090
18A.095	101 KAR 002:102	65.7631	202 KAR 006:070
	103 KAR 001:120		202 KAR 006:080
18A.110	101 KAR 002:102		202 KAR 006:090
	101 KAR 002:230	65.7635	202 KAR 006:080
	101 KAR 003:015		202 KAR 006:090
18A.111	101 KAR 001:325	65.7636	202 KAR 006:080
18A.140	101 KAR 002:102	65.7639	202 KAR 006:080
	101 KAR 003:015		202 KAR 006:090
18A.145	101 KAR 002:102	65.7643	202 KAR 006:070
	101 KAR 003:015		202 KAR 006:080
18A.195	101 KAR 002:102		202 KAR 006:090
	101 KAR 003:015	66.480	702 KAR 003:130
18A.202	101 KAR 002:120	68.210	045 KAR 001:050
18A.205	105 KAR 001:149	75.430	739 KAR 002:140
18A.225	101 KAR 002:210	78.510	105 KAR 001:390
	105 KAR 001:149	78.545	105 KAR 001:200
18A.990	101 KAR 002:102	78.5302	105 KAR 001:250
	101 KAR 003:015	91A.350	300 KAR 001:010
18A.2254	101 KAR 002:210	91A.400	103 KAR 027:220
23A.010	922 KAR 001:320	95A	739 KAR 002:140
39A	907 KAR 003:300	95A.292	739 KAR 002:140
43.010	601 KAR 009:130	118.035	101 KAR 002:102
43.070	045 KAR 001:050		101 KAR 003:015
43.075	045 KAR 001:050	121.015	032 KAR 001:061
45.149	601 KAR 009:130	121.180	032 KAR 001:061
45.229	907 KAR 010:840	131.010	103 KAR 001:010
45.237 - 45.241	922 KAR 001:565	131.030	103 KAR 001:010
45A	601 KAR 002:030E	131.032	103 KAR 001:120
	702 KAR 003:130	131.081	103 KAR 001:010
45A.045	200 KAR 006:015		103 KAR 001:120
49.220	103 KAR 001:010	131.110	103 KAR 001:010

KRS SECTION	REGULATION	KRS SECTION	REGULATION
131.130	103 KAR 026:110		103 KAR 027:080
	103 KAR 001:120		103 KAR 027:100
	103 KAR 002:030		103 KAR 027:220
131.155	103 KAR 001:060		103 KAR 028:010
	103 KAR 018:150		103 KAR 030:261
131.180	103 KAR 001:010		103 KAR 030:270
	103 KAR 031:020		103 KAR 031:020
131.190	103 KAR 001:120		103 KAR 031:080
131.990	103 KAR 001:120		103 KAR 031:090
132.010	815 KAR 020:010		103 KAR 031:111
132.020	103 KAR 008:130	139.210	103 KAR 026:070
	103 KAR 008:141		103 KAR 027:220
	103 KAR 008:170	139.240	103 KAR 026:070
132.200	103 KAR 008:130		103 KAR 027:180
	103 KAR 008:141		103 KAR 031:030
	103 KAR 008:170	139.250	103 KAR 031:030
132.285	103 KAR 007:031	139.260	103 KAR 026:070
132.370	103 KAR 005:151		103 KAR 026:090
	103 KAR 005:160		103 KAR 026:110
132.530	103 KAR 007:031		103 KAR 026:120
136.181	103 KAR 008:011		103 KAR 027:120
136.182	103 KAR 008:011		103 KAR 027:180
138.130	103 KAR 041:040		103 KAR 027:220
138.135	103 KAR 041:031		103 KAR 028:010
	103 KAR 041:110		103 KAR 030:261
	103 KAR 041:220		103 KAR 030:270
138.140	103 KAR 041:110		103 KAR 031:030
138.143	103 KAR 041:031		103 KAR 031:111
	103 KAR 041:220	139.270	103 KAR 026:070
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

KRS SECTION	REGULATION	KRS SECTION	REGULATION
139.482	103 KAR 028:010		301 KAR 001:410
139.485	103 KAR 027:180		301 KAR 002:049
	103 KAR 027:220		301 KAR 002:090
139.495	103 KAR 028:010		301 KAR 002:195
139.518	103 KAR 031:200		301 KAR 002:300
139.540	103 KAR 026:110	150.025	301 KAR 002:090
	103 KAR 030:261	150.092	301 KAR 002:049
	103 KAR 031:030		301 KAR 002:300
139.550	103 KAR 025:060	150.170	301 KAR 001:152
	103 KAR 026:110		301 KAR 001:201
	103 KAR 030:261		301 KAR 001:410
	103 KAR 031:030		301 KAR 002:049
139.590	103 KAR 025:131		301 KAR 002:251
	103 KAR 026:110		301 KAR 002:300
	103 KAR 031:030		301 KAR 003:100
139.620	103 KAR 031:020	150.175	301 KAR 001:152
139.660	103 KAR 025:060		301 KAR 001:201
	103 KAR 031:030		301 KAR 001:410
139.710	103 KAR 026:070		301 KAR 002:300
	103 KAR 031:030		301 KAR 003:100
139.720	103 KAR 026:110	150.180	301 KAR 002:195
	103 KAR 027:180		301 KAR 002:251
	103 KAR 031:020	150.183	301 KAR 002:195
	103 KAR 031:030	150.235	301 KAR 001:410
	103 KAR 031:200	150.290	301 KAR 002:195
139.730	103 KAR 026:070	150.305	301 KAR 002:090
139.760	103 KAR 031:111		301 KAR 002:195
139.980	103 KAR 025:131	150.320	301 KAR 002:195
139.990	103 KAR 025:131	150.330	301 KAR 002:090
	103 KAR 031:111		301 KAR 002:195
140.100	103 KAR 002:005	150.340	301 KAR 001:201
141.011	103 KAR 016:250	150.360	301 KAR 002:090
141.120	103 KAR 016:400		301 KAR 002:195
141.121	103 KAR 016:400	150.370	301 KAR 002:049
141.200	103 KAR 016:200		301 KAR 002:251
	103 KAR 016:250	150.399	301 KAR 002:049
141.201	103 KAR 016:250		301 KAR 002:251
141.202	103 KAR 016:250	150.415	301 KAR 002:251
	103 KAR 016:400	150.416	301 KAR 002:251
141.330	103 KAR 018:150	150.445	301 KAR 001:152
142.303	907 KAR 010:830		301 KAR 001:410
	907 KAR 010:840	150.450	301 KAR 001:152
142.406	300 KAR 001:010	150.470	301 KAR 001:185
146/080 – 146.115	416 KAR 001:010	150.620	301 KAR 001:201
146.200 – 146.360	401 KAR 010:001		301 KAR 001:410
	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
	405 KAR 008:010		301 KAR 002:049
146.410 – 146.535	401 KAR 010:001		301 KAR 002:251
	401 KAR 010:026		301 KAR 002:300
	401 KAR 010:029	150.995	301 KAR 002:049
	401 KAR 010:030		301 KAR 002:251
146.550 – 146.570	401 KAR 010:031	151	401 KAR 005:091
	401 KAR 010:001	151.100	405 KAR 016:100
	401 KAR 010:026		405 KAR 018:100
	401 KAR 010:029	151.125	405 KAR 007:050
	401 KAR 010:030	151.250	405 KAR 016:100
	401 KAR 010:031		405 KAR 018:100
146.600 – 146.619	401 KAR 010:001	151.297	405 KAR 007:050
	401 KAR 010:026	156.010	702 KAR 006:040
	401 KAR 010:029	156.029	702 KAR 003:130
	401 KAR 010:030		704 KAR 007:090
	401 KAR 010:031	156.031	702 KAR 006:046
146.990	401 KAR 010:001	156.035	702 KAR 006:040
	401 KAR 010:026		704 KAR 007:090
	401 KAR 010:029	156.070	702 KAR 007:065
	401 KAR 010:030		704 KAR 003:303
	401 KAR 010:031		704 KAR 008:080
148.522	300 KAR 001:010	156.076	702 KAR 003:130
148.525	300 KAR 001:010	156.160	702 KAR 003:130
150.010	301 KAR 001:152		702 KAR 005:080
	301 KAR 001:201		702 KAR 006:046

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	704 KAR 003:303	161.048	016 KAR 005:020
	704 KAR 007:090		016 KAR 009:060
	704 KAR 008:080	161.049	016 KAR 009:060
156.200	702 KAR 003:130	161.141	701 KAR 008:020
156.290	702 KAR 003:130	161.200	702 KAR 007:125
156.496	922 KAR 001:565	161.220	102 KAR 001:036
156.557	704 KAR 003:370		102 KAR 001:037
156.800	704 KAR 003:370	161.420	102 KAR 001:032
156.802	780 KAR 001:011	161.440	102 KAR 001:135
	780 KAR 002:040	161.500	102 KAR 001:035
	780 KAR 002:060	161.540	102 KAR 001:032
156.814	780 KAR 001:011		702 KAR 003:130
156.852	780 KAR 001:011	161.545	102 KAR 001:036
157	922 KAR 002:090	161.560	102 KAR 001:125
157.320	702 KAR 007:125		702 KAR 003:130
157.350	702 KAR 007:125	161.580	102 KAR 001:135
157.360	702 KAR 007:125	161.605	102 KAR 001:032
158.030	702 KAR 007:125		102 KAR 001:035
	922 KAR 002:090	161.675	102 KAR 001:100
	922 KAR 002:100	161.677	102 KAR 001:032
158.031	703 KAR 005:140	161.700	102 KAR 001:032
158.070	701 KAR 008:020	161.705	102 KAR 001:135
	702 KAR 007:125	161.740	704 KAR 003:370
158.100	702 KAR 007:125	161.770	701 KAR 005:090
158.150	780 KAR 002:060	161.790	701 KAR 005:090
158.240	702 KAR 007:125	161.5465	102 KAR 001:036
158.1411	704 KAR 008:080	162.062	815 KAR 020:191
158.1413	704 KAR 008:080	163.500	920 KAR 001:070
158.444	780 KAR 002:060	163.506	920 KAR 001:070
158.645	703 KAR 005:270	164.020	013 KAR 001:020
	704 KAR 008:080	164.020(23)	013 KAR 004:010
158.6451	703 KAR 005:240	164.772	201 KAR 020:225E
	703 KAR 005:270	164.945	013 KAR 001:020
	704 KAR 003:303	164.946	013 KAR 001:020
	704 KAR 008:080		013 KAR 004:010
158.6453	703 KAR 005:140	164.947	013 KAR 001:020
	703 KAR 005:240		013 KAR 004:010
	703 KAR 005:270	164.992	013 KAR 001:020
	703 KAR 005:280		013 KAR 004:010
	704 KAR 003:303	165A.320	013 KAR 001:020
	704 KAR 008:080		013 KAR 004:010
158.6455	703 KAR 005:240	165A.450	013 KAR 004:010
	703 KAR 005:270	171.250	725 KAR 002:060
	703 KAR 005:280		725 KAR 002:070
158.649	701 KAR 008:020	171.260	725 KAR 002:060
158.782	703 KAR 005:280		725 KAR 002:070
159.010	702 KAR 007:125	171.270	725 KAR 002:060
159.030	702 KAR 007:125		725 KAR 002:070
159.035	702 KAR 007:125	176.050	603 KAR 005:150
159.140	702 KAR 007:125	176.430	401 KAR 010:030
	922 KAR 001:330	177.047	603 KAR 005:150
159.170	702 KAR 007:125	177.103	603 KAR 005:150
160	702 KAR 003:130	177.106	603 KAR 005:150
160.1590	701 KAR 008:020	186.010	601 KAR 002:030E
160.1591	701 KAR 008:020		601 KAR 009:130
160.1592	701 KAR 008:020	186.018	922 KAR 002:100
160.1593	701 KAR 008:020	186.020	922 KAR 002:100
160.1594	701 KAR 008:020	186.050	601 KAR 009:130
160.1595	701 KAR 008:020	186.053	601 KAR 009:130
160.1596	701 KAR 008:020	186.162	601 KAR 009:130
160.1597	701 KAR 008:020	186.172	601 KAR 009:130
160.1598	701 KAR 008:020	186.174	601 KAR 009:130
160.1599	701 KAR 008:020	186.411	601 KAR 013:090
160.290	704 KAR 003:303		601 KAR 013:100
	704 KAR 008:080	186.440	601 KAR 002:030E
160.346	703 KAR 005:280		601 KAR 013:100
160.380	702 KAR 007:065	186.442	601 KAR 002:030E
160.445	702 KAR 007:065	186.444	601 KAR 013:090
161.011	702 KAR 005:080		601 KAR 013:100
161.020	016 KAR 005:020	186.480	601 KAR 002:030E
161.028	016 KAR 005:020	186.531	601 KAR 002:030E
	016 KAR 009:060	186.560	601 KAR 002:030E
161.030	016 KAR 005:020	186.570	601 KAR 002:030E
	016 KAR 009:060		601 KAR 013:090

KRS SECTION	REGULATION	KRS SECTION	REGULATION
186A.060	601 KAR 013:100	199.480	922 KAR 001:560
186A.070	601 KAR 009:130	199.505	922 KAR 001:560
186A.120	601 KAR 009:130	199.555	101 KAR 002:120
189.010	103 KAR 027:100	199.557	922 KAR 001:320
189.125	922 KAR 002:100	199.892	922 KAR 001:320
189A.005	601 KAR 002:030E	199.894	922 KAR 002:090
189A.010	601 KAR 002:030E		922 KAR 002:100
189A.040	601 KAR 002:030E	199.895	922 KAR 002:090
189A.070	601 KAR 002:030E		922 KAR 002:100
189A.085	601 KAR 002:030E	199.8951	922 KAR 002:100
189A.090	601 KAR 002:030E	199.896 - 199.898	922 KAR 002:090
189A.103	601 KAR 002:030E		922 KAR 002:100
189A.105	601 KAR 002:030E	199.8982	922 KAR 002:100
189A.107	601 KAR 002:030E	199.990	922 KAR 001:560
189A.200	601 KAR 002:030E	200.080-120	505 KAR 001:120
189A.240	601 KAR 002:030E		505 KAR 001:160
189A.250	601 KAR 002:030E	200.503	902 KAR 020:430
189A.340	601 KAR 002:030E	200.650 – 200.676	902 KAR 030:010E
189A.345	601 KAR 002:030E	202A.011	921 KAR 002:015
189A.400	601 KAR 002:030E		922 KAR 001:330
189A.410	601 KAR 002:030E	205.2005	921 KAR 003:025
189A.420	601 KAR 002:030E	205.211	922 KAR 001:565
189A.440	601 KAR 002:030E	205.245	921 KAR 002:015
189A.500	601 KAR 002:030E	205.510	902 KAR 020:430
189.540	702 KAR 005:080		907 KAR 003:170
194A	921 KAR 002:015		907 KAR 003:300
194A.005	920 KAR 001:070		907 KAR 010:830
	922 KAR 001:320	205.520	907 KAR 015:005
	922 KAR 001:330		895 KAR 001:002E
	922 KAR 001:565		902 KAR 021:020
194A.025	907 KAR 015:005		907 KAR 015:010
194A.030	900 KAR 005:020		907 KAR 015:015
	920 KAR 001:070		907 KAR 015:020
	922 KAR 001:320		907 KAR 015:022
194A.050	900 KAR 005:020		907 KAR 015:025
	902 KAR 008:110	205.559	907 KAR 003:170
	902 KAR 045:065		907 KAR 003:300
	902 KAR 045:070	205.560	806 KAR 017:480
	922 KAR 001:330		907 KAR 001:604
	922 KAR 001:565		907 KAR 003:170
	922 KAR 002:100		907 KAR 003:300
194A.060	907 KAR 003:170	205.565	907 KAR 010:830
	907 KAR 003:300		907 KAR 010:840
	920 KAR 001:070	205.637	907 KAR 010:830
	922 KAR 001:560		907 KAR 010:840
194A.125	907 KAR 003:170	205.638	907 KAR 010:830
194A.540	201 KAR 020:225E		907 KAR 010:840
196	501 KAR 006:020	205.639	907 KAR 010:830
	501 KAR 006:060		907 KAR 010:840
	501 KAR 006:110	205.6312	907 KAR 001:604
	501 KAR 006:140	205.640	907 KAR 010:830
196.035	501 KAR 006:280		907 KAR 010:840
196.700 – 196.705	500 KAR 010:050	205.641	907 KAR 010:830
196.700 – 196.736	500 KAR 010:001	205.6405	907 KAR 010:840
	500 KAR 010:020	205.6406	907 KAR 010:840
	500 KAR 010:030	205.6407	907 KAR 010:840
	500 KAR 010:040	205.6408	907 KAR 010:840
197	501 KAR 006:020	205.6485	907 KAR 001:604
	501 KAR 006:060	205.712	601 KAR 002:030E
	501 KAR 006:110	205.8451	907 KAR 001:604
	501 KAR 006:140		907 KAR 015:005
197.020	501 KAR 006:280	209.020	921 KAR 002:015
197.105	500 KAR 010:050		922 KAR 001:320
198B.050	815 KAR 020:195	209.550	902 KAR 002:065
198B.260	902 KAR 020:280	209.552	902 KAR 002:065
	902 KAR 020:430	209A.020	922 KAR 001:320
199.011	922 KAR 001:320	210.005	902 KAR 020:430
	922 KAR 001:560	211.005	902 KAR 045:065
	922 KAR 001:565		902 KAR 045:070
	922 KAR 002:090	211.015	902 KAR 008:040
	922 KAR 002:100		902 KAR 045:065
199.462	922 KAR 001:565		902 KAR 045:070
199.470 - 199.590	922 KAR 001:565	211.025	902 KAR 045:065

