



Administrative Register of Kentucky

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ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, May 15, 2024

MEETING NOTICES

The Administrative Regulation Review Subcommittee is tentatively scheduled to meet on June 11, 2024 at 1:00 p.m. in room 149, Capitol Annex. ARRS Tentative Agenda - 2345 – [Online agenda updated as needed.](#)

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Title		Chapter	Regulation
806	KAR	050:	155
Cabinet, Department, Board, or Agency		Office, Division, Board, or Major Function	Specific Regulation

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The following agenda may not take into consideration all of the administrative regulations that may be removed to complete the public comment process or deferred or withdrawn by promulgating agencies. Deferrals and withdrawals may be made any time prior to or during the meeting.



Administrative Regulation Review Subcommittee
TENTATIVE Meeting Agenda
Tuesday, June 11, 2024 at 1 p.m.
Annex Room 149



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

EDUCATION AND LABOR CABINET

Education Professional Standards Board

Teaching Certificates

016 KAR 002:120. Emergency certification and out-of-field teaching. (Amended After Comments)

016 KAR 002:160. Probationary certificate for teachers of exceptional children. (Deferred from May)

OFFICE OF THE GOVERNOR

Department of Veterans' Affairs

Veterans' Programs

017 KAR 006:020. Kentucky Women Veterans Program and coordinating committee, administrative procedures. (Amended After Comments) (Deferred from February)

017 KAR 006:030. Kentucky Wounded or Disabled Veterans Program, administrative procedures. (Amended After Comments) (Deferred from February)

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STATE BOARD OF ELECTIONS

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031 KAR 002:010E. Preparation of ballots and voting systems prior to election day. (Filed with Ordinary) ("E" expires 01-10-2025)

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031 KAR 003:041E. Electronic Voter Registration System. (Filed with Ordinary) ("E" expires 01-10-2025)

Forms and Procedures

031 KAR 004:031E. Reporting. (Filed with Ordinary) ("E" expires 01-10-2025)

031 KAR 004:220E. Recount procedures. (Filed with Ordinary) ("E" expires 01-10-2025)

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031 KAR 005:026E. Ballot standards and election security. (Filed with Ordinary) ("E" expires 01-10-2025)

031 KAR 005:040E. Questions regarding voter eligibility. (Filed with Ordinary) ("E" expires 01-10-2025)

OFFICE OF THE ATTORNEY GENERAL

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040 KAR 010:010. Uniform procedure and timeline for conducting independent election inquiries.

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104 KAR 001:010. Posting, distribution and availability of notices and pamphlets. (Deferred from September)

104 KAR 001:040. Guidelines for advertising employment or licensing opportunities. (Deferred from September)

104 KAR 001:050. Standards and procedures for providing equal employment opportunities. (Deferred from September)

104 KAR 001:080. Guidelines on fair housing. (Deferred from September)

104 KAR 001:100. Nondiscrimination on the basis of disability by a place of public accommodations, licensing agencies and trade organizations. (Deferred from September)

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201 KAR 002:220. Collaborative care agreements.

Board of Nursing

201 KAR 020:320. Standards for curriculum of prelicensure registered nurse and practical nurse programs.

201 KAR 020:360. Continuing approval and periodic evaluation of prelicensure registered nursing and licensed practical nursing programs.

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**Office of Homeland Security
911 Services Board**

202 KAR 006:090. Permitted uses by PSAPs for CMRS funds.

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Fish**

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Game

301 KAR 002:122. Seasons, methods, and limits for small game.

Licensing

301 KAR 005:040. Migratory Bird Harvest Information Program.

301 KAR 005:210. Special agency fundraising permits.

TRANSPORTATION CABINET

**Department of Vehicle Regulation
Certification of Title**

601 KAR 023:040. Application form to become Kentucky Electronic License Title Entity; and application form for electronic motor vehicle title application submission. (Deferred from May)

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**Kentucky Fire Commission
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739 KAR 002:160. Reimbursement for line-of-duty stress injury treatment.

ENERGY AND ENVIRONMENT CABINET

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Utilities**

807 KAR 005:078. Alternative rate adjustment for electric cooperatives.

PUBLIC PROTECTION CABINET

**Horse Racing Commission
Incentive and Development Funds**

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

CABINET FOR HEALTH AND FAMILY SERVICES

**Office of Inspector General
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**Department for Medicaid Services
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Office of the Secretary

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915 KAR 002:020. Supply limits and equivalency formula.