KRS SECTION	REGULATION	KRS SECTION	REGULATION
211.090	902 KAR 045:070	216.875	902 KAR 020:280
	902 KAR 002:065	216.880	902 KAR 020:280
	902 KAR 008:096	216.885	902 KAR 020:280
	902 KAR 008:100	216B	921 KAR 002:015
211.170	902 KAR 008:040	216B.010	900 KAR 005:020
	902 KAR 008:060		900 KAR 006:075
	902 KAR 008:070	216B.015	900 KAR 002:050
	902 KAR 008:080		900 KAR 006:075
	902 KAR 008:090	216B.020	902 KAR 020:370
	902 KAR 008:096	216B.040	900 KAR 005:020
	902 KAR 008:100		900 KAR 006:075
	902 KAR 008:110	216B.042	902 KAR 020:450
	902 KAR 008:120	216B.050	902 KAR 020:430
	902 KAR 008:140	216B.062	900 KAR 006:075
211.180	902 KAR 002:065	216B.090	900 KAR 006:075
211.684	922 KAR 001:330	216B.095	900 KAR 006:075
211.760	902 KAR 045:065	216B.105	902 KAR 020:430
211.892	805 KAR 001:060	216B.115	900 KAR 006:075
211.893	805 KAR 001:060	216B.155	806 KAR 017:480
211.1751	902 KAR 008:040	216B.455	900 KAR 006:075
	902 KAR 008:060	216B.990	900 KAR 006:075
	902 KAR 008:070	217.005 – 217.215	902 KAR 045:090
	902 KAR 008:090	217.290	902 KAR 045:090
	902 KAR 008:096	217.992	902 KAR 045:090
	902 KAR 008:100	217B	302 KAR 031:040
211.1752	902 KAR 008:060		302 KAR 050:020
211.1755	902 KAR 008:060		302 KAR 050:055
	902 KAR 008:090		302 KAR 050:060
	902 KAR 008:110	217B.555	902 KAR 045:090
212.040	902 KAR 008:080	217B.990	902 KAR 045:090
212.170	902 KAR 008:040	217C.010	902 KAR 050:005
	902 KAR 008:060	217C.070	902 KAR 050:003
	902 KAR 008:070	218A.172	201 KAR 020:057
	902 KAR 008:090	218A.182	902 KAR 055:130
	902 KAR 008:096	218A.205	201 KAR 002:020
	902 KAR 008:100		201 KAR 020:050
	902 KAR 008:110		201 KAR 020:057
	902 KAR 008:120		201 KAR 008:540
	902 KAR 008:140	223.170	401 KAR 006:211
231.230	902 KAR 008:140	223.180	401 KAR 006:211
212.850	902 KAR 008:080	223.190	401 KAR 006:211
212.870	902 KAR 008:040	223.210	401 KAR 006:211
	902 KAR 008:060	223.400	401 KAR 006:001
	902 KAR 008:070	223.400-223.460	401 KAR 006:001
	902 KAR 008:080		401 KAR 006:310
	902 KAR 008:090		401 KAR 006:320
	902 KAR 008:096		401 KAR 006:350
	902 KAR 008:100	223.991	401 KAR 006:001
	902 KAR 008:110		401 KAR 006:310
	902 KAR 008:120		401 KAR 006:320
	902 KAR 008:140		401 KAR 006:350
214.010	902 KAR 002:065	224	401 KAR 005:091
	922 KAR 002:090	224.071	405 KAR 007:050
	922 KAR 002:100	224.01-300	103 KAR 030:261
214.036	922 KAR 001:330	224.1-310	103 KAR 030:261
	922 KAR 002:090	224.1-010	401 KAR 010:001
	922 KAR 002:100		401 KAR 010:026
214.540	902 KAR 021:020		401 KAR 010:029
214.542	902 KAR 021:020		401 KAR 010:030
214.543	902 KAR 021:020		401 KAR 010:031
216.380	907 KAR 010:830	224.1-300	103 KAR 008:170
	907 KAR 010:840	224.1-310	103 KAR 008:170
216.510	900 KAR 002:050	224.1-400	401 KAR 010:001
	902 KAR 002:065		401 KAR 010:026
216.515	902 KAR 002:065		401 KAR 010:029
216.525	900 KAR 002:050		401 KAR 010:030
216.530	902 KAR 002:065		401 KAR 010:031
	921 KAR 002:015	224.1-405	401 KAR 006:350
216.555	900 KAR 002:050	224.10-010	401 KAR 006:320
216.557	900 KAR 002:050	224.10-100	401 KAR 006:320
	921 KAR 002:015		401 KAR 058:005
216.560	900 KAR 002:050		401 KAR 052:100
216.750	921 KAR 002:015	224.10-110	401 KAR 006:211
216.765	921 KAR 002:015	224.10-410	400 KAR 001:110

KRS SECTION	REGULATION	KRS SECTION	REGULATION
224.10-410 – 224.10-470	401 KAR 006:320		810 KAR 008:020
224.16-050	401 KAR 010:001		810 KAR 008:070
	401 KAR 010:026	230.280	810 KAR 005:070
	401 KAR 010:029	230.290	810 KAR 004:030
	401 KAR 010:030		810 KAR 005:070
	401 KAR 010:031		810 KAR 008:010
224.16-070	401 KAR 010:001		810 KAR 008:020
	401 KAR 010:026		810 KAR 008:070
	401 KAR 010:029	230.300	810 KAR 005:070
	401 KAR 010:030		810 KAR 008:030
	401 KAR 010:031	230.310	810 KAR 004:030
224.20	401 KAR 063:010		810 KAR 005:070
224.10-100	401 KAR 063:010		810 KAR 008:030
224.20-100	401 KAR 051:010	230.320	810 KAR 004:030
	401 KAR 052:100		810 KAR 005:070
	401 KAR 058:005		810 KAR 008:010
224.20-110	401 KAR 051:010		810 KAR 008:020
	401 KAR 052:100		810 KAR 008:070
	401 KAR 058:005	230.361	810 KAR 002:090
224.20-120	401 KAR 051:010		810 KAR 008:030
	401 KAR 052:100	230.3651	810 KAR 005:001
	401 KAR 058:005	230.370	810 KAR 002:090
224.20-300	401 KAR 058:005		810 KAR 008:020
224.20-310	401 KAR 058:005		810 KAR 008:070
224.20-320	401 KAR 058:005	230.770	810 KAR 007:040
224.43-010 – 224.43-815	401 KAR 006:350	230.802	810 KAR 007:040
224.46-012 – 224.46-870	401 KAR 006:350	230.990	810 KAR 007:040
224.60-100 – 224.60-160	401 KAR 006:350		811 KAR 001:250
224.70-100 – 224.70-140	401 KAR 010:001	237.109	902 KAR 008:100
	401 KAR 010:026	237.115	902 KAR 008:100
	401 KAR 010:029	241.067	804 KAR 010:040
	401 KAR 010:030	241.069	804 KAR 010:040
	401 KAR 010:031	241.021	804 KAR 010:040
224.71-100 – 224.71-145	401 KAR 010:001	243.020	103 KAR 040:050
	401 KAR 010:026	243.200	103 KAR 040:050
	401 KAR 010:029	243.720	103 KAR 040:091
	401 KAR 010:030	243.850	103 KAR 040:050
	401 KAR 010:031	244.150	103 KAR 040:010
224.73-100 – 224.30-120	401 KAR 010:001	246.030	302 KAR 045:010
	401 KAR 010:026	246.250	302 KAR 015:020
	401 KAR 010:029		302 KAR 015:030
	401 KAR 010:030	246.650	302 KAR 045:010
	401 KAR 010:031	246.660	302 KAR 045:010
224.73-100 – 224.30-120	416 KAR 001:010	246.990	302 KAR 045:010
224.99-010	401 KAR 058:005	247	302 KAR 034:011
227.550	103 KAR 027:100		302 KAR 035:011
230	810 KAR 001:001		302 KAR 036:011
	810 KAR 002:001	247.220	302 KAR 015:010
230.210	810 KAR 005:001	257	302 KAR 020:011
230.210 – 230.375	811 KAR 001:250		302 KAR 020:012
230.215	810 KAR 002:090		302 KAR 020:013
	810 KAR 004:030		302 KAR 022:050
	810 KAR 005:001	257.020	302 KAR 021:011
	810 KAR 005:060		302 KAR 022:010
	810 KAR 005:070		302 KAR 022:020
	810 KAR 007:040		302 KAR 022:030
	810 KAR 008:010		302 KAR 022:070
	810 KAR 008:020		302 KAR 022:080
230.225	810 KAR 008:070		302 KAR 022:130
	810 KAR 002:090		302 KAR 022:150
	810 KAR 008:010	257.030	302 KAR 021:011
	810 KAR 008:020		302 KAR 022:010
	810 KAR 008:070		302 KAR 022:030
230.240	810 KAR 004:030		302 KAR 022:040
	810 KAR 005:070		302 KAR 022:130
	810 KAR 007:040		302 KAR 022:150
	810 KAR 008:010	257.080	302 KAR 021:011
	810 KAR 008:020		302 KAR 022:030
	810 KAR 008:070		302 KAR 022:130
230.260	810 KAR 002:090		302 KAR 022:150
	810 KAR 005:001	257.160	302 KAR 022:040
	810 KAR 005:060	260	302 KAR 010:011
	810 KAR 008:020		302 KAR 050:012
230.265	810 KAR 008:010	260.010	302 KAR 037:010

KRS SECTION	REGULATION	KRS SECTION	REGULATION
260.020	302 KAR 045:010	304.9-150	806 KAR 009:025
260.030	302 KAR 045:010	304.9-160	806 KAR 009:025
260.580	302 KAR 010:025		806 KAR 009:221
260.620	302 KAR 010:015	304.9-190	806 KAR 009:221
	302 KAR 010:100	304.9-230	806 KAR 009:025
260.850 – 260.869	302 KAR 050:020		806 KAR 009:221
	302 KAR 050:030	304.9-270	806 KAR 009:025
	302 KAR 050:050	304.9-295	806 KAR 009:025
	302 KAR 050:055		806 KAR 009:221
	302 KAR 050:060	304.9-320	806 KAR 009:221
261	302 KAR 020:014	304.9-430	806 KAR 009:025
	302 KAR 022:050		806 KAR 009:221
261.2	921 KAR 003:025	304.9-505	806 KAR 009:221
262.010 – 262.660	416 KAR 001:010		806 KAR 009:265
273.161 – 273.405	300 KAR 001:010	304.10-030	806 KAR 010:061
273.4	921 KAR 003:025	304.10-040	806 KAR 010:061
273.5	921 KAR 003:025	304.10-140	806 KAR 010:061
273.7	921 KAR 003:025	304.12-090 - 304.12-110	806 KAR 013:101
273.11	921 KAR 003:025	304.13-051 - 304.13-065	806 KAR 013:101
278	807 KAR 005:056	304.13-057	806 KAR 013:120
278.548	920 KAR 001:070	304.13-121	806 KAR 013:040
286.4	808 KAR 001:170	304.13-151	806 KAR 013:071
286.8-010	808 KAR 001:170	304.13-167	806 KAR 013:120
286.8-020	808 KAR 001:170	304.13-400 – 304.13-420	806 KAR 013:120
286.8-030	808 KAR 001:170	304.14-010	806 KAR 013:101
286.8-032	808 KAR 001:170	304.14-120	806 KAR 014:061
286.8-034	808 KAR 001:170		806 KAR 015:090
286.8-036	808 KAR 001:170	304.14-642	806 KAR 009:221
286.8-060	808 KAR 001:170	304.15-075	806 KAR 015:090
286.8-070	808 KAR 001:170	304.15-700	806 KAR 009:221
286.8-080	808 KAR 001:170	304.20-400 - 304.20-450	806 KAR 013:101
286.8-090	808 KAR 001:170	304.17A-257	902 KAR 021:020
286.8-255	808 KAR 001:170	304.47-010	806 KAR 047:010
286.8-260	808 KAR 001:170	304.47-020	806 KAR 047:010
286.8-290	808 KAR 001:170	304.47-040	806 KAR 047:010
286.9-010	808 KAR 001:170	304.47-050	806 KAR 047:010
	808 KAR 009:050	304.47-080	806 KAR 047:010
286.9-020	808 KAR 001:170	304.99-020	806 KAR 003:230
	808 KAR 009:050	309.080	907 KAR 015:005
286.9-030	808 KAR 001:170	309.130	902 KAR 020:430
	808 KAR 009:050		907 KAR 015:005
286.9-040	808 KAR 001:170	309.300 - 309.319	920 KAR 001:070
	808 KAR 009:050	311.530-311.620	201 KAR 009:270
286.9-050	808 KAR 001:170	311.571	902 KAR 020:280
	808 KAR 009:050	311.646	922 KAR 002:100
286.9-060	808 KAR 001:170	311.840	907 KAR 015:005
	808 KAR 009:050	311.860	902 KAR 020:430
286.9-070	808 KAR 009:050	311.990	201 KAR 009:270
286.9-071	808 KAR 001:170	311A.015	202 KAR 007:020
	808 KAR 009:050	311A.020	202 KAR 007:020
286.9-073	808 KAR 001:170	311A.030	202 KAR 007:555
	808 KAR 009:050	311A.145	202 KAR 007:020
286.9-080	808 KAR 001:170	311A.190	202 KAR 007:555
	808 KAR 009:050	313.021	201 KAR 008:590
286.9-104	808 KAR 009:050	313.035	201 KAR 008:550
304.1-040	806 KAR 010:061	313.060	201 KAR 008:540
304.17A-005	806 KAR 017:480	313.085	201 KAR 008:540
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		201 KAR 020:057
304.2-110	806 KAR 010:061		201 KAR 020:162
304.2-140	806 KAR 047:010	314.031	201 KAR 020:162
304.4-010	806 KAR 009:025	314.035	201 KAR 020:470E
	806 KAR 009:221	314.041	201 KAR 020:230
	806 KAR 009:265		201 KAR 020:225E
304.5-070	806 KAR 005:060		902 KAR 020:280
304.5-140	806 KAR 005:025		902 KAR 020:370
304.7-010 - 304.7-350	806 KAR 007:021	314.042	201 KAR 020:057
304.7-361	806 KAR 007:031		201 KAR 020:225E
304.9-030	806 KAR 009:221		902 KAR 020:370
304.9-105	806 KAR 009:025		902 KAR 020:430
	806 KAR 009:221	314.051	201 KAR 020:225E
304.9-130	806 KAR 009:025		201 KAR 020:230

KRS SECTION	REGULATION	KRS SECTION	REGULATION	
314.071	902 KAR 020:370	317A.050	201 KAR 012:082	
	201 KAR 020:162		201 KAR 012:030	
	201 KAR 020:225E		201 KAR 012:082	
	201 KAR 020:230		201 KAR 012:260	
314.073	902 KAR 020:370	317A.060	201 KAR 012:030	
	201 KAR 020:225E		201 KAR 012:060	
	201 KAR 020:230		201 KAR 012:140	
314.075	201 KAR 020:225E	317A.062	201 KAR 012:260	
314.085	201 KAR 020:225E	317A.090	201 KAR 012:082	
314.089	201 KAR 020:470E		201 KAR 012:140	
314.091	201 KAR 020:162	317A.130	201 KAR 012:100	
	201 KAR 020:225E	317B.020	201 KAR 012:060	
	201 KAR 020:470E	318	815 KAR 020:010	
			815 KAR 020:080	
314.103	902 KAR 020:370	318.010	815 KAR 020:111	
	201 KAR 020:225E		815 KAR 020:020	
	201 KAR 020:470E		815 KAR 020:030	
	902 KAR 020:370		815 KAR 020:070	
314.109	201 KAR 020:225E		815 KAR 020:130	
314.131	902 KAR 020:410		815 KAR 020:180	
314.137	201 KAR 020:470E	318.015	815 KAR 020:195	
314.161	201 KAR 020:162		815 KAR 020:020	
314.193	201 KAR 020:057		815 KAR 020:070	
314.195	201 KAR 020:057		815 KAR 020:090	
314.196	201 KAR 020:057		815 KAR 020:130	
314.404-314.416	201 KAR 020:600		815 KAR 020:030	
	201 KAR 020:610		318.020	815 KAR 020:030
	201 KAR 020:620		318.030	815 KAR 020:030
	201 KAR 020:630			815 KAR 020:050
	201 KAR 020:640		318.040	815 KAR 020:030
	201 KAR 020:650		318.050	815 KAR 020:030
	201 KAR 020:660		318.054	815 KAR 020:030
	201 KAR 020:670	318.060	815 KAR 020:030	
	201 KAR 020:680	318.080	815 KAR 020:150	
	201 KAR 020:690	318.090	815 KAR 020:020	
	314.475	902 KAR 020:370	318.130	815 KAR 020:060
	314.991	201 KAR 020:162		815 KAR 020:090
201 KAR 020:470E			815 KAR 020:120	
201 KAR 029:015			815 KAR 020:130	
314A.110	201 KAR 029:015		815 KAR 020:150	
314A.112	201 KAR 029:015		815 KAR 020:170	
314A.215	201 KAR 029:015		815 KAR 020:180	
314A.220	201 KAR 029:015	318.134	815 KAR 020:050	
315.010	201 KAR 002:230		815 KAR 020:150	
315.020	201 KAR 002:230		815 KAR 020:195	
315.035	201 KAR 002:230		815 KAR 020:150	
	201 KAR 020:050	318.140	815 KAR 020:020	
315.0351	201 KAR 020:050	318.150	815 KAR 020:060	
315.036	201 KAR 020:050		815 KAR 020:070	
315.050	201 KAR 002:020		815 KAR 020:090	
	201 KAR 020:050		815 KAR 020:120	
315.060	201 KAR 002:050		815 KAR 020:130	
315.110	201 KAR 002:050	318.160	815 KAR 020:050	
315.120	201 KAR 002:050		815 KAR 020:150	
315.191	201 KAR 002:050		815 KAR 020:191	
	201 KAR 002:230		815 KAR 020:120	
315.402	201 KAR 002:050		815 KAR 020:150	
316	201 KAR 015:010		815 KAR 020:055	
316.010	201 KAR 015:110	318.165	815 KAR 020:130	
316.030	201 KAR 015:040	318.170	907 KAR 015:010	
	201 KAR 015:050	318.200	902 KAR 020:430	
	201 KAR 015:110		907 KAR 015:005	
316.125	201 KAR 015:030		902 KAR 020:430	
	201 KAR 015:110		907 KAR 015:005	
	201 KAR 015:110	319	902 KAR 020:280	
316.127	201 KAR 015:030	319.050	907 KAR 001:604	
316.130	201 KAR 015:110	319.053	902 KAR 020:430	
316.132	201 KAR 015:030	319.056	907 KAR 015:005	
316.140	201 KAR 015:030		902 KAR 020:430	
	201 KAR 015:120	319.064	907 KAR 015:005	
316.150	201 KAR 015:080		902 KAR 020:430	
316.165	201 KAR 015:125	319A.010	907 KAR 015:005	
316.170	201 KAR 015:015		902 KAR 020:280	
316.210	201 KAR 015:015	319C.010	907 KAR 001:604	
316.260	201 KAR 015:110		902 KAR 020:430	
317A.020	201 KAR 012:030	321	907 KAR 015:005	
			201 KAR 016:012	

KRS SECTION	REGULATION	KRS SECTION	REGULATION
321.181	201 KAR 016:600		201 KAR 011:170
321.193	201 KAR 016:510		201 KAR 011:190
	201 KAR 016:520		201 KAR 011:210
	201 KAR 016:530	324.170	201 KAR 011:190
	201 KAR 016:540	324.200	201 KAR 011:190
	201 KAR 016:570	324.281	201 KAR 011:121
321.201	201 KAR 016:516		201 KAR 011:170
321.207	201 KAR 016:514		201 KAR 011:190
	201 KAR 016:550		201 KAR 011:210
	201 KAR 016:560	324.282	201 KAR 011:002
	201 KAR 016:572		201 KAR 011:105
	201 KAR 016:580	324.287	201 KAR 011:210
321.211	201 KAR 016:510	324.310	201 KAR 011:121
	201 KAR 016:570		201 KAR 011:210
	201 KAR 016:580	324.330	201 KAR 011:210
	201 KAR 016:590	324.360	201 KAR 011:121
321.221	201 KAR 016:540	324.395	201 KAR 011:220
	201 KAR 016:590	324.410	201 KAR 011:011
321.235	201 KAR 016:590	324.420	201 KAR 011:011
	201 KAR 016:610	324.990	201 KAR 011:210
321.240	201 KAR 016:510	324A	201 KAR 030:010
	201 KAR 016:512	324A.020	201 KAR 030:190
	201 KAR 016:516	324A.015	201 KAR 030:021
321.351	201 KAR 016:500		201 KAR 030:040
	201 KAR 016:610	324A.020	201 KAR 030:070
321.353	201 KAR 016:610		201 KAR 030:110
321.360	201 KAR 016:610	324A.030	201 KAR 030:190
321.441	201 KAR 016:512		201 KAR 030:330
	201 KAR 016:520	324A.035	201 KAR 030:040
	201 KAR 016:530		201 KAR 030:110
	201 KAR 016:540		201 KAR 030:130
	201 KAR 016:570		201 KAR 030:190
	201 KAR 016:580		201 KAR 030:330
	201 KAR 016:590	324A.040	201 KAR 030:110
322	401 KAR 006:320		201 KAR 030:190
322.010	405 KAR 008:010	324A.045	201 KAR 030:110
322.340	405 KAR 008:010		201 KAR 030:190
322A	401 KAR 006:320	324A.047	201 KAR 030:110
323A.040	201 KAR 010:050	324A.050	201 KAR 030:040
323A.050	201 KAR 010:050		201 KAR 030:070
323A.060	201 KAR 010:050	324A.052	201 KAR 030:070
323A.070	201 KAR 010:050		201 KAR 030:190
323A.100	201 KAR 010:050	324A.065	201 KAR 030:110
	201 KAR 010:080		201 KAR 030:190
323A.210	201 KAR 010:080	324A.075	201 KAR 030:190
324.010	201 KAR 011:011	324A.152	201 KAR 030:330
	201 KAR 011:121	324A.154	201 KAR 030:330
	201 KAR 011:170	324A.155	201 KAR 030:330
	201 KAR 011:210	324A.163	201 KAR 030:330
	201 KAR 011:220	325.240	201 KAR 001:100
324.020	201 KAR 011:210	325.261	201 KAR 001:190
	201 KAR 011:220	325.270	201 KAR 001:190
324.040	201 KAR 011:210	325.330	201 KAR 001:100
324.045	201 KAR 011:190	327.010	902 KAR 020:280
	201 KAR 011:210		907 KAR 001:604
324.046	201 KAR 011:011	327.300	201 KAR 022:170
	201 KAR 011:170	334A.020	902 KAR 020:280
	201 KAR 011:190		907 KAR 001:604
	201 KAR 011:210	335.010	201 KAR 023:070
324.085	201 KAR 011:170	335.080	201 KAR 023:070
	201 KAR 011:210		902 KAR 020:430
324.090	201 KAR 011:170		907 KAR 015:005
	201 KAR 011:210	335.090	902 KAR 020:280
324.111	201 KAR 011:011	335.100	201 KAR 023:070
	201 KAR 011:121		902 KAR 020:430
324.121	201 KAR 011:121		907 KAR 015:005
324.117	201 KAR 011:011	335.300	902 KAR 020:430
	201 KAR 011:105		907 KAR 015:005
324.141	201 KAR 011:210	335.305	201 KAR 032:110
324.150	201 KAR 011:190	335.310	201 KAR 032:110
324.151	201 KAR 011:190	335.320	201 KAR 032:110
324.160	201 KAR 011:011	335.325	201 KAR 032:110
	201 KAR 011:105	335.380	201 KAR 032:110
	201 KAR 011:121	335.399	201 KAR 032:110

KRS SECTION	REGULATION	KRS SECTION	REGULATION
335.500	201 KAR 036:060	342.732	803 KAR 025:010
	902 KAR 020:430	342.760	803 KAR 025:010
	907 KAR 015:005	342.792	803 KAR 025:010
335.505	201 KAR 036:060	343	787 KAR 003:010
335.525	201 KAR 036:060	344.030	101 KAR 002:102
337	902 KAR 008:040		101 KAR 003:015
	902 KAR 008:120	344.500	920 KAR 001:070
338	803 KAR 002:304	349.015	805 KAR 001:030
	803 KAR 002:311		805 KAR 001:140
	803 KAR 002:400		805 KAR 001:170
	803 KAR 002:406		805 KAR 009:011
	803 KAR 002:407	349.035	805 KAR 001:140
	803 KAR 002:425		805 KAR 009:011
338.015	803 KAR 002:180	349.040	805 KAR 001:140
	803 KAR 002:300		805 KAR 009:011
	803 KAR 002:320	349.075	805 KAR 001:140
	803 KAR 002:418		805 KAR 009:011
	803 KAR 002:500	349.335	805 KAR 001:080
338.031	803 KAR 002:320	349.045	805 KAR 001:020
338.051	803 KAR 002:301	349.105	805 KAR 001:170
	803 KAR 002:312	349.110	805 KAR 001:020
	803 KAR 002:315		805 KAR 009:011
	803 KAR 002:316	349.115	805 KAR 001:030
	803 KAR 002:319	349.120	805 KAR 001:050
	803 KAR 002:403		805 KAR 001:140
	803 KAR 002:404		805 KAR 001:170
	803 KAR 002:418		805 KAR 001:200
	803 KAR 002:422		805 KAR 009:011
338.061	803 KAR 002:301	349.155	805 KAR 001:140
	803 KAR 002:312		805 KAR 001:170
	803 KAR 002:315		805 KAR 009:011
	803 KAR 002:316	350	405 KAR 010:001
	803 KAR 002:319		405 KAR 026:011
	803 KAR 002:403	350.010	400 KAR 001:110
	803 KAR 002:404		405 KAR 005:002
	803 KAR 002:418		405 KAR 005:032
	803 KAR 002:422		405 KAR 026:011
338.121	803 KAR 002:180	350.020	405 KAR 007:050
338.161	803 KAR 002:180		405 KAR 008:010
342.020	803 KAR 025:260		405 KAR 010:050
	803 KAR 025:271E		405 KAR 026:011
342.035	803 KAR 025:260	350.028	400 KAR 001:110
	803 KAR 025:271E		405 KAR 026:011
342.640	702 KAR 003:130	350.050	405 KAR 007:040
342.0011	803 KAR 025:010		405 KAR 026:011
	803 KAR 025:260	350.055	405 KAR 008:010
	803 KAR 025:271E		405 KAR 026:011
	803 KAR 025:010	350.057	405 KAR 007:040
342.020	803 KAR 025:010		405 KAR 026:011
342.033	803 KAR 025:010	350.060	405 KAR 007:040
342.033	803 KAR 025:010		405 KAR 008:010
342.035	803 KAR 025:010		405 KAR 008:030
342.040	803 KAR 025:010		405 KAR 010:050
342.120	803 KAR 025:010		405 KAR 026:011
342.1242	803 KAR 025:010	350.062	405 KAR 026:011
342.125	803 KAR 025:010	350.064	405 KAR 010:050
342.165	803 KAR 025:010		405 KAR 026:011
342.185	803 KAR 025:010	350.070	400 KAR 001:110
342.205	803 KAR 025:010		405 KAR 008:010
342.260	803 KAR 025:010		405 KAR 026:011
342.265	803 KAR 025:010	350.085	405 KAR 008:010
242.267-342.275	803 KAR 025:010		405 KAR 026:011
342.285	803 KAR 025:010	350.090	400 KAR 001:110
342.290	803 KAR 025:010		405 KAR 007:050
342.300-342.316	803 KAR 025:010		405 KAR 008:010
342.320	803 KAR 025:010		405 KAR 026:011
342.335	803 KAR 025:010	350.093	400 KAR 001:110
342.340	803 KAR 025:010		405 KAR 010:050
342.395	803 KAR 025:010		405 KAR 016:210
342.610	803 KAR 025:010		405 KAR 018:220
342.650	803 KAR 025:010		405 KAR 026:011
342.710	803 KAR 025:010	350.095	405 KAR 010:050
342.715	803 KAR 025:010		405 KAR 016:210
342.730	803 KAR 025:010		405 KAR 018:220

KRS SECTION	REGULATION	KRS SECTION	REGULATION
350.100	405 KAR 026:011		805 KAR 001:160
	405 KAR 016:100		805 KAR 001:190
	405 KAR 016:210	353.500 - 353.730	805 KAR 001:001
	405 KAR 018:100	353.510	805 KAR 001:110
	405 KAR 018:220		805 KAR 001:140
	405 KAR 020:040		805 KAR 001:170
	405 KAR 026:011	353.520	805 KAR 001:020
350.110	405 KAR 026:011		805 KAR 001:080
350.113	405 KAR 026:011		805 KAR 001:110
350.130	400 KAR 001:110		805 KAR 001:120
	405 KAR 005:032		805 KAR 001:140
	405 KAR 008:010		805 KAR 001:170
	405 KAR 010:050	353.540	805 KAR 001:080
350.131	405 KAR 010:050	353.550	805 KAR 001:030
350.135	405 KAR 008:010		805 KAR 001:060
	405 KAR 026:011		805 KAR 001:080
350.151	405 KAR 010:050		805 KAR 001:110
	405 KAR 018:100		805 KAR 001:180
	405 KAR 018:220		805 KAR 001:200
	405 KAR 026:011	353.560	805 KAR 001:080
350.240	405 KAR 005:002	353.561 - 353.564	805 KAR 001:140
	405 KAR 005:032		805 KAR 001:170
350.255	400 KAR 001:110	353.570	805 KAR 001:110
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

KRS SECTION	REGULATION	KRS SECTION	REGULATION
383.085	902 KAR 045:065	527.070	922 KAR 002:100
387	902 KAR 045:070	527.100	922 KAR 001:565
387.010	922 KAR 001:565	527.110	922 KAR 001:565
	902 KAR 045:065	529.010	922 KAR 001:330
401	902 KAR 045:070	532.043	501 KAR 001:040
402	105 KAR 001:149		501 KAR 001:071
403	105 KAR 001:149	532.045	922 KAR 001:330
403.270 - 403.355	105 KAR 001:149	532.060	501 KAR 001:071
405.024	922 KAR 001:565	532.400	501 KAR 001:040
416.120	922 KAR 001:565	600.010	922 KAR 001:330
416.212	921 KAR 002:015	600.020	922 KAR 001:320
416.2030	921 KAR 002:015		922 KAR 001:330
416.2095	921 KAR 002:015		922 KAR 001:565
416.2096	921 KAR 002:015		922 KAR 002:090
416.2099	921 KAR 002:015	600-645	922 KAR 002:100
422.317	201 KAR 008:540		505 KAR 001:120
	907 KAR 003:170	605.090	505 KAR 001:160
423	030 KAR 008:005		922 KAR 001:320
424	805 KAR 001:140	605.120	922 KAR 001:330
424.110 - 424.120	405 KAR 008:010	605.130	922 KAR 001:565
424.260	702 KAR 003:130		922 KAR 001:330
430.10	907 KAR 001:604	605.150	922 KAR 001:565
431.51	907 KAR 001:604		922 KAR 001:330
431.600	922 KAR 001:330	610.010	922 KAR 001:330
434.840 – 434.860	907 KAR 003:170	610.110	922 KAR 001:320
439	501 KAR 006:020		922 KAR 001:565
	501 KAR 006:060	620.010 - 620.050	922 KAR 001:330
	501 KAR 006:110	620.020	922 KAR 001:320
	501 KAR 006:140		922 KAR 001:560
	501 KAR 006:160		922 KAR 001:565
436.265	501 KAR 006:280		922 KAR 002:090
439.315	501 KAR 001:040		922 KAR 002:100
439.330	501 KAR 001:040	620.030	902 KAR 020:280
	501 KAR 001:071		922 KAR 002:090
439.331	501 KAR 006:280		922 KAR 002:100
439.340	501 KAR 001:071	620.070	922 KAR 001:330
439.341	501 KAR 001:040	620.072	922 KAR 001:330
	501 KAR 001:071	620.090	922 KAR 001:565
439.346	501 KAR 001:040	620.140	922 KAR 001:320
	501 KAR 001:071		922 KAR 001:565
439.348	501 KAR 006:280	620.142	922 KAR 001:320
439.390	501 KAR 001:040		922 KAR 001:565
439.430	501 KAR 001:040	620.157	922 KAR 001:320
	501 KAR 001:071	620.170	922 KAR 001:565
439.440	501 KAR 001:040	620.180	922 KAR 001:320
439.480	501 KAR 006:280		922 KAR 001:330
439.3101	501 KAR 006:280	620.230	922 KAR 001:320
439.3104	501 KAR 006:280	620.350	922 KAR 001:330
439.3105	501 KAR 006:280	620.363	922 KAR 001:320
439.3401	902 KAR 020:430	620.990	922 KAR 001:330
	902 KAR 020:450	625.065	922 KAR 001:560
439.3406	501 KAR 001:040	2019 RS HB220	806 KAR 003:240
446.010	501 KAR 006:280	7 C.F.R.	405 KAR 008:030
447.15	907 KAR 001:604		405 KAR 010:001
447.20	907 KAR 001:604		921 KAR 003:025
447.21	907 KAR 001:604		921 KAR 003:050
447.50	907 KAR 001:604		922 KAR 002:100
447.52	907 KAR 001:604	12 C.F.R.	201 KAR 030:040
447.54	907 KAR 001:604		201 KAR 030:190
447.55	907 KAR 001:604		201 KAR 030:330
447.56	907 KAR 001:604	16 C.F.R.	201 KAR 015:110
447.57	907 KAR 001:604		922 KAR 002:100
457.224	907 KAR 001:604	20 C.F.R.	921 KAR 002:015
457.310	907 KAR 001:604	21 C.F.R.	902 KAR 045:090
457.505	907 KAR 001:604		902 KAR 055:120
457.510	907 KAR 001:604	24 C.F.R.	201 KAR 011:121
457.515	907 KAR 001:604	26 C.F.R.	102 KAR 001:032
457.520	907 KAR 001:604		105 KAR 001:390
457.530	907 KAR 001:604		921 KAR 003:050
457.535	907 KAR 001:604	27 C.F.R.	405 KAR 008:010
457.570	907 KAR 001:604	28 C.F.R.	201 KAR 011:210
503.110	922 KAR 001:330		902 KAR 045:065
514	921 KAR 002:015		902 KAR 045:070

KRS SECTION	REGULATION	KRS SECTION	REGULATION
29 C.F.R.	920 KAR 001:070	8 U.S.C	921 KAR 003:025
	101 KAR 002:102		921 KAR 002:015
	101 KAR 003:015	9 U.S.C.	202 KAR 006:010
	202 KAR 007:555		202 KAR 006:050
	803 KAR 002:180	12 U.S.C.	202 KAR 006:080
	803 KAR 002:300		202 KAR 006:090
	803 KAR 002:304		201 KAR 030:010
	803 KAR 002:301		201 KAR 030:040
	803 KAR 002:311		201 KAR 030:110
	803 KAR 002:312		201 KAR 030:130
	803 KAR 002:315		201 KAR 030:190
	803 KAR 002:316	15 U.S.C.	201 KAR 030:330
	803 KAR 002:319		806 KAR 003:230
	803 KAR 002:320	16 U.S.C.	405 KAR 008:010
	803 KAR 002:400		405 KAR 008:030
	803 KAR 002:403	18 U.S.C.	501 KAR 006:160
	803 KAR 002:404		601 KAR 002:030E
	803 KAR 002:406	20 U.S.C.	013 KAR 001:020
	803 KAR 002:407		702 KAR 007:065
	803 KAR 002:418		703 KAR 005:270
	803 KAR 002:422		703 KAR 005:280
	803 KAR 002:425		704 KAR 007:090
	803 KAR 002:500		780 KAR 001:011
	902 KAR 008:040		902 KAR 020:430
	902 KAR 008:120		907 KAR 015:010
	902 KAR 045:065		907 KAR 015:020
	902 KAR 045:070		922 KAR 002:100
30 C.F.R.	400 KAR 001:110	21 U.S.C.	902 KAR 045:090
	405 KAR 008:010		102 KAR 001:032
	405 KAR 008:030	26 U.S.C.	105 KAR 001:149
	405 KAR 010:001		105 KAR 001:390
	405 KAR 010:050	29 U.S.C.	301 KAR 003:100
	405 KAR 016:100		907 KAR 005:005
	405 KAR 016:210		101 KAR 002:102
	405 KAR 018:100		101 KAR 003:015
	405 KAR 018:220		201 KAR 015:110
	902 KAR 030:010E		902 KAR 008:040
	302 KAR 031:040		902 KAR 008:120
	401 KAR 010:001		902 KAR 020:430
	401 KAR 010:029		907 KAR 005:005
	401 KAR 051:010		907 KAR 015:005
34 C.F.R. 40 C.F.R.	401 KAR 052:100		907 KAR 015:010
	401 KAR 058:005		907 KAR 015:020
	405 KAR 008:030	30 U.S.C.	920 KAR 001:070
	405 KAR 010:001		400 KAR 001:110
	805 KAR 001:110		401 KAR 010:030
	805 KAR 001:190		405 KAR 008:010
	900 KAR 002:050		405 KAR 008:030
	902 KAR 002:065		405 KAR 010:050
	902 KAR 020:450		405 KAR 016:100
	907 KAR 001:604		405 KAR 016:210
	907 KAR 003:170		405 KAR 018:100
	907 KAR 005:005		405 KAR 018:220
42 C.F.R.	907 KAR 010:830	31 U.S.C.	045 KAR 001:050
	907 KAR 010:840		401 KAR 010:029
	907 KAR 015:005	33 U.S.C.	902 KAR 008:096
	907 KAR 015:010		201 KAR 008:540
	907 KAR 015:020	38 U.S.C	202 KAR 006:050
	201 KAR 011:121		401 KAR 051:010
44 C.F.R. 45 C.F.R.	902 KAR 020:370	42 U.S.C.	401 KAR 052:100
	902 KAR 020:430		401 KAR 063:010
	902 KAR 020:450		702 KAR 006:040
	907 KAR 015:010		704 KAR 007:090
	907 KAR 015:020		805 KAR 001:110
	920 KAR 001:070		815 KAR 020:060
	921 KAR 003:025		900 KAR 002:050
	922 KAR 001:320		902 KAR 020:370
	922 KAR 002:090		902 KAR 020:430
	922 KAR 002:100		902 KAR 020:450
49 C.F.R.	302 KAR 031:040		902 KAR 021:020
	702 KAR 005:080		907 KAR 001:604
	805 KAR 001:190		907 KAR 005:005
	922 KAR 002:100		907 KAR 010:830
7 U.S.C.	302 KAR 050:050		907 KAR 010:840

KRS SECTION**REGULATION****KRS SECTION****REGULATION**

47 U.S.C.

50 C.F.R.

Pub.L. 104-191

Pub.L. 110-325

907 KAR 015:010
907 KAR 015:015
907 KAR 015:020
907 KAR 015:022
907 KAR 015:025
920 KAR 001:070
921 KAR 002:015
922 KAR 001:320
922 KAR 001:330
922 KAR 001:565
922 KAR 002:090
922 KAR 002:100
202 KAR 006:010
202 KAR 006:020
202 KAR 006:030
202 KAR 006:050
202 KAR 006:060
202 KAR 006:070
202 KAR 006:080
202 KAR 006:090
202 KAR 006:100
302 KAR 045:010
902 KAR 030:010E
920 KAR 001:070
920 KAR 001:070

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 As Is, 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
001 KAR 002:010	02-19-2020	Remain As Is
001 KAR 004:005	02-19-2020	Remain As Is
001 KAR 004:010	02-19-2020	Remain As Is
001 KAR 005:010	02-19-2020	Remain As Is
001 KAR 006:020	02-19-2020	Remain As Is
004 KAR 001:020	01-27-2020	Remain As Is
004 KAR 001:030	01-27-2020	Remain As Is
009 KAR 001:050	01-28-2020	Remain As Is
010 KAR 002:020	02-24-2020	To be amended, filing deadline 8-24-2021
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 001:030	02-06-2020	To be amended, filing deadline 8-6-21
013 KAR 001:050	02-06-2020	To be amended, filing deadline 8-6-21
013 KAR 002:025	02-06-2020	Remain As Is
013 KAR 002:070	02-06-2020	Remain As Is
013 KAR 002:080	02-06-2020	Remain As Is