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**Department for Community Based Services
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JUSTICE AND SAFETY CABINET

**Department of Corrections
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PUBLIC PROTECTION CABINET

**Department of Housing, Buildings and Construction
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815 KAR 007:125. Kentucky Residential Code. (Comments Received, SOC due 06-14-2024)

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Office of the Secretary

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915 KAR 001:030. Cultivator. (Amended After Comments) (Deferred from June)
915 KAR 001:040. Processor. (Amended After Comments) (Deferred from June)
915 KAR 001:050. Producer. (Not Amended After Comments) (Deferred from June)
915 KAR 001:060. Safety compliance facility. (Amended After Comments) (Deferred from June)
915 KAR 001:070. Dispensary. (Amended After Comments) (Deferred from June)
915 KAR 001:080. Transportation and delivery of medicinal cannabis. (Amended After Comments) (Deferred from June)
915 KAR 001:090. Advertising. (Amended After Comments) (Deferred from June)
915 KAR 001:100. Packaging and labeling of medicinal cannabis. (Amended After Comments) (Deferred from June)
915 KAR 001:110. Medicinal cannabis testing. (Amended After Comments) (Deferred from June)

Expiration dates in this document have been determined pursuant to KRS Chapter 13A provisions. Other statutes or legislation may affect a regulation's actual end date.

**STANDARD ADMINISTRATIVE REGULATION REVIEW PROCEDURE
Overview for Regulations Filed under KRS Chapter 13A**

(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. Emergency administrative regulations become effective upon filing.

Public Hearing and Public Comment Period

The administrative body shall schedule a public hearing on a proposed administrative regulation. The public hearing is held between the 21st and the last workday of the month in which the public comment period ends. 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.

Public comment periods for ordinary regulations end on the last day of the month following publication; whereas, public comment periods for emergency regulations run through the last day of the month in which the regulation was published. For other ordinary regulations with open comment periods, please also see last month's *Administrative Register of Kentucky*.

The administrative body shall notify the Compiler 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 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 regulation is deferred or found deficient, an ordinary regulation shall be considered in effect upon adjournment of the appropriate jurisdictional committee or 90 days after being referred by LRC, whichever occurs first.

EMERGENCY ADMINISTRATIVE REGULATIONS

NOTE: Pursuant to KRS 13A.190, emergency regulations expire after 270 days (or 270 days plus the number of days an accompanying ordinary is extended) or upon replacement by an ordinary regulation, whichever occurs first. Other statutes or legislation may affect a regulation's actual end date.

STATEMENT OF EMERGENCY
13 KAR 2:120E

This emergency administrative regulation is being promulgated to meet an imminent deadline for the promulgation of an administrative regulation that is established by state statute, specifically KRS 164.092(10) and SB 191 (2024 Regular Session), signed into law on April 17, 2024, and containing an emergency clause. In particular, Section 4 of SB 191 directs the Council on Postsecondary Education to make certain changes to the operation of the performance funding model created in KRS 164.092 that impact the 2024-2025 funding distribution. KRS 164.092(10)(a) requires that by May 1st of each year, the Council on Postsecondary Education certify to the Office of State Budget Director the amount of performance funding allocations to be distributed to each public university and KCTCS institution for the forthcoming fiscal year. All required changes require amendments to 13 KAR 2:120 and 13 KAR 2:130 and the normal administrative regulation amendment process would not conclude in nearly enough time for those changes to become effective for the 2024-2025 funding distribution. The emergency administrative regulation will be replaced by an ordinary administrative regulation and the ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
MADISON SILVERT, Chair

GENERAL GOVERNMENT CABINET
Council on Postsecondary Education
(Emergency Amendment)

13 KAR 2:120E. Comprehensive funding model for the allocation of state general fund appropriations to public universities.

EFFECTIVE: April 30, 2024

RELATES TO: KRS 48.600-48.630, 164.001, 164.092

STATUTORY AUTHORITY: KRS 164.092(12)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.092(12) requires the Council on Postsecondary Education to promulgate an administrative regulation to implement a comprehensive funding model for the public postsecondary education system. This administrative regulation establishes the formula by which general fund appropriations shall be distributed in the public university sector.