Regulation Number	Letter Filed Date	Action
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 deadline 8-4-21
013 KAR 003:060	02-04-2020	To be amended, filing deadline 8-4-21
016 KAR 001:020	02-27-2020	Remain As Is
016 KAR 001:040	02-27-2020	To be amended, filing deadline 8-27-21
016 KAR 001:050	02-27-2020	To be amended, filing deadline 8-27-21
016 KAR 002:030	02-27-2020	Remain As Is
016 KAR 002:040	02-27-2020	To be amended, filing deadline 8-27-21
016 KAR 002:050	02-27-2020	To be amended, filing deadline 8-27-21
016 KAR 002:070	02-27-2020	Remain As Is
016 KAR 002:080	02-27-2020	Remain As Is
016 KAR 002:090	02-27-2020	Remain As Is
016 KAR 002:130	02-27-2020	Remain As Is
016 KAR 002:180	02-27-2020	To be amended, filing deadline 8-27-21
016 KAR 003:060	02-27-2020	To be amended, filing deadline 8-27-21
016 KAR 003:070	02-27-2020	To be amended, filing deadline 8-27-21
016 KAR 004:010	02-27-2020	Remain As Is
016 KAR 004:020	02-27-2020	To be amended, filing deadline 8-27-21
016 KAR 004:050	02-27-2020	To be amended, filing deadline 8-27-21
016 KAR 004:070	02-27-2020	Remain As Is
016 KAR 005:010	02-27-2020	To be amended, filing deadline 8-27-21
016 KAR 007:020	02-27-2020	Remain As Is
016 KAR 008:010	02-27-2020	Remain As Is
016 KAR 008:020	02-27-2020	Remain As Is
016 KAR 009:010	02-27-2020	To be amended, filing deadline 8-27-21
016 KAR 009:020	02-27-2020	To be amended, filing deadline 8-27-21
016 KAR 009:050	02-27-2020	To be amended, filing deadline 8-27-21
016 KAR 009:060	02-27-2020	Remain As Is
016 KAR 009:070	02-27-2020	To be amended, filing deadline 8-27-21
016 KAR 009:090	02-27-2020	To be amended, filing deadline 8-27-21
020 KAR 001:010	06-07-2019	Remain As Is
020 KAR 001:020	06-07-2019	Remain As Is
020 KAR 001:030	06-07-2019	Remain As Is
020 KAR 001:040	06-07-2019	Remain As Is
020 KAR 001:050	06-07-2019	Remain As Is

CERTIFICATION LETTER SUMMARIES

Regulation Number	Letter Filed Date	Action
102 KAR 001:350	07-03-2019	Remain As Is
102 KAR 002:010	07-03-2019	Remain As Is
102 KAR 002:025	07-03-2019	Remain As Is
103 KAR 001:070	06-07-2019	Remain As Is
103 KAR 001:092	06-07-2019	Remain As Is
103 KAR 001:150	06-07-2019	Remain As Is
103 KAR 002:020	06-07-2019	Remain As Is
103 KAR 005:180	06-07-2019	Remain As Is
103 KAR 005:190	06-07-2019	Remain As Is
103 KAR 005:220	06-07-2019	Remain As Is
103 KAR 005:230	06-07-2019	Remain As Is
103 KAR 008:090	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 016:320	02-19-2020	To be Amended, filing deadline 8-19-21
103 KAR 016:352	02-19-2020	To be Amended, filing deadline 8-19-21
103 KAR 016:370	02-28-2020	Remain As Is
103 KAR 018:020	02-19-2020	To be Amended, filing deadline 8-19-21
103 KAR 018:090	02-19-2020	To be Amended, filing deadline 8-19-21
103 KAR 025:050	01-28-2020	Remain As Is
103 KAR 025:060	01-28-2020	Remain As Is
103 KAR 026:030	01-28-2020	Remain As Is
103 KAR 026:050	01-28-2020	Remain As Is
103 KAR 026:060	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 026:080	01-28-2020	Remain As Is
103 KAR 026:100	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 026:110	01-28-2020	Remain As Is
103 KAR 026:120	01-28-2020	Remain As Is
103 KAR 027:020	01-28-2020	Remain As Is
103 KAR 027:030	06-07-2019	Remain As Is
103 KAR 027:040	06-07-2019	Remain As Is
103 KAR 027:050	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 027:080	01-28-2020	Remain As Is
103 KAR 027:100	01-28-2020	Remain As Is
103 KAR 027:120	01-28-2020	Remain As Is
103 KAR 027:130	09-04-2019	Remain As Is
103 KAR 027:150	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 027:170	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 027:220	01-28-2020	Remain As Is
103 KAR 027:230	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 027:240	06-07-2019	Remain As Is
103 KAR 028:020	06-07-2019	Remain As Is
103 KAR 028:030	11-06-2019	Remain As Is
103 KAR 028:051	06-07-2019	Remain As Is
103 KAR 028:060	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 028:090	01-28-2020	Remain As Is
103 KAR 028:130	06-07-2019	Remain As Is
103 KAR 028:150	01-28-2020	Remain As Is
103 KAR 028:170	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 030:091	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 030:120	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 030:140	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 030:160	06-07-2019	Remain As Is

Regulation Number	Letter Filed Date	Action
103 KAR 030:180	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 030:190	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 030:235	06-07-2019	Remain As Is
103 KAR 030:250	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 030:270	01-28-2020	Remain As Is
103 KAR 030:280	06-07-2019	Remain As Is
103 KAR 030:290	01-28-2020	Remain As Is
103 KAR 031:011	06-07-2019	Remain As Is
103 KAR 031:020	01-28-2020	Remain As Is
103 KAR 031:050	06-07-2019	Remain As Is
103 KAR 031:080	01-28-2020	Remain As Is
103 KAR 031:090	01-28-2020	Remain As Is
103 KAR 031:102	06-07-2019	Remain As Is
103 KAR 031:170	06-07-2019	Remain As Is
103 KAR 031:180	01-28-2020	Remain As Is
103 KAR 031:190	06-07-2019	Remain As Is
103 KAR 031:200	01-28-2020	Remain As Is
103 KAR 040:010	01-28-2020	Remain As Is
103 KAR 040:035	08-05-2019	Remain As Is
103 KAR 040:050	01-28-2020	Remain As Is
103 KAR 040:100	08-09-2019	Remain As Is
103 KAR 041:040	01-28-2020	Remain As Is
103 KAR 041:090	08-05-2019	Remain As Is
103 KAR 041:100	01-28-2020	Remain As Is
103 KAR 041:110	01-28-2020	Remain As Is
103 KAR 041:120	12-03-2019	Remain As Is
103 KAR 041:120	01-28-2020	Remain As Is
103 KAR 041:130	08-06-2019	Remain As Is
103 KAR 041:140	08-05-2019	Remain As Is
103 KAR 041:150	09-04-2019	Remain As Is
103 KAR 041:160	08-05-2019	Remain As Is
103 KAR 043:010	01-28-2020	Remain As Is
103 KAR 043:140	01-28-2020	To be amended, filing deadline 7-28-21
103 KAR 043:310	09-04-2019	Remain As Is
103 KAR 043:320	08-07-2019	Remain As Is
103 KAR 043:330	08-07-2019	Remain As Is
103 KAR 044:070	08-07-2019	Remain As Is
103 KAR 044:090	08-07-2019	Remain As Is
103 KAR 044:100	08-07-2019	Remain As Is
103 KAR 044:120	08-07-2019	Remain As Is
103 KAR 045:015	08-07-2019	Remain As Is
104 KAR 001:010	01-29-2020	Remain As Is
104 KAR 001:020	01-29-2020	Remain As Is
104 KAR 001:030	01-29-2020	Remain As Is
104 KAR 001:040	01-29-2020	Remain As Is
104 KAR 001:050	01-29-2020	Remain As Is
104 KAR 001:060	01-29-2020	Remain As Is
104 KAR 001:070	01-29-2020	Remain As Is
104 KAR 001:080	01-29-2020	Remain As Is
104 KAR 001:090	01-29-2020	Remain As Is
104 KAR 001:100	01-29-2020	Remain As Is
105 KAR 001:130	06-28-2019	Remain As Is
105 KAR 001:150	06-28-2019	Remain As Is
105 KAR 001:160	06-28-2019	Remain As Is
105 KAR 001:170	06-28-2019	Remain As Is
105 KAR 001:180	01-29-2020	Remain As Is
105 KAR 001:190	06-11-2019	Remain As Is
105 KAR 001:210	01-29-2020	Remain As Is
105 KAR 001:220	06-11-2019	Remain As Is
105 KAR 001:240	01-29-2020	Remain As Is
105 KAR 001:250	11-01-2019	Remain As Is
105 KAR 001:260	06-11-2019	Remain As Is
105 KAR 001:270	02-24-2020	Remain As Is
105 KAR 001:310	01-29-2020	Remain As Is

CERTIFICATION LETTER SUMMARIES

Regulation Number	Letter Filed Date	Action
105 KAR 001:330	01-29-2020	Remain As Is
105 KAR 001:400	06-11-2019	Remain As Is
105 KAR 001:420	01-27-2020	Remain As Is
105 KAR 001:430	06-28-2019	Remain As Is
105 KAR 001:440	06-11-2019	Remain As Is
109 KAR 002:020	02-27-2020	Remain As Is
109 KAR 004:020	02-27-2020	Remain As Is
109 KAR 005:010	02-27-2020	Remain As Is
109 KAR 007:010	02-27-2020	Remain As Is
109 KAR 007:020	02-27-2020	Remain As Is
109 KAR 009:010	02-27-2020	Remain As Is
109 KAR 010:010	02-27-2020	Remain As Is
109 KAR 011:010	02-27-2020	Remain As Is
109 KAR 011:030	02-27-2020	Remain As Is
109 KAR 013:010	02-27-2020	Remain As Is
109 KAR 015:020	02-27-2020	Remain As Is
109 KAR 016:010	02-27-2020	Remain As Is
200 KAR 001:020	02-10-2020	Remain As Is
200 KAR 003:010	02-10-2020	Remain As Is
200 KAR 003:045	02-10-2020	Remain As Is
200 KAR 005:076	02-10-2020	Remain As Is
200 KAR 005:302	02-12-2020	Remain As Is
200 KAR 005:305	02-10-2020	Remain As Is
200 KAR 005:306	02-12-2020	Remain As Is
200 KAR 005:307	02-12-2020	Remain As Is
200 KAR 005:309	02-12-2020	Remain As Is
200 KAR 005:310	02-12-2020	Remain As Is
200 KAR 005:311	02-12-2020	Remain As Is
200 KAR 005:312	02-12-2020	Remain As Is
200 KAR 005:314	02-12-2020	Remain As Is
200 KAR 005:315	02-12-2020	Remain As Is
200 KAR 005:317	02-19-2020	To be Amended, filing deadline 8-19-21
200 KAR 005:330	02-26-2020	Remain As Is
200 KAR 005:340	02-12-2020	Remain As Is
200 KAR 005:350	02-10-2020	Remain As Is
200 KAR 005:375	02-12-2020	Remain As Is
200 KAR 005:380	02-12-2020	Remain As Is
200 KAR 005:390	02-12-2020	Remain As Is
200 KAR 005:400	02-12-2020	Remain As Is
200 KAR 005:410	02-19-2020	Remain As Is
200 KAR 006:015	02-10-2020	Remain As Is
200 KAR 006:040	02-10-2020	Remain As Is
200 KAR 006:060	02-10-2020	Remain As Is
200 KAR 006:070	02-10-2020	Remain As Is
200 KAR 012:020	02-10-2020	Remain As Is
200 KAR 012:030	02-10-2020	Remain As Is
200 KAR 017:010	02-28-2020	Remain As Is
200 KAR 017:030	02-28-2020	Remain As Is
200 KAR 017:050	02-28-2020	Remain As Is
200 KAR 017:070	02-28-2020	Remain As Is
200 KAR 017:080	02-28-2020	Remain As Is
200 KAR 017:090	02-28-2020	Remain As Is
200 KAR 026:010	02-10-2020	Remain As Is
200 KAR 038:040	02-10-2020	Remain As Is
200 KAR 038:050	02-10-2020	Remain As Is
200 KAR 038:060	02-10-2020	Remain As Is
200 KAR 038:070	02-10-2020	Remain 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 005:010	02-21-2020	Remain As Is
201 KAR 005:070	02-21-2020	Remain As Is
201 KAR 005:080	02-21-2020	Remain As Is
201 KAR 007:010	02-21-2020	Remain As Is
201 KAR 007:020	02-21-2020	Remain As Is
201 KAR 007:025	02-21-2020	Remain As Is

Regulation Number	Letter Filed Date	Action
201 KAR 007:040	02-21-2020	Remain As Is
201 KAR 007:050	02-21-2020	Remain As Is
201 KAR 007:070	02-21-2020	Remain As Is
201 KAR 007:075	02-21-2020	Remain As Is
201 KAR 007:090	02-21-2020	Remain As Is
201 KAR 007:100	02-21-2020	Remain As Is
201 KAR 007:105	02-21-2020	Remain As Is
201 KAR 008:520	12-03-2019	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 12-21-20
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 009:200	01-15-2020	Remain As Is
201 KAR 009:210	01-15-2020	Remain As Is
201 KAR 009:220	01-15-2020	Remain As Is
201 KAR 009:230	01-15-2020	Remain As Is
201 KAR 010:010	01-16-2020	Remain As Is
201 KAR 010:030	01-16-2020	Remain As Is
201 KAR 010:040	01-16-2020	Remain As Is
201 KAR 010:050	01-16-2020	Remain As Is
201 KAR 010:070	01-16-2020	Remain As Is
201 KAR 013:010	02-21-2020	Remain As Is
201 KAR 013:020	02-21-2020	Remain As Is
201 KAR 013:030	02-21-2020	Remain As Is
201 KAR 013:070	02-21-2020	Remain As Is
201 KAR 013:080	02-21-2020	Remain As Is
201 KAR 016:010	02-20-2020	Remain As Is
201 KAR 016:015	02-20-2020	Remain As Is
201 KAR 016:020	02-20-2020	Remain As Is
201 KAR 016:030	02-20-2020	Remain As Is
201 KAR 016:040	02-20-2020	Remain As Is
201 KAR 016:050	02-20-2020	Remain As Is
201 KAR 016:060	02-20-2020	Remain As Is
201 KAR 016:080	02-20-2020	Remain As Is
201 KAR 016:090	02-20-2020	Remain As Is
201 KAR 016:100	02-20-2020	Remain As Is
201 KAR 016:110	02-20-2020	Remain As Is
201 KAR 017:011	02-21-2020	Remain As Is
201 KAR 017:012	02-21-2020	Remain As Is
201 KAR 017:014	02-21-2020	Remain As Is
201 KAR 017:015	02-21-2020	Remain As Is
201 KAR 017:025	02-21-2020	Remain As Is
201 KAR 017:027	02-21-2020	Remain As Is
201 KAR 017:030	02-21-2020	Remain As Is
201 KAR 017:032	02-21-2020	Remain As Is
201 KAR 017:034	02-21-2020	Remain As Is
201 KAR 017:036	02-21-2020	Remain As Is
201 KAR 017:038	02-21-2020	Remain As Is
201 KAR 017:041	02-21-2020	Remain As Is
201 KAR 017:070	02-21-2020	Remain As Is
201 KAR 017:090	02-21-2020	Remain As Is
201 KAR 017:100	02-21-2020	Remain As Is
201 KAR 017:110	02-21-2020	Remain As Is
201 KAR 018:010	02-14-2020	Remain As Is
201 KAR 018:020	02-14-2020	Remain As Is
201 KAR 018:030	02-14-2020	Remain As Is
201 KAR 018:040	02-14-2020	Remain As Is
201 KAR 018:060	02-14-2020	Remain As Is
201 KAR 018:072	02-14-2020	Remain As Is
201 KAR 018:080	02-14-2020	Remain As Is

CERTIFICATION LETTER SUMMARIES

Regulation Number	Letter Filed Date	Action
201 KAR 018:092	02-14-2020	Remain As Is
201 KAR 018:104	02-14-2020	Remain As Is
201 KAR 018:115	02-14-2020	Remain As Is
201 KAR 018:120	02-14-2020	Remain As Is
201 KAR 018:142	02-14-2020	Remain As Is
201 KAR 018:150	02-14-2020	Remain As Is
201 KAR 018:170	02-14-2020	Remain As Is
201 KAR 018:180	02-14-2020	Remain As Is
201 KAR 018:192	02-14-2020	Remain As Is
201 KAR 018:196	02-14-2020	Remain As Is
201 KAR 018:200	02-14-2020	Remain As Is
201 KAR 018:210	02-14-2020	Remain As Is
201 KAR 018:220	02-14-2020	Remain 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 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 As Is
201 KAR 023:050	06-21-2019	To be amended, filing deadline 12-21-20
201 KAR 023:050	02-28-2020	To be amended, filing deadline 8-28-21
201 KAR 023:060	06-21-2019	Remain As Is
201 KAR 023:080	06-21-2019	Remain As Is
201 KAR 023:120	06-21-2019	Remain As Is
201 KAR 023:140	06-21-2019	Remain 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 As Is
201 KAR 026:125	09-05-2019	Remain As Is
201 KAR 026:130	09-05-2019	Remain As Is
201 KAR 026:140	09-05-2019	Remain As Is

Regulation Number	Letter Filed Date	Action
201 KAR 026:145	09-05-2019	Remain As Is
201 KAR 026:155	09-05-2019	Remain As Is
201 KAR 026:160	09-05-2019	Remain As Is
201 KAR 026:165	09-05-2019	Remain As Is
201 KAR 026:171	09-05-2019	Remain As Is
201 KAR 026:175	09-05-2019	Remain As Is
201 KAR 026:180	09-05-2019	Remain As Is
201 KAR 026:185	09-05-2019	Remain 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 deadline 3-5-21
201 KAR 026:215	09-05-2019	Remain As Is
201 KAR 026:225	09-05-2019	Remain 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 As Is
201 KAR 026:280	09-05-2019	Remain As Is
201 KAR 026:290	09-05-2019	Remain 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 028:150	02-21-2020	Remain As Is
201 KAR 028:160	02-21-2020	Remain As Is
201 KAR 028:190	02-21-2020	Remain As Is
201 KAR 029:010	12-06-2019	Remain As Is
201 KAR 029:015	12-06-2019	Remain As Is
201 KAR 029:040	12-06-2019	Remain As Is
201 KAR 029:070	12-06-2019	Remain As Is
201 KAR 030:130	08-06-2019	Remain As Is
201 KAR 030:130	02-21-2020	Remain As Is
201 KAR 030:160	08-06-2019	Remain As Is
201 KAR 030:170	08-06-2019	Remain As Is
201 KAR 031:010	02-20-2020	Remain As Is
201 KAR 031:020	02-20-2020	Remain As Is
201 KAR 031:030	02-20-2020	Remain As Is
201 KAR 031:040	02-20-2020	Remain As Is
201 KAR 031:050	02-20-2020	Remain As Is
201 KAR 031:060	02-20-2020	Remain As Is
201 KAR 031:080	02-20-2020	Remain As Is
201 KAR 031:090	02-20-2020	Remain As Is
201 KAR 031:100	02-20-2020	Remain As Is
201 KAR 032:010	02-27-2020	Remain As Is
201 KAR 032:020	02-27-2020	Remain As Is
201 KAR 032:070	02-27-2020	Remain As Is
201 KAR 032:081	02-27-2020	Remain As Is
201 KAR 032:101	02-27-2020	Remain As Is
201 KAR 033:050	02-21-2020	Remain As Is
201 KAR 033:060	02-21-2020	Remain As Is
201 KAR 034:010	02-27-2020	Remain As Is
201 KAR 034:015	02-27-2020	Remain As Is
201 KAR 038:010	02-21-2020	Remain As Is
201 KAR 038:040	02-21-2020	Remain As Is
201 KAR 038:060	02-21-2020	Remain As Is
201 KAR 039:020	02-21-2020	Remain As Is
201 KAR 039:060	02-21-2020	Remain As Is
201 KAR 039:080	02-21-2020	Remain As Is
201 KAR 039:090	02-21-2020	Remain As Is
201 KAR 039:100	02-21-2020	Remain As Is
201 KAR 039:120	02-21-2020	Remain As Is
201 KAR 041:020	12-11-2019	Remain As Is
201 KAR 041:030	12-11-2019	Remain As Is
201 KAR 041:040	12-11-2019	Remain As Is
201 KAR 041:060	12-11-2019	Remain As Is
201 KAR 041:065	12-11-2019	Remain As Is

CERTIFICATION LETTER SUMMARIES

Regulation Number	Letter Filed Date	Action
201 KAR 041:070	12-11-2019	Remain As Is
201 KAR 041:080	12-11-2019	Remain As Is
201 KAR 041:090	12-11-2019	Remain As Is
201 KAR 041:100	12-11-2019	Remain As Is
201 KAR 042:010	02-26-2020	Remain As Is
201 KAR 042:030	02-26-2020	Remain As Is
201 KAR 042:070	02-26-2020	Remain As Is
201 KAR 043:040	02-27-2020	Remain As Is
201 KAR 044:060	02-21-2020	Remain As Is
201 KAR 044:070	02-21-2020	Remain As Is
202 KAR 003:020	02-28-2020	To be amended, filing deadline 8-28-21
202 KAR 007:330	02-12-2020	Remain As Is
202 KAR 007:540	02-12-2020	Remain As Is
202 KAR 008:030	02-28-2020	Remain As Is
300 KAR 001:010	02-12-2020	Remain As Is
300 KAR 002:010	02-12-2020	Remain As Is
300 KAR 002:020	02-12-2020	Remain As Is
300 KAR 002:030	02-12-2020	Remain As Is
300 KAR 002:040	02-12-2020	Remain As Is
300 KAR 005:010	02-12-2020	Remain As Is
300 KAR 006:020	02-12-2020	Remain As Is
300 KAR 007:010	02-12-2020	Remain As Is
301 KAR 001:010	11-08-2019	Remain 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 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 As Is
301 KAR 001:060	11-08-2019	Remain As Is
301 KAR 001:080	11-08-2019	Remain 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 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 As Is
301 KAR 001:171	11-08-2019	Remain As Is
301 KAR 001:180	11-08-2019	Remain 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 002:090	02-25-2020	Remain As Is

Regulation Number	Letter Filed Date	Action
301 KAR 002:111	11-19-2019	To be amended, filing deadline 5-19-25
301 KAR 002:130	02-05-2020	Remain As Is
301 KAR 002:142	02-05-2020	To be amended, filing deadline 8-5-21
301 KAR 002:185	02-25-2020	Remain As Is
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 As Is
301 KAR 003:061	12-13-2019	Remain 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 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 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 As Is
301 KAR 006:020	02-05-2020	Remain As Is
301 KAR 006:030	02-05-2020	Remain As Is
301 KAR 006:040	02-05-2020	Remain As Is
301 KAR 006:060	02-05-2020	Remain As Is
301 KAR 006:070	02-05-2020	To be amended, filing deadline 8-5-21
302 KAR 010:010	02-18-2020	Remain As Is
302 KAR 010:020	02-18-2020	Remain As Is
302 KAR 010:030	02-18-2020	Remain As Is
302 KAR 010:040	02-18-2020	Remain As Is
302 KAR 010:050	02-18-2020	Remain As Is
302 KAR 010:060	02-18-2020	Remain As Is
302 KAR 010:070	02-18-2020	Remain As Is
302 KAR 010:080	02-18-2020	Remain As Is
302 KAR 010:090	02-18-2020	Remain As Is
302 KAR 010:100	02-18-2020	Remain As Is

CERTIFICATION LETTER SUMMARIES

Regulation Number	Letter Filed Date	Action
302 KAR 015:010	02-18-2020	Remain As Is
302 KAR 015:020	02-18-2020	Remain As Is
302 KAR 015:030	02-18-2020	Remain As Is
302 KAR 016:030	02-18-2020	Remain As Is
302 KAR 020:010	02-18-2020	Remain As Is
302 KAR 020:020	02-18-2020	Remain As Is
302 KAR 020:030	02-18-2020	Remain As Is
302 KAR 020:040	02-18-2020	Remain As Is
302 KAR 020:050	02-18-2020	Remain As Is
302 KAR 020:052	02-18-2020	Remain As Is
302 KAR 020:055	02-18-2020	Remain As Is
302 KAR 020:065	02-18-2020	Remain As Is
302 KAR 020:070	02-18-2020	Remain As Is
302 KAR 020:090	02-18-2020	Remain As Is
302 KAR 020:100	02-18-2020	Remain As Is
302 KAR 020:115	02-18-2020	Remain As Is
302 KAR 020:130	02-18-2020	Remain As Is
302 KAR 020:140	02-18-2020	Remain As Is
302 KAR 020:150	02-18-2020	Remain As Is
302 KAR 020:180	02-18-2020	Remain As Is
302 KAR 020:185	02-18-2020	Remain As Is
302 KAR 020:240	02-18-2020	Remain As Is
302 KAR 020:250	02-18-2020	Remain As Is
302 KAR 020:261	02-18-2020	Remain As Is
302 KAR 021:005	02-18-2020	Remain As Is
302 KAR 029:070	06-27-2019	Remain As Is
302 KAR 031:040	02-18-2020	Remain As Is
302 KAR 037:010	02-18-2020	Remain As Is
302 KAR 045:010	02-18-2020	Remain As Is
302 KAR 079:010	02-18-2020	Remain 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 As Is
304 KAR 001:020	02-12-2020	Remain As Is
304 KAR 001:030	02-12-2020	Remain As Is
304 KAR 001:040	02-12-2020	Remain As Is
304 KAR 001:050	02-12-2020	Remain As Is
304 KAR 001:080	02-12-2020	Remain 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 As Is
420 KAR 001:020	02-05-2020	Remain As Is
420 KAR 001:030	02-05-2020	Remain As Is
420 KAR 001:040	02-05-2020	Remain As Is
420 KAR 001:050	02-05-2020	Remain As Is
500 KAR 001:010	02-25-2020	Remain As Is
500 KAR 001:020	02-25-2020	To be amended, filing deadline 8-25-21
500 KAR 001:030	02-25-2020	Remain As Is
500 KAR 003:010	02-25-2020	Remain As Is
500 KAR 010:001	12-03-2019	To be amended. Amendment filed 12-3-2019.

Regulation Number	Letter Filed Date	Action
500 KAR 010:020	12-03-2019	To be amended. Amendment filed 12-3-2019.
500 KAR 010:030	12-03-2019	To be amended. Amendment filed 12-3-2019.
500 KAR 010:040	12-03-2019	To be amended. Amendment filed 12-3-2019.
500 KAR 012:010	02-20-2020	To be Amended, filing deadline 8-20-21
500 KAR 014:010	02-25-2020	Remain As Is
500 KAR 014:020	02-25-2020	Remain As Is
500 KAR 020:010	02-20-2020	Remain As Is
500 KAR 020:020	02-20-2020	Remain As Is
501 KAR 001:040	10-21-2019	To be amended. Amendment filed 10-21-2019.
501 KAR 001:050	02-20-2020	To be Amended, filing deadline 8-20-21
501 KAR 002:030	02-20-2020	Remain As Is
501 KAR 002:040	02-20-2020	Remain As Is
501 KAR 002:050	02-25-2020	To be amended, filing deadline 8-25-21
501 KAR 002:070	02-20-2020	To be Amended, filing deadline 8-20-21
501 KAR 003:110	02-20-2020	To be Amended, filing deadline 8-20-21
501 KAR 003:120	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 003:130	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 003:150	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 003:170	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 006:080	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 006:120	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 006:190	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 006:200	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 006:220	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 006:250	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 006:260	02-20-2020	Remain As Is
501 KAR 007:040	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 007:060	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 007:090	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 007:100	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 007:110	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 007:120	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 007:130	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 007:140	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 007:150	02-21-2020	To be Amended, filing deadline by 8-21-21
501 KAR 014:010	02-21-2020	To be Amended, filing deadline by 8-21-21

CERTIFICATION LETTER SUMMARIES

Regulation Number	Letter Filed Date	Action
503 KAR 001:140	02-25-2020	To be amended, filing deadline 8-25-21
503 KAR 001:170	02-25-2020	To be amended, filing deadline 8-25-21
503 KAR 001:180	02-25-2020	Remain As Is
503 KAR 001:190	02-25-2020	Remain As Is
503 KAR 003:005	02-25-2020	Remain As Is
503 KAR 003:020	02-25-2020	To be amended, filing deadline 8-25-21
503 KAR 003:030	02-25-2020	To be amended, filing deadline 8-25-21
503 KAR 003:050	02-25-2020	To be amended, filing deadline 8-25-21
503 KAR 003:070	02-25-2020	To be amended, filing deadline 8-25-21
503 KAR 004:010	02-25-2020	To be amended, filing deadline 8-25-21
503 KAR 004:020	02-25-2020	Remain As Is
503 KAR 004:040	02-25-2020	To be amended, filing deadline 8-25-21
503 KAR 004:050	02-25-2020	To be amended, filing deadline 8-25-21
503 KAR 004:060	02-25-2020	Remain As Is
503 KAR 005:080	02-25-2020	To be amended, filing deadline 8-25-21
503 KAR 005:100	02-25-2020	To be amended, filing deadline 8-25-21
503 KAR 005:110	02-25-2020	Remain As Is
503 KAR 005:120	02-25-2020	Remain As Is
503 KAR 005:130	02-25-2020	Remain As Is
600 KAR 005:010	12-04-2019	Remain As Is
601 KAR 001:005	11-26-2019	Remain As Is
601 KAR 001:020	11-26-2019	Remain As Is
601 KAR 001:040	11-26-2019	Remain As Is
601 KAR 001:080	09-09-2019	Remain As Is
601 KAR 001:140	09-09-2019	Remain As Is
601 KAR 001:200	09-09-2019	Remain As Is
601 KAR 002:030	02-10-2020	Remain As Is
601 KAR 003:030	11-26-2019	Remain As Is
601 KAR 004:055	11-26-2019	Remain As Is
601 KAR 009:040	11-26-2019	Remain As Is
601 KAR 009:045	11-26-2019	Remain As Is
601 KAR 009:115	09-09-2019	Remain As Is
601 KAR 009:140	09-25-2019	Remain As Is
601 KAR 011:040	11-26-2019	Remain As Is
601 KAR 014:010	11-12-2019	Remain As Is
601 KAR 035:060	11-26-2019	Remain As Is
601 KAR 035:060	03-18-2019	Remain As Is
601 KAR 040:020	11-26-2019	Remain As Is
603 KAR 003:030	03-18-2019	Remain As Is
603 KAR 005:066	11-26-2019	Remain As Is
603 KAR 005:071	11-26-2019	Remain As Is
603 KAR 005:320	11-29-2019	Remain As Is
603 KAR 007:020	11-26-2019	Remain As Is
603 KAR 040:020	03-18-2019	Remain As Is
702 KAR 003:100	06-28-2019	Remain As Is
702 KAR 003:110	06-28-2019	Remain As Is
702 KAR 003:120	06-28-2019	Remain As Is
702 KAR 003:220	06-28-2019	Remain 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 As Is
702 KAR 005:110	06-28-2019	Remain As Is
702 KAR 006:110	06-28-2019	Remain As Is
703 KAR 005:140	06-28-2019	Remain As Is
704 KAR 003:095	12-09-2019	Remain As Is
704 KAR 007:160	12-09-2019	Remain As Is
704 KAR 019:002	12-09-2019	Remain As Is

Regulation Number	Letter Filed Date	Action
705 KAR 002:140	06-28-2019	Remain As Is
707 KAR 001:002	06-28-2019	Remain As Is
707 KAR 001:310	06-28-2019	Remain As Is
707 KAR 001:340	06-28-2019	Remain 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 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 As Is
725 KAR 002:080	01-28-2020	To be amended, filing deadline 7-28-21
739 KAR 001:010	02-24-2020	Remain As Is
739 KAR 001:020	02-24-2020	Remain As Is
739 KAR 001:030	02-24-2020	Remain As Is
739 KAR 001:040	02-24-2020	Remain As Is
739 KAR 001:050	02-24-2020	Remain As Is
739 KAR 002:010	02-24-2020	Remain As Is
739 KAR 002:010	02-27-2020	Remain As Is
739 KAR 002:020	02-24-2020	Remain As Is
739 KAR 002:020	02-27-2020	Remain As Is
739 KAR 002:030	02-24-2020	Remain As Is
739 KAR 002:030	02-27-2020	Remain As Is
739 KAR 002:040	02-24-2020	Remain As Is
739 KAR 002:050	02-24-2020	Remain As Is
739 KAR 002:060	02-24-2020	Remain As Is
739 KAR 002:070	02-24-2020	Remain As Is
739 KAR 002:070	02-24-2020	Remain As Is
739 KAR 002:090	02-24-2020	Remain As Is
739 KAR 002:100	02-24-2020	Remain As Is
739 KAR 002:110	02-24-2020	Remain As Is
739 KAR 002:120	02-24-2020	Remain As Is
739 KAR 002:130	02-24-2020	Remain As Is
739 KAR 002:140	02-24-2020	Remain As Is
740 KAR 001:010	02-05-2020	Remain As Is
740 KAR 001:020	02-05-2020	Remain As Is
740 KAR 001:030	02-05-2020	Remain As Is
740 KAR 001:040	02-05-2020	Remain As Is
740 KAR 001:050	02-05-2020	Remain As Is
740 KAR 001:060	02-05-2020	Remain As Is
740 KAR 001:080	02-05-2020	Remain As Is
740 KAR 001:090	02-05-2020	Remain As Is
740 KAR 001:100	02-05-2020	Remain As Is
740 KAR 001:110	02-05-2020	Remain As Is
745 KAR 001:015	02-21-2020	Remain As Is
745 KAR 001:025	02-21-2020	Remain As Is
745 KAR 001:035	02-21-2020	To be amended, filing deadline 8-21-21
745 KAR 001:045	02-21-2020	Remain As Is
745 KAR 001:055	02-21-2020	Remain As Is
745 KAR 001:060	02-21-2020	Remain As Is
755 KAR 001:010	12-16-2019	Remain As Is
755 KAR 001:010	12-16-2019	Remain As Is
755 KAR 001:020	12-16-2019	Remain As Is

CERTIFICATION LETTER SUMMARIES

Regulation Number	Letter Filed Date	Action
806 KAR 038:050	02-26-2020	Remain As Is
806 KAR 038:070	02-26-2020	Remain As Is
806 KAR 038:080	02-26-2020	Remain As Is
806 KAR 039:020	02-26-2020	Remain As Is
806 KAR 039:040	02-26-2020	Remain As Is
806 KAR 039:050	02-26-2020	Remain As Is
806 KAR 040:020	02-26-2020	Remain As Is
806 KAR 044:010	02-26-2020	Remain As Is
806 KAR 046:030	02-26-2020	Remain As Is
806 KAR 046:040	02-26-2020	Remain As Is
806 KAR 046:050	02-26-2020	Remain As Is
806 KAR 049:020	02-26-2020	Remain As Is
806 KAR 049:030	02-26-2020	Remain As Is
806 KAR 049:040	02-26-2020	Remain As Is
806 KAR 049:050	02-26-2020	Remain As Is
806 KAR 052:010	02-26-2020	Remain As Is
806 KAR 052:020	02-26-2020	Remain As Is
806 KAR 052:030	02-26-2020	Remain As Is
808 KAR 006:125	02-27-2020	Remain As Is
808 KAR 010:010	02-27-2020	Remain As Is
808 KAR 010:020	02-27-2020	Remain As Is
808 KAR 010:030	02-27-2020	Remain As Is
808 KAR 010:042	02-27-2020	Remain As Is
808 KAR 010:050	02-27-2020	Remain As Is
808 KAR 010:060	02-27-2020	Remain As Is
808 KAR 010:090	02-27-2020	Remain As Is
808 KAR 010:110	02-27-2020	Remain As Is
808 KAR 010:120	02-27-2020	Remain As Is
808 KAR 010:130	02-27-2020	Remain As Is
808 KAR 010:150	02-27-2020	Remain As Is
808 KAR 010:160	02-27-2020	Remain As Is
808 KAR 010:170	02-27-2020	Remain As Is
808 KAR 010:200	02-27-2020	Remain As Is
808 KAR 010:210	02-27-2020	Remain As Is
808 KAR 010:225	02-27-2020	Remain As Is
808 KAR 010:240	02-27-2020	Remain As Is
808 KAR 010:260	02-27-2020	Remain As Is
808 KAR 010:280	02-27-2020	Remain As Is
808 KAR 010:300	02-27-2020	Remain As Is
808 KAR 010:320	02-27-2020	Remain As Is
808 KAR 010:340	02-27-2020	Remain As Is
808 KAR 010:350	02-27-2020	Remain As Is
808 KAR 010:360	02-27-2020	Remain As Is
808 KAR 010:370	02-27-2020	Remain As Is
808 KAR 010:380	02-27-2020	Remain As Is
808 KAR 010:390	02-27-2020	Remain As Is
808 KAR 010:400	02-27-2020	Remain As Is
808 KAR 010:430	02-27-2020	Remain As Is
808 KAR 010:440	02-27-2020	Remain As Is
808 KAR 010:450	02-27-2020	Remain As Is
808 KAR 010:460	02-27-2020	Remain As Is
808 KAR 010:480	02-27-2020	Remain As Is
808 KAR 010:490	02-27-2020	Remain As Is
811 KAR 001:250	03-18-2019	To be amended. Amendment filed 2-14-20.
815 KAR 004:010	02-21-2020	To be amended, filing deadline 8-21-21
815 KAR 004:025	02-21-2020	To be amended, filing deadline 8-21-21
815 KAR 004:027	02-21-2020	To be amended, filing deadline 8-21-21
815 KAR 007:080	02-21-2020	To be amended, filing deadline 8-21-21
815 KAR 010:060	02-21-2020	To be amended, filing deadline 8-21-21
815 KAR 010:070	02-21-2020	To be amended, filing deadline 8-21-21