Section 1. Definitions.

(1) "Academic year" means July 1st through June 30th and all terms completed therein.

(2) "Bachelor's degrees" means the total number of bachelor's degrees awarded during the academic year, including degrees conferred to resident and non-resident students.

(3) "Comprehensive university" is defined by KRS 164.001(7).

(4) "Council" is defined by KRS 164.092(1)(c).

(5) "FAFSA form" means the free application for federal student aid form completed by students to determine eligibility to receive federal student financial aid.

(6) "First-generation college students" means students who report on the FAFSA form that neither parent has earned a college degree or credential, or one (1) parent if the other parent's education level is unknown.

(7) "Formula base amount" is defined by KRS 164.092(1)(e) and includes a deduction for mandated programs.

(8)(~~6~~) "Hold-harmless provision" is defined by KRS 164.092(1)(f).

(9)(~~7~~) "Institution" means a public university.

(10)(~~8~~) "Low-income student" means a student who received a Federal Pell Grant after the 2005-2006 academic year for attendance at the institution from which the student received a bachelor's degree.

(11)(~~9~~) "Mandated program" means a research or public service activity not integral to the instructional mission of the institution that is:

(a) Funded with greater than \$450,000 of state appropriations at research universities and \$200,000 at comprehensive universities; and

(b) Directed by statute, resolution, executive branch budget bill, executive order, or other legal mandate.

(12) "Non-traditional age students" is defined in KRS 164.092(1)(k).

(13)(~~40~~) "Non-resident student" means a student who does not meet the requirements for Kentucky residency for purposes of tuition set forth in 13 KAR 2:045.

(14)(~~44~~) "Research university" is defined by KRS 164.092(1)(m)(~~4~~).

(15)(~~42~~) "Resident student" means a student certified as a Kentucky resident for purposes of tuition pursuant to 13 KAR 2:045 and any non-resident student attending an institution under a state tuition reciprocity agreement entered into by the council.

(16)(~~43~~) "Small school adjustment" means a one (1)-time calculation made using the formula base amounts in 2017-2018 and equals:

(a) For a research university, ten (10) percent of the respective formula base amount for each institution; ~~and~~

(b) For a comprehensive university, ten (10) percent of the total formula base amount for all comprehensive universities divided by six (6); ~~and~~]

(c) For institutions that have a hold-harmless amount in fiscal year 2023-2024, an additional amount equaling the institution's 2023-2024 hold-harmless amount.

(17)(~~44~~) "STEM+H degrees" means degrees in the fields of science, technology, engineering, math, and health sciences as determined by the council.

(18)(~~45~~) "Stop-loss provision" is defined by KRS 164.092(1)(n)(~~4~~).

(19)(~~46~~) "Underrepresented [~~minority~~]-students" means first-generation college students~~[students who categorize themselves as Hispanic or Latino, American Indian or Alaska Native, Black or African American, Native Hawaiian or Other Pacific Islander, or two (2) or more races].~~

(20)(~~47~~) "University allocable resources" is defined by KRS 164.092(1)(o)(~~4~~).

Section 2. Allocable Resources. The council shall determine total university allocable resources for any given year by calculating each institution's formula base amount and subtracting the small school adjustment and any amount protected by a hold-harmless provision. These amounts shall then be combined along with any applicable increase or decrease in general fund appropriation.

Section 3. Metric Weighting. For purposes of Sections 5, 6, and 7 of this administrative regulation, bachelor's degrees, student progression, earned credit hours, facilities' square feet, instruction and student services costs, and full-time equivalent student enrollment shall be calculated with differential weights for research and comprehensive universities in accordance with the Public University Funding Model Metric Weighting Chart.

Section 4. Three (3)-year Rolling Average. Each metric shall be calculated by averaging the most recent three (3) years of finalized data.