Regulation Number	Letter Filed Date	Action
815 KAR 020:071	10-14-2019	Remain As Is
815 KAR 020:072	10-14-2019	Remain As Is
815 KAR 020:073	10-14-2019	Remain As Is
815 KAR 020:074	10-14-2019	Remain As Is
815 KAR 020:078	10-14-2019	Remain As Is
815 KAR 020:110	10-14-2019	Remain As Is
815 KAR 020:150	10-14-2019	To be amended. Amendment filed 10-14-19.
815 KAR 030:010	02-21-2020	To be amended, filing deadline 8-21-21
815 KAR 030:060	02-21-2020	To be amended, filing deadline 8-21-21
902 KAR 001:400	10-15-2019	Remain As Is
902 KAR 002:030	10-18-2019	Remain As Is
902 KAR 002:040	10-18-2019	Remain As Is
902 KAR 002:050	10-18-2019	Remain 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 As Is
902 KAR 002:090	10-15-2019	Remain As Is
902 KAR 002:140	11-26-2019	Remain As Is
902 KAR 004:090	10-15-2019	Remain 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 As Is
902 KAR 008:150	06-11-2019	Remain As Is
902 KAR 008:160	06-11-2019	Remain As Is
902 KAR 010:010	11-18-2019	Remain As Is
902 KAR 010:030	10-02-2019	Remain As Is
902 KAR 010:035	10-02-2019	Remain As Is
902 KAR 010:060	11-18-2019	Remain As Is
902 KAR 010:110	11-18-2019	Remain As Is
902 KAR 010:120	10-02-2019	Remain As Is
902 KAR 010:121	10-02-2019	Remain As Is
902 KAR 010:130	11-18-2019	Remain As Is
902 KAR 010:140	11-18-2019	Remain As Is
902 KAR 010:150	11-18-2019	Remain As Is
902 KAR 010:160	11-18-2019	Remain As Is
902 KAR 010:170	11-18-2019	Remain As Is
902 KAR 015:020	10-18-2019	Remain As Is
902 KAR 018:011	04-13-2020	Remain As Is
902 KAR 018:021	04-13-2020	Remain As Is
902 KAR 018:031	04-13-2020	Remain As Is
902 KAR 018:040	04-13-2020	Remain As Is
902 KAR 018:050	04-13-2020	Remain As Is
902 KAR 018:061	04-13-2020	Remain As Is
902 KAR 018:071	04-13-2020	Remain As Is
902 KAR 018:081	04-13-2020	Remain As Is
902 KAR 018:090	04-13-2020	Remain As Is
902 KAR 022:040	11-26-2019	Remain As Is
902 KAR 023:010	11-05-2019	Remain As Is
902 KAR 028:010	09-11-2019	Remain As Is
902 KAR 028:020	09-11-2019	Remain As Is
902 KAR 028:030	09-11-2019	Remain As Is
902 KAR 028:040	09-11-2019	Remain As Is
902 KAR 028:050	09-11-2019	Remain As Is
902 KAR 028:060	09-11-2019	Remain As Is
902 KAR 045:020	11-05-2019	Remain As Is
902 KAR 045:080	11-05-2019	Remain As Is
902 KAR 045:100	11-05-2019	Remain As Is
902 KAR 048:010	11-05-2019	Remain As Is
902 KAR 100:005	11-26-2019	Remain As Is
902 KAR 100:015	08-16-2019	Remain As Is
902 KAR 100:021	08-16-2019	Remain As Is
902 KAR 100:040	08-16-2019	Remain As Is
902 KAR 100:041	08-16-2019	Remain As Is
902 KAR 100:045	08-16-2019	Remain As Is

CERTIFICATION LETTER SUMMARIES

Regulation Number	Letter Filed Date	Action
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 As Is
922 KAR 006:045	12-06-2019	Remain As Is
922 KAR 008:010	11-26-2019	Remain 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.225(2), 13A.312(2), or 13A.320(1)(d). Since these changes were not substantive in nature, administrative regulations appearing in this index will NOT be published to show the technical corrections in the *Administrative Register of Kentucky*. NOTE: Copies of the technical amendments are usually posted on the Legislative Research Commission Web site for a short time before they are finalized. Regulations are available for viewing on the Legislative Research Commission Web site at <https://legislature.ky.gov/law/kar/pages/default.aspx>.

‡ - A technical change was made to this administrative regulation during the promulgation process, pursuant to KRS 13A.320(1)(e).

Regulation Number	Date Corrected	Regulation Number	Date Corrected
102 KAR 001:036‡	01-13-2020	401 KAR 059:023‡	09-04-2019
103 KAR 016:370	02-19-2020	401 KAR 061:010‡	09-04-2019
103 KAR 028:150	10-31-2019	401 KAR 061:011‡	09-04-2019
103 KAR 030:290	10-10-2019	401 KAR 100:030	05-07-2019
103 KAR 031:180	10-10-2019	401 KAR 101:010	05-07-2019
105 KAR 001:130	06-28-2019	401 KAR 101:020	05-07-2019
105 KAR 001:147	09-12-2019	401 KAR 101:030	05-07-2019
105 KAR 001:150	06-28-2019	401 KAR 101:040	05-07-2019
105 KAR 001:160	06-28-2019	401 KAR 102:010	05-07-2019
105 KAR 001:170	06-28-2019	739 KAR 002:020	02-27-2020
105 KAR 001:180	01-29-2020	739 KAR 002:030	02-27-2020
105 KAR 001:190	06-11-2019	739 KAR 002:070	02-27-2020
105 KAR 001:220	06-11-2019	802 KAR 003:010	11-22-2019
105 KAR 001:240	01-29-2020	804 KAR 004:400	12-03-2019
105 KAR 001:260	06-11-2019	804 KAR 004:410	12-03-2019
105 KAR 001:400	06-11-2019	804 KAR 006:020	12-03-2019
105 KAR 001:430	06-28-2019	804 KAR 010:031	12-03-2019
105 KAR 001:440	06-11-2019	805 KAR 008:060	09-09-2019
106 KAR 001:050‡	09-04-2019	806 KAR 002:070	03-10-2020
201 KAR 027:008	11-22-2019	806 KAR 006:020	03-10-2020
201 KAR 027:011	11-22-2019	806 KAR 006:060	03-10-2020
201 KAR 027:020	11-22-2019	806 KAR 006:075	03-10-2020
201 KAR 027:021	11-22-2019	806 KAR 006:090	03-10-2020
302 KAR 035:060‡	09-04-2019	806 KAR 006:120	03-10-2020
401 KAR 039:060	05-07-2019	806 KAR 006:130	03-10-2020
401 KAR 039:080	05-07-2019	806 KAR 013:090	03-10-2020
401 KAR 042:020	05-07-2019	806 KAR 013:110	03-10-2020
	09-25-2019	806 KAR 013:130	03-10-2020
401 KAR 042:060	05-07-2019	806 KAR 013:140	03-10-2020
	09-25-2019	806 KAR 015:010	03-10-2020
401 KAR 042:250	05-07-2019	806 KAR 015:020	03-10-2020
	09-25-2019	806 KAR 015:030	03-10-2020
401 KAR 042:330	05-07-2019	806 KAR 017:030	03-10-2020
	09-25-2019	806 KAR 017:050	03-10-2020
401 KAR 045:040	05-07-2019	806 KAR 017:081	03-10-2020
401 KAR 045:070	05-07-2019	806 KAR 017:083	03-10-2020
401 KAR 045:080	05-07-2019	806 KAR 017:160	03-10-2020
401 KAR 045:090	05-07-2019	806 KAR 017:190	03-10-2020
401 KAR 045:100	05-07-2019	806 KAR 017:250	03-10-2020
401 KAR 045:135	05-07-2019	806 KAR 017:490	03-10-2020
401 KAR 045:135	05-07-2019	806 KAR 019:010	03-10-2020
401 KAR 046:120	05-07-2019	806 KAR 019:020	03-10-2020
401 KAR 047:090	05-07-2019	806 KAR 019:030	03-10-2020
401 KAR 047:095	05-07-2019	806 KAR 024:010	03-10-2020
401 KAR 047:110	05-07-2019	806 KAR 026:010	03-10-2020
401 KAR 047:205	05-07-2019	806 KAR 026:020	03-10-2020
401 KAR 048:090	10-03-2019	806 KAR 030:040	03-10-2020
401 KAR 048:205	05-07-2019	806 KAR 030:040	03-10-2020
401 KAR 045:206	05-07-2019	806 KAR 030:050	03-10-2020
401 KAR 048:207	05-07-2019	806 KAR 030:060	03-10-2020
401 KAR 048:208	05-07-2019	806 KAR 030:080	03-10-2020
401 KAR 048:310	05-07-2019	806 KAR 030:090	03-10-2020
	10-03-2019	806 KAR 030:100	03-10-2020
401 KAR 049:011	05-07-2019	806 KAR 038:010	03-10-2020
401 KAR 049:080	05-07-2019	806 KAR 038:040	03-10-2020
401 KAR 049:100	05-07-2019	806 KAR 038:050	03-10-2020
401 KAR 050:020‡	09-04-2019	806 KAR 038:070	03-10-2020
401 KAR 055:010‡	09-04-2019	806 KAR 038:080	03-10-2020
401 KAR 059:010‡	09-04-2019	806 KAR 046:030	03-10-2020
401 KAR 059:020‡	09-04-2019	806 KAR 049:040	03-10-2020
401 KAR 059:021‡	09-04-2019		

TECHNICAL AMENDMENT INDEX

806 KAR 052:020	03-10-2020	922 KAR 001:320	03-20-2020
808 KAR 001:170	12-03-2019		
808 KAR 009:050	12-03-2019		
808 KAR 010:010	12-03-2019		
808 KAR 010:410	12-03-2019		
808 KAR 010:460	12-03-2019		
808 KAR 010:500	12-03-2019		
808 KAR 012:020	12-03-2019		
808 KAR 014:010	12-03-2019		
808 KAR 014:020	12-03-2019		
820 KAR 001:005	11-22-2019		
820 KAR 001:025	11-22-2019		
820 KAR 001:032	11-22-2019		
820 KAR 001:042	11-22-2019		
820 KAR 001:055	11-22-2019		
820 KAR 001:057	11-22-2019		
820 KAR 001:130	11-22-2019		
900 KAR 002:040	03-17-2020		
900 KAR 006:030	03-17-2020		
900 KAR 006:060	03-17-2020		
900 KAR 006:080	03-17-2020		
900 KAR 006:105	03-17-2020		
900 KAR 006:125	10-02-2019		
902 KAR 004:120	03-18-2020		
902 KAR 008:170	03-18-2020		
902 KAR 010:081	03-18-2020		
902 KAR 010:085	03-18-2020		
902 KAR 010:120	03-18-2020		
902 KAR 010:121	03-18-2020		
902 KAR 020:031	03-18-2020		
902 KAR 020:036†	03-18-2020		
902 KAR 020:048	03-18-2020		
902 KAR 020:056	03-18-2020		
902 KAR 020:240	03-18-2020		
902 KAR 020:291	03-18-2020		
902 KAR 020:310	03-18-2020		
902 KAR 020:320	03-18-2020		
902 KAR 020:380	03-18-2020		
902 KAR 020:430	03-18-2020		
902 KAR 045:020	03-18-2020		
902 KAR 045:150	03-18-2020		
902 KAR 048:020	03-18-2020		
902 KAR 048:040	03-18-2020		
902 KAR 055:110	03-18-2020		
902 KAR 100:012	03-18-2020		
902 KAR 100:021	03-18-2020		
902 KAR 100:170	03-18-2020		
902 KAR 050:005† colon, Section 1(3)	09-01-2019		
907 KAR 001:039	03-20-2020		
907 KAR 001:054	03-20-2020		
907 KAR 001:055	03-20-2020		
907 KAR 001:075	03-20-2020		
907 KAR 001:082	03-20-2020		
907 KAR 001:190	03-20-2020		
907 KAR 001:563	03-20-2020		
907 KAR 001:790	03-20-2020		
907 KAR 003:100	03-20-2020		
907 KAR 003:210	03-20-2020		
907 KAR 003:225	03-20-2020		
907 KAR 006:005	03-20-2020		
907 KAR 007:010	03-20-2020		
907 KAR 007:015	03-20-2020		
907 KAR 010:012	03-20-2020		
907 KAR 015:080	03-20-2020		
907 KAR 020:015	03-20-2020		
908 KAR 001:370	08-18-2019		
908 KAR 001:372	03-17-2020		
908 KAR 001:374	03-17-2020		
908 KAR 003:190	03-17-2020		
910 KAR 001:270	03-13-2020		
910 KAR 002:020	03-13-2020		
911 KAR 001:850	08-29-2019		
921 KAR 003:060	03-20-2020		
922 KAR 001:060	03-20-2020		

SUBJECT INDEX

ACCOUNTANCY

- Continuing professional education requirements; 201 KAR 001:100
- Examination sections, applications, and procedures; 201 KAR 001:190

AGING AND INDEPENDENT LIVING

Guardianship

- Referral process for adult guardianship; 910 KAR 002:020
- Service provisions for adult guardianship; 910 KAR 002:040

AGRICULTURE

Amusement Rides

- Business identification number for amusement rides or attractions required; 302 KAR 016:010
- Correction of safety violations and right to re-inspection; 302 KAR 016:040
- Inflatable amusement rides or attractions; 302 KAR 016:121
- Inspection and operation of amusement rides or amusement attractions; 302 KAR 016:020
- Maintenance and repair of amusement rides or attractions; 302 KAR 016:131
- Operate amusement ride or device defined; 302 KAR 016:101
- Reports of injuries involving amusement rides and amusement attractions; 302 KAR 016:070
- Rides and attractions not included in the definition of amusement ride or attraction; 302 KAR 016:091
- Violations, civil penalties, revocations, and suspensions of business identification number for amusement rides or attractions; 302 KAR 016:111

Bond and Grain Fund Distribution

- Repeal of 302 KAR 036:010; 302 KAR 036:011

Egg Marketing

- Egg grading and classification; 302 KAR 010:015
- License application, refusal, revocation, suspension, and appeals; 302 KAR 010:025
- Refrigeration of eggs and temperature requirements; 302 KAR 010:100
- Repeal of 302 KAR 010:010, 302 KAR 010:020, 302 KAR 010:030, 302 KAR 010:040, 302 KAR 010:050, 302 KAR 010:060, 302 KAR 010:070, 302 KAR 010:080, and 302 KAR 010:090; 302 KAR 010:011

Fairs and Shows

- Administration; state aid to local fairs; 302 KAR 015:010
- Beef cattle shows and sales; 302 KAR 015:030
- Dairy cattle shows and sales; 302 KAR 015:020

Ginseng

- Ginseng; 302 KAR 045:010

Grain Storage

- Repeal of 302 KAR 035:020, 302 KAR 035:030, 302 KAR 035:040, 302 KAR 035:050, 302 KAR 035:060, and 302 KAR 035:070; 302 KAR 035:011

Hay Grading

- Forage Testing Program; 302 KAR 037:010

Industrial Hemp

- Fees for the Hemp Licensing Program and forms; 302 KAR 050:060
- Policies and procedures for hemp growers; 302 KAR 050:020
- Policies and procedures for hemp processors and handlers; 302 KAR 050:030
- Repeal of 302 KAR 050:040 and 302 KAR 050:050; 302 KAR 050:012
- Sampling and THC testing, post-testing actions, disposal of noncompliant harvests; 302 KAR 050:055
- THC sampling and testing, post-testing actions; 302 KAR 050:050

Kentucky Grain Insurance and Grain Dealers

- Repeal of 302 KAR 034:010, 302 KAR 034:020, 302 KAR 034:030, 302 KAR 034:040, 302 KAR 034:050 and 302 KAR 034:060; 302 KAR 034:011

Livestock

- Repeal of 302 KAR 021:005; 302 KAR 021:011

Livestock Sanitation

- Repeal of 302 KAR 020:030, 302 KAR 020:050, 302 KAR 020:052, 302 KAR 020:090, 302 KAR 020:100, 302 KAR 020:150; 302 KAR 020:011

- 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; 302 KAR 020:012

- Repeal of 302 KAR 020:070; 302 KAR 020:014

- Repeal of 302 KAR 020:110, 302 KAR 020:115, 302 KAR 020:120, 302 KAR 020:130, 302 KAR 020:140, 302 KAR 020:180, 302 KAR 020:185, and 302 KAR 020:261; 302 KAR 020:013

Office of the State Veterinarian

- Authority to inspect, test, identify, remove and dispose of livestock, poultry, and fish; 302 KAR 022:010.

- Carcass transport and composting; 302 KAR 022:040

- Cervids; 302 KAR 022:150

- Equine; 302 KAR 022:130

- Feed restrictions; 302 KAR 022:080

- Livestock, poultry, and fish diseases to be reported; 302 KAR 022:030

- Restriction of transportation of livestock, poultry, and fish; 302 KAR 022:020

- Restrictions on biological materials in Kentucky; 302 KAR 022:070

- Stockyards; 302 KAR 022:050

Pesticides

- Storage and handling of pesticides and bulk fertilizer; 302 KAR 031:040

Regulation and Inspection; Commercial Weighing and Measuring Devices

- Technical requirements for commercial weighing and measuring devices; 302 KAR 081:010

Regulation and Inspection; Method of Sale

- Method of sale; 302 KAR 076:100

Regulation and Inspection; Packaging and Labeling

- Packaging and labeling; 302 KAR 075:130

Regulation and Inspection; Scanner

- Examination procedure for price verification; 302 KAR 080:010

AIR QUALITY

Asbestos

- Accreditation of asbestos professionals; 401 KAR 058:005

General Standards of Performance

- Fugitive emissions Permits, Registrations, and Prohibitory Rules; 401 KAR 063:010

- Public, affected state, and U.S. EPA review; 401 KAR 052:100

ALCOHOLIC BEVERAGE CONTROL

Local Administrators

- Cities with quotas for quota retail package licenses in excess of statutory default quotas; 804 KAR 010:040

AUCTIONEERS

- Education requirements; 831 KAR 001:030

- Licensing fees and applications; 831 KAR 001:010

- Standards of conduct and complaints; 831 KAR 001:020

AUDITOR OF PUBLIC ACCOUNTS

Audits

- Audits of fiscal courts; 045 KAR 001:050

BEHAVIORAL HEALTH, DEVELOPMENTAL AND INTELLECTUAL DISABILITIES

Substance Abuse

- Licensing procedures, fees, and general requirements for nonhospital-based alcohol and other drug treatment entities; 908 KAR 001:370

- Licensure of nonhospital-based outpatient alcohol and other drug treatment entities; 908 KAR 001:374

- Licensure of residential alcohol and other drug treatment entities; 908 KAR 001:372

- Repeal of 908 KAR 001:340; 908 KAR 001:341

SUBJECT INDEX

BOARDS AND COMMISSIONS

See also Occupations and Professions

See listing below for specific subject headings:

Accountancy; 201 KAR Chapter 001
Boxing and Wrestling Commission; 201 KAR Chapter 027
Cosmetology; 201 KAR Chapter 012
Chiropractic Examiners; 201 KAR Chapter 021
Dentistry; 201 KAR Chapter 008
Landscape Architects; 201 KAR Chapter 010
Licensed Professional Counselors; 201 KAR 036
Licensure for Long-Term Care Administrators; Chapter 006
Licensure for Marriage and Family Therapists; Chapter 032
Medical Imaging and Radiation Therapy; 201 KAR Chapter 047
Medical Licensure; 201 KAR Chapter 009
Nursing; 201 KAR Chapter 020
Occupational Therapy; 201 KAR Chapter 028
Ophthalmic Dispensers; 201 KAR Chapter 013
Optometric Examiners; 201 KAR Chapter 005
Pharmacy; 201 KAR Chapter 002
Physical Therapy; 201 KAR Chapter 022
Podiatry; 201 KAR Chapter 025
Private Investigators; Chapter 041
Psychology; 201 KAR Chapter 026
Real Estate Appraisers Board; 201 KAR Chapter 030
Real Estate Commission; 201 KAR Chapter 011
Respiratory Care; 201 KAR Chapter 029
Social Work; 201 KAR Chapter 023
Veterinary Examiners; 201 KAR Chapter 016

COMMUNITY & TECHNICAL COLLEGE SYSTEM

Kentucky Board of Emergency Medical Services
Board organization; 202 KAR 007:020
Ground agencies; 202 KAR 007:555
Ground vehicle staff; 202 KAR 007:560
Kentucky Fire Commission
Fire department reporting requirements; 739 KAR 002:140