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Section 5. Student Success Outcomes. ~~Forty (40)~~~~[Thirty-five (35)]~~ percent of total university allocable resources shall be certified for distribution to each institution based on its share of the total volume of student success outcomes related to bachelor's degree production and student progression as established in KRS 164.092(6)(a)1. through 5., and in the following denominations:

(1) ~~Nine (9)~~ percent based on the ~~[normalized]~~ bachelor's degrees awarded in an academic year as described in the Public University Sector Funding Model Formula Chart;

(2) ~~Five (5)~~ percent based on STEM+H bachelor's degrees awarded in an academic year;

~~[(3)] [Three (3) percent based on bachelor's degrees awarded to underrepresented minority students in an academic year;]~~

~~[(3)]~~~~[(4)]~~ Nine and a half (9.5)~~[Three (3)]~~ percent based on bachelor's degrees awarded to low-income students in an academic year;

~~[(4)]~~~~[(5)]~~ Three (3) percent based on the number of full-time and part-time undergraduate students reaching or surpassing thirty (30) cumulative earned credit hours in any term completed from August 1st to July 31st;

~~[(5)]~~~~[(6)]~~ Five (5) percent based on the number of full-time and part-time undergraduate students reaching or surpassing sixty (60) cumulative earned credit hours in any term completed from August 1st to July 31st; ~~and~~

~~[(6)]~~~~[(7)]~~ Seven (7) percent based on the number of full-time and part-time undergraduate students reaching or surpassing ninety (90) cumulative earned credit hours in any term completed from August 1st to July 31st; ~~and~~[-]

[(7)] One and a half (1.5) percent based on the number of bachelor's degrees awarded to first generation students in an academic year.

Section 6. Student Credit Hour Production. Thirty (30)~~[Thirty-five (35)]~~ percent of total university allocable resources shall be certified for distribution to each institution based on its share of total volume of weighted student credit hours earned during an academic year as established in KRS 164.092(6)(b).

(1) Credit hour weighting by course level and discipline shall be in accordance with the Public University Funding Model Earned Credit Hour Production Weighting Index. Credit hours earned by non-resident students shall be given one-half (0.5) the weight of those earned by resident students in comparable programs of study. Beginning fiscal year 2024-2025, credit hours earned by non-resident students shall be given three-quarters (.75) the weight of those earned by resident students in comparable programs of study and resident undergraduate non-traditional age students shall be given twice the weight of those earned by traditional age students in comparable programs of study. ~~and~~

(2) The calculation in subsection (1) of this section shall not include credit hours earned by high school students taking courses for college credit.

Section 7. Operational Support. Thirty (30) percent of total university allocable resources shall be certified for distribution to each institution in support of vital campus operations as established in KRS 164.092(6)(c)1. through 3.

(1) Ten (10) percent shall be allocated based on facilities' square feet as reported annually to the council and as established in KRS 164.092(6)(c)1.

(2) Ten (10) percent shall be allocated based on direct instruction and student services costs as reported on each institution's annual audited financial statement and as established in KRS 164.092(6)(c)2.

(3) Ten (10) percent shall be allocated based on total full-time equivalent student enrollment as established in KRS 164.092(6)(c)3 and using the formula established in the Public University Sector Funding Model Formula Chart.

Section 8. Hold-harmless and Stop-loss Provisions.

(1) Any final amounts certified for distribution to any institution shall account for any hold-harmless or stop-loss provisions established in KRS 164.092(9).

(2) The council shall determine hold-harmless amounts for institutions ~~[in fiscal year 2018-2019]~~ through application of the formula established in this administrative regulation.

(a) If the formula total amount generated for an institution is less than its initial allocable resources, the amount of that difference shall be designated as the institution's hold-harmless allocation.

(b) If applied, an institution maintaining a hold-harmless allocation shall not receive additional distributions of funding through the model until the hold-harmless allocation balance is brought to zero through improved institutional performance, additional appropriations, or some combination thereof.

~~[(c)] [The council shall apply these hold-harmless allocations, with any applicable credit adjustments as determined annually by the formula, to all applicable institutions in 2018-2019, 2019-2020, 2020-2021, and in any subsequent years as directed by the General Assembly.]~~

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Public University Funding Model Formula Chart," April 2024~~[June 2017]~~;

(b) "Public University Funding Model Metric Weighting Chart," April 2024~~[June 2017]~~; and

(c) "Public University Funding Model Earned Credit Hour Production Weighting Index," June 2017.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Council on Postsecondary Education, 100 Airport Road, Third Floor~~[1024 Capital Center Drive, Suite 320]~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and <https://cpe.ky.gov/>.