COMMUNITY BASED SERVICES

Child Care
Child-care center licensure; 922 KAR 002:090
Certification of family child-care homes; 922 KAR 002:100
Child Welfare
Authorization for disclosure of protection and permanency records; 922 KAR 001:510
Child protective services; 922 KAR 001:330
Central registry; 922 KAR 001:470
Putative father registry and operating procedures; 922 KAR 001:560
Requirements for public child welfare agency foster parents, adoptive parents, and respite care providers; 922 KAR 001:350
Service array for a relative or fictive kin caregiver; 922 KAR 001:565
Standards for child-placing agencies; 922 KAR 001:310
Training requirements for foster parents, adoptive parents, and respite care providers for children in the custody of the cabinet; 922 KAR 001:495
Child Support
Child Support Enforcement Program application and intergovernmental process; 921 KAR 001:380
Family Support
Supplemental programs for persons who are aged, blind, or have a disability; 921 KAR 002:015
Supplemental Nutrition Assistance Program
Claims and additional administrative provisions; 921 KAR 003:050
Technical requirements; 921 KAR 003:025

CORRECTIONS

Office of the Secretary
Bell County Forestry Camp; 501 KAR 006:140
Correctional Industries; 501 KAR 006:160
Corrections policies and procedures; 501 KAR 006:020
Northpoint Training Center; 501 KAR 006:060

Roederer Correctional Complex; 501 KAR 006:110
Parole Board
Parole revocation hearing procedures; 501 KAR 001:040
Repeal of 501 KAR 001:070; 501 KAR 001:071
Risk and needs assessment; 501 KAR 006:280

COSMETOLOGY

Education requirements and school administration; 201 KAR 012:082
Fees; 201 KAR 012:260
Infection control, health and safety; 201 KAR 012:100
Inspections; 201 KAR 012:060
Licensing, permits, and examinations; 201 KAR 012:030
School equipment; 201 KAR 012:140

DENTISTRY

Anesthesia and sedation; 201 KAR 008:550
Dental practices and prescription writing; 201 KAR 008:540
Teledentistry; 201 KAR 008:590

EDUCATION

Assessment and Accountability
Accountability administrative procedures and guidelines; 703 KAR 005:240
Kentucky's accountability system; 703 KAR 005:270
Required academic standards in career studies and financial literacy; 704 KAR 008:080
Requirements for school and district report cards; 703 KAR 005:140
School improvement procedures; 703 KAR 005:280
Charter Schools
Evaluation of charter school authorizers; 701 KAR 008:02
Food Service Programs
Personnel; policies and procedures; 702 KAR 006:040
Repeal of 702 KAR 006:045; 702 KAR 006:046
General Administration
Repeal of 780 KAR 001:010; 780 KAR 001:011
Management of the Kentucky TECH System
Live work projects; 780 KAR 002:040
Discipline of students; 780 KAR 002:060
Office of Chief State School Officer
Teacher disciplinary hearings; 701 KAR 005:090
Office of Employment and Training
Registration of apprenticeship programs; 787 KAR 003:010
Office of Instruction
Required academic standards; 704 KAR 003:303
Kentucky framework for personnel evaluation; 704 KAR 003:370
Office of Learning Support Services
Homeless children and youth education program and ensuring educational stability of children in foster care; 704 KAR 007:090
Pupil Transportation
Bus drivers' qualifications, responsibilities, and training; 702 KAR 005:080
School Administration and Finance
Internal accounting; 702 KAR 003:130
School Terms, Attendance, and Operation
Designation of agent to manage middle and high school interscholastic athletics; 702 KAR 007:065
Pupil attendance; 702 KAR 007:125

EDUCATION AND WORKFORCE DEVELOPMENT

For Education, see listing below:
Board of Education; KAR Title 701, 702
Education Professional Standards Board; KAR Title 16
Education; KAR Title 704 (See Education)
Higher Education Assistance Authority; KAR Title 11 (See Higher Education Assistance Authority)
Technical Education, Department for; KAR Title 780
Workforce Development, KAR Title 787 (See Workforce Development)
For Workforce Development, see listing below:
Workplace Standards; KAR Title 803 (See Workplace Standards)

SUBJECT INDEX

EDUCATION PROFESSIONAL STANDARDS BOARD

Alternative Routes to Certification

The direct training program for preparation of candidates for initial teacher certification; 016 KAR 009:060
Repeal of 016 KAR 009:050 and 009:070; 016 KAR 009:071

Assessment

Repeal of 006:030; 016 KAR 006:031

Educator Preparation

Standards for admission to educator preparation; 016 KAR 005:020

ELECTIONS

Forms and Procedures

Additional and emergency; 031 KAR 004:120

Reports and Forms

Repeal of 032 KAR 001:060; 032 KAR 001:061

EMBALMERS AND FUNERAL DIRECTORS

Apprenticeship and supervision requirements; 201 KAR 015:050

Complaints; 201 KAR 015:080

Examination; 201 KAR 015:040

Definitions; 201 KAR 015:010

Fees; 201 KAR 015:030

Funeral establishment criteria; 201 KAR 015:110

Per Diem compensation of board members; 201 KAR 015:015

Requirements for applicants holding a license in another state; 201 KAR 015:120

Surface Transportation Permit; 201 KAR 015:125

ENERGY AND ENVIRONMENT CABINET

Environmental Protection, KAR Title 401

Kentucky Nature Preserves, KAR Title 400, 418

Natural Resources; KAR Title 405

Public Service Commission, KAR Title 807

ENVIRONMENTAL PROTECTION

Water Quality

401 KAR Chapters 5, 8, and 11 (See Water Quality)

EXECUTIVE BRANCH ETHICS COMMISSION

Executive agency lobbyist, employer of executive agency lobbyist, and real party in interest registration and expenditure statements; financial transactions and termination forms; and enforcement; 009 KAR 001:040

Statement of financial disclosure; 009 KAR 001:010

FACILITIES AND SUPPORT SERVICES

State-Owned Buildings and Grounds

Use of State-Owned facilities and grounds; 200 KAR 003:020

FINANCIAL INSTITUTIONS

Administration

Licensing and registration; 808 KAR 001:170

Check Cashing

Licensee change of control; 808 KAR 009:050

FISH AND WILDLIFE

Fish

Harvest and sale of Asian carp; 301 KAR 001:152

Pay lakes; 301 KAR 001:185

Taking of fish by nontraditional fishing methods; 301 KAR 001:410

Taking of fish by traditional fishing methods; 301 KAR 001:201

Game

Black bear seasons and requirements; 301 KAR 002:300

Falconry, raptor take, and raptor propagation; 301 KAR 002:195

Hunting and trapping seasons and limits for furbearers; 301 KAR 002:251

Means by which migratory game birds may be taken; 301 KAR 002:090

Small game and furbearer hunting and trapping on public

areas; 301 KAR 002:049

Waterfowl seasons and limits; 301 KAR 002:221

Waterfowl hunting requirements on public land; 301 KAR 002:222

Hunting and Fishing

Special commission permits; 301 KAR 003:100

Wildlife

FOOD STAMPS

Now called Supplemental Nutrition Assistance Program

See Community Based Services; 921 KAR Chapter 3

HEALTH AND FAMILY SERVICES

See listing below for specific subject headings:

Aging and Independent Living; KAR Title 910

Behavioral Health, Developmental and Intellectual Disabilities; KAR Title 908

Community Based Services; KAR Title 921

Inspector General (Health); KAR Title 900, 902, 906

Medicaid Services; KAR Title 895 and 907

Office for Children with Special Health Care Needs; KAR Title 911

Office of Human Resource Management; KAR Title 920

HOMELAND SECURITY

911 Services Board

Definitions for 202 KAR Chapter 006; 202 KAR 006:010

CMRS provider cost recovery; 202 KAR 006:020

CMRS surcharge remittance and reporting; 202 KAR 006:080
Confidential and proprietary information;

Permitted uses by PSAPs and CMRS funds; 202 KAR 006:090

PSAP certification; 202 KAR 006:050

PSAP Phase II certification; 202 KAR 006:100. PSAP pro data
fund disbursement; 202 KAR 006:060

PSAP workload fund disbursement; 202 KAR 006:070

HORSE RACING COMMISSION

Flat and Steeplechase Racing

Entries, subscriptions, and declarations; 810 KAR 004:030

General

Definitions; 810 KAR 002:001

Temporary unsuitability of licensed premises; 810 KAR 002:090

Harness Racing

Exotic wagering; 811 KAR 001:250

Incentive and Development Funds

Kentucky Standardbred Development Fund and Kentucky
Standardbred Breeders' Incentive Fund; 810 KAR 007:040

Medication Guidelines

Bisphosphonates; 810 KAR 008:070

Drug, medication, and substance classification schedule and
withdrawal guidelines; 810 KAR 008:020

Medication; testing procedures; prohibited practices; 810 KAR 008:010

Standardbred Racing

Definitions; 810 KAR 005:001

Entries and starters; 810 KAR 005:060

Running of the race; 810 KAR 005:070

Thoroughbred Racing

Definitions; 810 KAR 001:001

HOUSING, BUILDINGS, AND CONSTRUCTION

Plumbing

Definitions for 815 KAR Chapter 020; 815 KAR 020:010

House sewers and storm water piping; methods of installation;
815 KAR 020:130

Inspection and tests; 815 KAR 020:150

Installation permits; 815 KAR 020:050

Manufactured home and mobile home community waste
system distribution and connections; 815 KAR 020:170

Parts or materials list; 815 KAR 020:020

Medical gas piping installations; 815 KAR 020:195

Minimum fixture requirements; 815 KAR 020:091

Plumbing fixtures; 815 KAR 020:070

Plumbing licenses; 815 KAR 020:030

SUBJECT INDEX

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 020:111
Soil, waste, and vent systems, traps, and clean-outs; 815 KAR 020:090
Special connections; 815 KAR 020:180
Quality, weight, installation, and storage of materials; 815 KAR 020:060
Waste pipe size; 815 KAR 020:080
Water heating devices; 815 KAR 020:055
Water supply and distribution; 815 KAR 020:120

INSURANCE

Agents, Consultants, Solicitors, and Adjusters

Adjuster licensing restrictions; 806 KAR 009:030
Agent licensing process; 806 KAR 009:025
Agent's rights after contract termination; 806 KAR 009:110
Disclosure requirements for financial institutions authorized to engage in insurance agency activities; 806 KAR 009:190
Examinations; 806 KAR 009:070
False or deceptive names, titles, prohibited; 806 KAR 009:020
Life settlement licenses; 806 KAR 009:310
Prelicensing courses of study; 806 KAR 009:001
Recognition of financial planning certification and designation for receipt of fees and commissions; 806 KAR 009:350
Rental vehicle agent license; 806 KAR 009:265
Repeal of 806 KAR 009:001, 806 KAR 009:070, and 806 KAR 009:220; 806 KAR 009:221
Repeal of 806 KAR 009:060; 806 KAR 009:061
Repeal of 806 KAR 009:320; 806 KAR 009:321
Repeal of 806 KAR 009:341; 806 KAR 009:341
Volume of insurance agent exchange of business; 806 KAR 009:200

Authorization of Insurers and General Requirements

Corporate Governance Annual Disclosure Insurance Fraud; 806 KAR 003:240
Fraud prevention; 806 KAR 047:010
Repeal of 806 KAR 047:020 and 806 KAR 047:030. Kinds of Insurance; Limits of Risk; Reinsurance; 806 KAR 047:021
Standards for safeguarding customer information;

Health Insurance Contracts

Uniform evaluation and reevaluation of providers; 806 KAR 017:480

Insurance Contract

806 KAR 003:230
Repeal of 806 KAR 014:060; 806 KAR 014:061

Investments

Notice of rights as an owner of a life insurance policy; 806 KAR 015:090
Repeal of 806 KAR 007:020; 806 KAR 007:021
Repeal of 806 KAR 007:030. Life Insurance and Annuity Contracts; 806 KAR 007:031
Repeal of 806 KAR 015:080; 806 KAR 015:081

Kinds of Insurance; Limits of Risk; Reinsurance

Credit for reinsurance; 806 KAR 005:025
Registration of service contracts for consumer products; 806 KAR 005:060

Rates and Rating Organizations;

Automobile fleet insurance defined; 806 KAR 013:040
Repeal of 806 KAR 013:070; 806 KAR 013:071
Repeal of 806 KAR 013:101; 806 KAR 013:101
Workers' compensation deductible policies; 806 KAR 013:120

Surplus Lines

Repeal of 806 KAR 010:060; 806 KAR 010:061

INSPECTOR GENERAL (HEALTH)

Certificate of Need

Certificate of need nonsubstantive review; 900 KAR 006:075
State Health Plan for facilities and services; 900 KAR 005:020

Controlled Substances

Disposal of prescription controlled substances; 902 KAR 055:120
Electronic prescribing of controlled substances; 902 KAR 055:130

Health Services and Facilities

Ambulatory infusion agencies; 902 KAR 020:450
Facilities specifications, operation and services; behavioral health services organizations for mental health treatment; 902 KAR 020:430
Operation and services; personal care homes; 902 KAR 020:036
Operations and services; private duty nursing agencies; 902 KAR 020:370
Prescribed pediatric extended care centers; 902 KAR 020:280
Long-Term Care
Transfer and discharge rights; 900 KAR 002:050

KENTUCKY LOTTERY CORPORATION

Code of ethics; 202 KAR 003:010

JUSTICE AND PUBLIC SAFETY

Corrections, KAR Title 501
Juvenile Justice; KAR Title 505
Kentucky Community Corrections Grant Program
Administration and application procedure for community corrections grant program; 500 KAR 010:020
Community Corrections Board and grant recipient requirements; 500 KAR 010:030
Definitions for 500 KAR Chapter 10; 500 KAR 010:001
Prison Industry Enhancement Certification Program; 500 KAR 010:050
Review for compliance; 500 KAR 010:040
Motorcycle Safety Education Commission
Motorcycle safety education program; 500 KAR 015:010

JUVENILE JUSTICE

Child Welfare

Department of Juvenile Justice Policies and Procedures Manual: Health and Safety Services; 505 KAR 001:120
Department of Juvenile Justice Policy and Procedures Manual: juvenile sexual offender treatment program; 505 KAR 001:160

LABOR

See listing below for specific subject headings:

Occupational Safety and Health Review Commission; 803 KAR Chapter 050
Workplace Standards; KAR Title 803
Workers' Claims; 803 KAR Chapter 025
Workers' Compensation Funding Commission, 803 KAR Chapter 030

LANDSCAPE ARCHITECTS

Continuing education; 201 KAR 010:080
Fees; 201 KAR 010:050

LIBRARIES AND ARCHIVES

Certification of public librarians; 725 KAR 002:060
Certification renewal of public librarians; 725 KAR 002:070

LICENSED PROFESSIONAL COUNSELORS

Qualifying experience under supervision; 201 KAR 036:060

LICENSURE FOR LONG-TERM CARE ADMINISTRATORS

Renewal, reinstatement, and reactivation of license; 201 KAR 006:040
Temporary permits; 201 KAR 006:030

LICENSURE OF MARRIAGE AND FAMILY THERAPISTS

Telehealth; 201 KAR 32:110

MEDICAID SERVICES

Behavioral Health

Coverage provisions and requirements regarding behavioral health services provided by individual approved behavioral health practitioners, behavioral health provider groups, and behavioral health multi-specialty groups; 907 KAR 015:010
Coverage provisions and requirements regarding services

SUBJECT INDEX

provided by behavioral health services organizations for mental health treatment; 907 KAR 015:020

Coverage provisions and requirements regarding services provided by behavioral health services organizations for substance use disorder treatment and co-occurring disorders;

Definitions for 907 KAR Chapter 015; 907 KAR 015:005

Reimbursement provisions and requirements for behavioral health services provided by individual approved behavioral health practitioners, behavioral health provider groups or behavioral health multi-specialty groups; 907 KAR 015:015

Reimbursement provisions and requirements regarding behavioral health services provided by behavioral health services organizations; 907 KAR 015:025

Hospital Service Coverage and Reimbursement

Acute care inpatient hospital reimbursement; 907 KAR 010:830

Hospital Rate Improvement Program. Payments and Services; 907 KAR 010:840

Telehealth service coverage and reimbursements; 907 KAR 003:170

Kentucky Health Program

Repeal of 895 KAR 001:001, 895 KAR 001:010, 895 KAR 001:015, 895 KAR 001:020, 895 KAR 001:025, 895 KAR 001:030, 895 KAR 001:035, 895 KAR 001:040, 895 KAR 001:045, 895 KAR 001:050, and 895 KAR 001:055; 895 KAR 001:002E

Medicaid Services

Recipient cost-sharing; 907 KAR 001:604

Payment and Services

Enhanced and suspended services and requirements during declared emergency; 907 KAR 003:300

Provider Integrity

Health Insurance Premium Payment (HIPP) Program; 907 KAR 005:005

State Health Plan

State Health Plan for facilities and services; 900 KAR 005:020

MEDICAL LICENSURE

Professional standards for prescribing or dispensing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone; 201 KAR 009:270

MINE RECLAMATION AND ENFORCEMENT

Explosives and Blasting

Records; 805 KAR 004:050

Miner Training, Education and Certification

Repeal of 805 KAR 007:100; 805 KAR 007:101

MINE SAFETY

Mining Safety Standards

Employees' personal protection; 805 KAR 003:110

NATURAL RESOURCES

Coal Bed Methane; 805 KAR Chapter 009

Forestry, KAR Title 402

Mining

Permits; KAR Title 405

Mine Safety; 805 KAR Chapters 003, 007 & 008

Natural Resources; 805 KAR Chapter 003

Oil and Gas; 805 KAR Chapter 001

NATURAL RESOURCES, DEPARTMENT FOR

Bond and Insurance Requirements

Bond forfeiture; 405 KAR 010:050

Conservation

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

General Provisions

Coal processing waste disposal sites; 405 KAR 007:050

General obligations of operators and permittees; 405 KAR 007:040

Operation of Two (2) Acres or Less

Repeal of 405 KAR 026:001; 405 KAR 026:011

Performance Standards for Surface Mining Activities

Permanent and temporary impoundments; 405 KAR 016:100

Post mining land use capability; 405 KAR 016:210

Performance Standards for Underground Mining Activities

Permanent and temporary impoundments; 401 KAR 018:100

Post mining land use capability; 401 KAR 018:220

Permits

General provisions for permits; 405 KAR 008:010

Surface coal mining permits; 405 KAR 008:030

Special Performance Standards

405 KAR 020:040. Prime farmland.

Surface Effects of Noncoal Mining

Definitions for 405 KAR Chapter 005; 405 KAR 005:002

Permit requirements; 405 KAR 005:032

NURSING

Applications for licensure; 201 KAR 020:370

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

Dialysis technician credentialing requirements and training program standards; 201 KAR 020:470E

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

Disciplinary proceedings; 201 KAR 020:162

Expungement of records; 201 KAR 020:410

Licensed certified professional midwives client records; 201 KAR 020:680

Licensed certified professional midwives consultation, collaboration, and referral provisions; 201 KAR 020:670

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

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

Licensed certified professional midwives transfer guidelines; 201 KAR 020:690

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

Nurse licensure compact; 201 KAR 020:506

Reinstatement of license; 201 KAR 20:225E

Renewal of licenses; 201 KAR 020:230

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

Scope and standards of practice of advanced practice registered nurses; 201 KAR 020:057

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

OCCUPATIONAL SAFETY AND HEALTH

See Workplace Standards

OFFICE OF HUMAN RESOURCE MANAGEMENT

Division of Employee Management

Administration

Deaf and hard of hearing services; 920 KAR 001:070

OFFICE OF THE SECRETARY, ENERGY AND ENVIRONMENT

Administration

Administrative hearings relating to matters brought under KRS Chapter 350 or KRS 351.310 through 351.357; 400 KAR 001:110

OFFICE OF THE SECRETARY, FINANCE AND ADMINISTRATION

Property

Real property inventories; 200 KAR 006:015

OIL AND GAS

Bonds, requirements, cancellation; 805 KAR 001:050

Content of the operations and reclamation plan; 805 KAR 001:170

Definitions for 805 KAR Chapter 001; 805 KAR 001:001

Directional and horizontal wells; 805 KAR 001:140

Gas storage reservoirs; drilling, plugging in vicinity; 805 KAR 001:080

Gathering lines; 805 KAR 001:190

SUBJECT INDEX

General information associated with oil and gas permits; 805 KAR 001:200
Operating or deepening existing wells and drilling deeper than the permitted depth; 805 KAR 001:120
Plugging wells; 805 KAR 001:060
Posting of an identification sign and a danger sign on a crude oil tank battery site; 805 KAR 001:160
Production reporting; 805 KAR 001:180
Protection of fresh water zones; 805 KAR 001:020
Underground injection control; 805 KAR 001:110
Well location and as-drilled location plat, preparation, form and contents; 805 KAR 001:030
Sanctions and Penalties
Repeal of 805 KAR Chapter 009; 805 KAR 009:011

OPHTHALMIC DISPENSERS

Apprentices; 201 KAR 013:050
Continuing education requirements; 201 KAR 013:055
Licensing; 201 KAR 013:040
Military service; reciprocity; endorsement; 201 KAR 013:060

PERSONNEL CABINET

Classified

Classified leave general requirements; 101 KAR 002:102
Compensation; 101 KAR 002:034
Employee performance evaluation system; 101 KAR 002:180
Employee performance management system; 101 KAR 002:190
Kentucky Employee Mediation and Workplace Resolution Programs; 101 KAR 002:230
Incentive programs; 101 KAR 002:120
Plan Year Handbook for the Public Employee Health Insurance Program; 101 KAR 002:210
Personnel Board
Probationary periods; 101 KAR 001:325
Personnel Cabinet, Unclassified
Leave requirements for unclassified service; 101 KAR 003:015

PHARMACY

Compounding for a veterinarian's office or institutional administration for veterinary use; 201 KAR 002:310
Emergency/ Seventy-two (72) hour prescription refills; 201 KAR 002:175
Examination; 201 KAR 002:020
Expungement; 201 KAR 002:270
Licenses and Permits; Fees; 201 KAR 002:050
Pharmacist interns; 201 KAR 002:095
Reference material and prescription equipment; 201 KAR 002:090
Schools approved by the board; 201 KAR 002:010
Security and control of drugs and prescriptions; 201 KAR 002:100
Special limited pharmacy permit – Central Fill; 201 KAR 002:230
Special limited pharmacy permit – charitable; 201 KAR 002:240
Special limited pharmacy permit – clinical practice; 201 KAR 002:340
Special limited pharmacy permit – medical gas; 201 KAR 002:225
Substitution of drugs, biologics and biosimilar products; 201 KAR 002:116
Transfer of prescription information; 201 KAR 002:165

PHYSICAL THERAPY

Physical Therapy Compact Commission; 201 KAR 022:170

PODIATRY

Prescribing and dispensing controlled substances; 201 KAR 025:090

POST SECONDARY EDUCATION

Interstate Reciprocity Agreements
State Authorization Reciprocity Agreement; 013 KAR 004:010

Nonpublic Colleges

Private College licensing; 013 KAR 001:020

PUBLIC HEALTH

Controlled Substances

Emergency medication kits in long-term care facilities; 902 KAR 055:070.

Epidemiology and Health Planning

902 KAR 002:065. Immunization requirements for long-term care facilities; 902 KAR 002:065

Rabies control; 902 KAR 002:070

Food and Cosmetics

Body piercing and ear piercing; 902 KAR 045:070

Home-based processors and farmers market home-based microprocessors; 902 KAR 045:090

Inspection and permit fees for recreational vehicle communities, youth camps, and private water supplies; 902 KAR 045:120

Tattooing; 902 KAR 045:065

Training facilities; 902 KAR 045:075

Local Health Departments

Appointment of a health officer or a public health department director of a local health department; 902 KAR 008:140

Definitions for 902 KAR Chapter 008; 902 KAR 008:040

Disciplinary appeal process applicable for local health department employees; 902 KAR 008:110

Disciplinary procedures applicable for local health department employees; 902 KAR 008:100

Initial appointment, probationary period, layoffs, performance evaluation, and the resignation of employees of local health departments; 902 KAR 008:080

Leave provisions applicable to employees of local health departments; 902 KAR 008:120

Local health department employee performance evaluation program; 902 KAR 008:096

Promotion, transfer, and demotion of local health department employees; 902 KAR 008:090

Recruitment, examination, and certification of eligible applications for local health departments; 902 KAR 008: 070
Salary adjustments for local health departments; 902 KAR 008:060

Maternal and Child Health

Cost reimbursement for specialized food products; 902 KAR 004:035

Enhanced early intervention services; response to declared emergency; 902 KAR 030:010E

Newborn screening program; 902 KAR 004:030

Milk and Products

Milk Advisory Committee; 902 KAR 050:005

Repeal of 902 KAR 050:002; 902 KAR 050:003

Mobile Homes and Recreational Vehicles Parks; Facilities Standards

Manufactured and mobile homes; 902 KAR 015:010

Programs for the Underserved

Kentucky Colon Screening Program; 902 KAR 021:020

Public Accommodations

Hotel and motel code; 902 KAR 007:010

State and Local Confinement Facilities

Environmental health; 902 KAR 009:010

PUBLIC PROTECTION CABINET

See listing below for specific subject headings:

Alcoholic Beverage Control; KAR Title 804 (See Alcoholic Beverage Control)

Professional Licensing; KAR Title 830 (See Professional Licensing)
Secondary Metals Recyclers; 830 KAR Chapter 1

Charitable Gaming; KAR Title 820

Claims Commission; KAR Title 107

Financial Institutions; KAR Title 808

Horse Racing Commission, KAR Title 810

Housing, Buildings and Construction; KAR Title 815 (See Housing, Buildings and Construction)

Insurance; KAR Title 806 (See Insurance)

SUBJECT INDEX

PRIVATE INVESTIGATORS

Application for licensure; 201 KAR 041:020
Compliant procedure; 201 KAR 041:080
Continuing professional education requirements; 201 KAR 041:070
Examination; 201 KAR 041:030
Fees; 201 KAR 041:040
Inactive status; 201 KAR 041:060
Renewal and reinstatement procedures; 201 KAR 041:065

REAL ESTATE AUTHORITY

Auctioneers (See Auctioneers, Kentucky Board of)

REAL ESTATE APPRAISERS BOARD

Appraiser roster and fees; 201 KAR 030:110
Certification and licensing requirements; 201 KAR 030:190
Definitions for 201 KAR Chapter 030; 201 KAR 030:010
Education provider, instructor, and course; 201 KAR 030:130
Grievances; 201 KAR 030:070
Professional standards of practice and conduct; 201 KAR 030:040
Repeal of 201 KAR 030:020, 201 KAR 030:030, 201 KAR 030:050, 201 KAR 030:060, 201 KAR 030:120, 201 KAR 030:125, 201 KAR 030:150, 201 KAR 030:160, 201 KAR 030:170, 201 KAR 030:180, 201 KAR 030:200, 201 KAR 030:310, 201 KAR 030:315, 201 KAR 030:360, 201 KAR 030:375, and 201 KAR 030:380.
Registration and supervision of appraisal management companies; 201 KAR 030:330

REAL ESTATE AUTHORITY

Real Estate Commission

Consumer and administrative complaints; discipline; administrative hearings; 201 KAR 011:190
Education provider requirements; 201 KAR 011:170
Errors and omissions insurance requirements; 201 KAR 011:220
Licensing, education, and testing requirements; 201 KAR 011:210
Repeal of 201 KAR 011:030, 201 KAR 011:045, 201 KAR 011:062, 201 KAR 011:090, 201 KAR 011:095, 201 KAR 011:100, 201 KAR 011:110, 201 KAR 011:115, 201 KAR 011:135, 201 KAR 011:145, 201 KAR 011:147, 201 KAR 011:175, 201 KAR 011:180, 201 KAR 011:195, 201 KAR 011:215, 201 KAR 011:225, 201 KAR 011:230, 201 KAR 011:232, 201 KAR 011:235, 201 KAR 011:240, 201 KAR 011:245, 201 KAR 011:250, 201 KAR 011:300, 201 KAR 011:350, 201 KAR 011:400, 201 KAR 011:410, 201 KAR 011:440, 201 KAR 011:450, and 201 KAR 011:460; 201 KAR 011:002
Standards of professional conduct; 201 KAR 011:121

REAL ESTATE COMMISSION

Advertising; 201 KAR 011:105
Definitions for 201 KAR Chapter 011; 201 KAR 011:011
Repeal of 201 KAR 011:420; 201 KAR 011:461

RESPIRATORY CARE

Fees; 201 KAR 029:015

RETIREMENT SYSTEMS

General Rules

Electronic ballots in Trustee elections; 105 KAR 001:445
Employment after retirement; 105 KAR 001:390
Participation of county attorney employees; 105 KAR 001:250
Quasi-governmental employer cessation window; 105 KAR 001:149
Retirement procedures and forms; 105 KAR 001:200

REVENUE

Ad Valorem Tax, Administration

Property valuation administrator office employees: payment of leave upon separation; 103 KAR 005:160
Repeal of 103 KAR 005:150; 103 KAR 005:151

Ad Valorem Tax; Local Assessment

Repeal of 103 KAR 007:030; 103 KAR 007:031

Ad Valorem Tax; State Assessment

Ad valorem taxation of machinery actually engaged in the manufacturing of coal, crushed stone, sand, gravel and hot asphalt; 103 KAR 008:130
Apportioned vehicles; 103 KAR 008:110
Pollution control facilities exception; 103 KAR 008:170
Repeal of 103 KAR 008:010; 103 KAR 008:011
Repeal of 103 KAR 008:140 and 103 KAR 008:150; 103. KAR 008:141
Valuation of municipal solid waste landfill facilities; 103 KAR 008:160

General Administration

Electronic fund transfer; 103 KAR 001:060
Employee access to federal tax information (FTI); 103 KAR 001:120.

Protests; 103 KAR 001:010

Income Tax; Individual

Repeal of 103 KAR 017:120; 103 KAR 017:121

Income Tax; Corporations

Combined Unitary Kentucky corporation income tax return; 103 KAR 016:400
Consolidated Kentucky corporation income tax return; 103 KAR 016:200
Net operating loss computation and deduction for corporations; 103 KAR 016:250

Income Tax; General Administration

Filing dates and extensions; 103 KAR 015:050

Repeal of 103 KAR 015:060; 103 KAR 015:061

Income Tax; Withholding

Employer's withholding reporting requirements; 103 KAR 018:150

Inheritance Tax

Life Mortality Table; 103 KAR 002:005
Policies and circulars relating to inheritance tax; 103 KAR 002:030

Sales and Use Tax; Administration and Accounting

Coupons or redemption certificates; 103 KAR 031:080 Direct pay authorization; 103 KAR 031:030
Energy efficiency projects; 103 KAR 031:200
Records; 103 KAR 031:020
Sales and purchases for resale; 103 KAR 031:111
Tax-paid purchases resold; 103 KAR 031:090

Sales and Use Tax; General Exemptions

Containers, wrapping, and packing materials; 103 KAR 030:170
Oil and gas extraction machinery; 103 KAR 030:270
Repeal of 103 KAR 030:260; 103 KAR 030:261

Sales and Use Tax; Miscellaneous Retailer Occupations

Blueprints and copies; 103 KAR 027:020
Meals served by railroads, airlines, and other transportation companies; 103 KAR 027:080
Motor vehicles, manufactured homes, mobile homes, and trailers; 103 KAR 027:100
Photographers, photo finishers, and x-ray labs; 103 KAR 027:120
Publishers of newspapers, magazines and periodicals; 103 KAR 027:140

Restaurant transactions; 103 KAR 027:220

Vending machines; 103 KAR 027:180

Sales and Use Tax; Miscellaneous Retail Transactions

Admissions; 103 KAR 028:010
Tangible personal property; security instrument enforcement; 103 KAR 028:090

Sales and Use Tax; Registration and Collection

Current month accelerated payment of sales and use taxes by larger taxpayers; 103 KAR 025:131
Factors and agents; 103 KAR 025:050
Temporary vendors and transient merchants; 103 KAR 025:060

Sales and Use Tax; Service and Professional Occupations

Advertising agencies; 103 KAR 026:120
Common carriers; 103 KAR 026:050

SUBJECT INDEX

Contractors; 103 KAR 026:070
Dentists and dental laboratories; 103 KAR 026:080
Motor carrier repair and replacement parts; 103 KAR 026:110
Nontaxable service enterprises; 103 KAR 026:010
Optometrists, oculists, and opticians; 103 KAR 026:030
Veterinarians and pet care service providers; 103 KAR 026:090
Selective Excise Tax; Alcoholic Beverages
Maintaining records; 103 KAR 040:010
Repeal of 103 KAR 040:091; 103 KAR 040:091
Transporter's reports; 103 KAR 040:050
Selective Excise Tax; Cigarettes
Applications, stamp orders, returns, reports, and statements to be filed electronically – waiver; 103 KAR 041:220
Cigarette vending machine operators; 103 KAR 041:040
Repeal of 103 KAR 041:030, 103 KAR 041:050, 103 KAR 041:060, and 103 KAR 041:200; 103 KAR 041:031.
Sample of cigarettes; 103 KAR 041:110
Segregation of cigarettes; 103 KAR 041:100
Selective Excise Tax; Motor Fuels
Accountable losses; 103 KAR 043:010
Repeal of 103 KAR 043:050; 103 KAR 043:051
Repeal of 103 KAR 043:100; 103 KAR 043:101

SECRETARY OF STATE

Notary Public
Notary Public applications and electronic and online registrations; 030 KAR 008:005

SOCIAL WORK

201 KAR 023:070. Qualifying education and clinical practice under supervision; 201 KAR 023:070

TRANSPORTATION

Vehicle Regulation; KAR Title 601 (See Vehicle Regulation)
Motorcycle Safety Education Commission
See Justice and Public Safety

TRAVEL DEVELOPMENT

Procedure for Regional Marketing and Matching Funds Program; 300 KAR 001:010

UTILITIES

See Public Service Commission; KAR Title 807

TEACHERS' RETIREMENT SYSTEM

General Rules
Administrative staff memberships; 102 KAR 001:037
Bona Fide Retirement; 102 KAR 001:032
Employment by retired members; calculation of the daily wage threshold and average daily rate; 102 KAR 001:035
Insurance; 102 KAR 001:100
Interest credited to accounts; 102 KAR 001:135
Omitted contributions; reinstatement of accounts; 102 KAR 001:125
Part-time service for university, college and community college members; 102 KAR 001:036

TRANSPORTATION

Driver Improvement
Medical Review Board; basis for examination, evaluation, tests; 601 KAR 013:090
Medical standards for operators of motor vehicles; 601 KAR 013:100
Motor Vehicle Tax
Motor vehicle registration; 601 KAR 009:130
Traffic
Encroachment permits; 603 KAR 005:150.

VEHICLE REGULATION

Motor Carriers
Ignition interlock; 601 KAR 2:030

VETERINARY EXAMINERS

Application requirements for veterinarians and veterinary

technicians; 201 KAR 016:540
Approved veterinary colleges; approved programs for veterinary technicians; 201 KAR 016:520
Authorization for animal control agencies to apply for a restricted controlled substances certificate from DEA; 201 KAR 016:550
Board issued licenses and certificates, inactive and retired statuses; 201 KAR 016:580
Certificate renewal for animal control agencies and animal euthanasia specialists; renewal notice; 201 KAR 016:572
Certification as an animal euthanasia specialist; 201 KAR 016:560
Code of ethical conduct for veterinarians; 201 KAR 016:500
Continuing education requirements, veterinarians and veterinary technicians; 201 KAR 016:590
Examination requirements for veterinarians and veterinary technicians; 201 KAR 016:530
Fees for animal control agencies and animal euthanasia specialists; 201 KAR 016:514
Fees – other fees; 201 KAR 016:516
Fees for veterinarians; 201 KAR 016:510
Fees for veterinary technicians; 201 KAR 016:512
License renewal for veterinarians and veterinary technicians; 201 KAR 016:570
Prescription and dispensation of drugs for animal use; 201 KAR 016:600
Procedures for grievances, investigations, and administrative charges; 201 KAR 016:610
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 016:012

WATER QUALITY

Attainment and Maintenance of the National Ambient Air Quality Standards
Attainment status designations; 401 KAR 051:010
Certified Operators
Definitions for 401 KAR Chapter 011; 401 KAR 011:001
Operator and training provider certification; 401 KAR 011:050
Operator and training provider certification fees; 401 KAR 011:060
Wastewater treatment and collection system operators; classification and qualifications; 401 KAR 011:030
Water treatment and distribution system operators; classification and qualifications; 401 KAR 011:040
Water Quality
Operation of wastewater systems by certified operators; 401 KAR 005:010
Repeal of 401 KAR 005:090; 401 KAR 005:091
Water Quality Certification
Drinking water program fees; 401 KAR 008:050
Water treatment plant and water distribution system classification and staffing; 401 KAR 008:030
Water Quality Standards
Antidegradation policy implementation methodology; 401 KAR 010:030
Definitions for 401 KAR Chapter 010; 401 KAR 010:001
Designation of uses of surface waters; 401 KAR 010:026
General provisions; 401 KAR 010:029
Surface water standards; 401 KAR 010:031
Water Wells
Certification of water well drillers and water well driller assistants; 401 KAR 006:320
Definitions for 401 KAR Chapter 006; 401 KAR 006:001
Monitoring well construction practices and standards; 401 KAR 006:35
Repeal of 401 KAR 006:200; 401 KAR 006:211
Water supply well construction practices and standards; 401 KAR 006:310

WORKPLACE STANDARDS

Adoption and extension of established federal standards; 803

SUBJECT INDEX

KAR 002:301
Adoption of 29 C.F.R. Part 1926 Subpart A; 803 KAR 002:400
Commercial diving operations; 803 KAR 002:319
Compressed gas and compressed air equipment; 803 KAR 002:312
Exit routes and emergency planning; 803 KAR 002:304
Fire protection; 803 KAR 002:311
General; 803 KAR 002:300
Hand and portable powered tools and other hand-held equipment; 803 KAR 002:315
Maritime employment; 803 KAR 002:500
Materials handling, storage, use and disposal; 803 KAR 002:407
Occupational health and environmental controls; 803 KAR 002:403
Personal protective and lifesaving equipment; 803 KAR 002:404
Recordkeeping, reporting, statistics; 803 KAR 002:180
Rollover protective structures; overhead protection; 803 KAR 002:422
Signs, signals, and barricades; 803 KAR 002:406
Toxic and hazardous substances; 803 KAR 002:425
Toxic and hazardous substances; 803 KAR 002:320
Underground construction, caissons, cofferdams, and compressed air; 803 KAR 002:418
Welding, cutting, and brazing; 803 KAR 002:316

WORKERS' CLAIMS

Pharmaceutical formulary; 803 KAR 025:271E
Procedure for adjustments of claims; 803 KAR 025:010
Treatment guidelines; 803 KAR 025:260