MADISON SILVERT, Chair

APPROVED BY AGENCY: April 30, 2024

FILED WITH LRC: April 30, 2024 at 3:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 25, 2024 at 10:00 a.m. EST at the Council on Postsecondary Education, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601 in Conference Room A. 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 to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until June 30, 2024. 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: Sterling Crayton, Attorney, Council on Postsecondary Education, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, phone 502.892.3005, fax 502.573.1535, email sterling.crayton@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sterling Crayton

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation implements a comprehensive funding model by which general fund appropriations shall be distributed in the public university sector.

(b) The necessity of this administrative regulation: KRS 164.092(12) requires the Council on Postsecondary Education to promulgate an administrative regulation to implement a comprehensive funding model for the public postsecondary education system.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms explicitly to the authorizing statute.

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(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation allows the Council to determine total university allocable resources for any given year by calculating each institution's formula base amount, subtracting the small school adjustment and any amount protected by a hold harmless provision, and combining these amounts along with any applicable increase or decrease in general fund appropriation in accordance with KRS 164.092.

(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 increases the low-income degree production allocation, removes the underrepresented minority degree production allocation, adds a degree production allocation for first generation students, adds an adult learner earned credit hour premium, eliminates the degree efficiency index weighting, increases the small school adjustments at Kentucky State University and Morehead State University, and increases the nonresident credit hour weighting.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to implement changes as required by SB 191 (2024 Regular Session). In addition, this amendment constitutes incremental but constructive change to the funding model by creating financial incentives and leveraging the formula to advance state goals for postsecondary education.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of KRS 164.092 as amended by SB 191 (2024 Regular Session) by capturing changes required therein and makes other changes in areas delegated to the Council.

(d) How the amendment will assist in the effective administration of the statutes: The amendment conforms to the content of KRS 164.092(12) by further ensuring the improvement of opportunities for the Commonwealth's citizens and building a stronger economy through its public college and university system.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation impacts the 8 public universities in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities will not be required to take any action in order to comply with this amendment, although institutional strategies to achieve the performance incentivized by this regulation by change.

(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 entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): If the public universities increase performance in the areas identified in this regulation relative to other institutions their distribution of performance funding dollars will increase.

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

(a) Initially: See 4(b) above.

(b) On a continuing basis: See 4(b) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The postsecondary education performance fund established by KRS 164.092(13), an appropriation unit of the general fund used to support improvement in the operations of the public postsecondary institutions and achievement of the Commonwealth's education policy goals and workforce development priorities.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not assess fees.

(9) TIERING: Is tiering applied? Yes, one hundred percent (100%) of public institution allocable resources among the public universities based on rational criteria, including each college's share of student success outcomes, course completion, and operational support components, regardless of whether state funding for postsecondary institution operations increases, decreases, or remains stable. Weighting for various items in the regulation vary between research and comprehensive universities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 48.600-48.630, 164.001, 164.092

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Council on Postsecondary Education and the eight public universities across the state.

(a) Estimate the following for the first year:

Expenditures: Approximately \$200,000 per year for CPE to manage and run the model. No cost of implementation for postsecondary institutions.

Revenues: None for CPE. In and of itself, this regulation will not generate any revenue, however depending on campus performance and the overall general fund appropriation to higher education, institutions could see increases in general fund revenue.

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(4) Identify additional regulated entities not listed in questions (2) or (3): N/A

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: Duties related to this regulation are generally assumed by Council staff members as part of their many other responsibilities. There are no additional costs of administration.

(b) Methodology and resources used to determine the fiscal impact: General analysis.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This regulation is not anticipated to have a major economic impact on state or local government or regulated entities. This regulation will provide financial incentives to public universities across the Commonwealth.

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

STATEMENT OF EMERGENCY
13 KAR 2:130E

This emergency administrative regulation is being promulgated to meet an imminent deadline for the promulgation of an administrative regulation that is established by state statute, specifically KRS 164.092(10) and SB 191 (2024 Regular Session), signed into law on April 17, 2024, and containing an emergency clause. In particular, Section 4 of SB 191 directs the Council on Postsecondary Education to make certain changes to the operation of the performance funding model created in KRS 164.092 that impact the 2024-2025 funding distribution. KRS 164.092(10)(a) requires that by May 1st of each year, the Council on Postsecondary Education certify to the Office of State Budget Director the amount of performance funding allocations to be distributed to each public university and KCTCS institution for the forthcoming fiscal year. All required changes require amendments to 13 KAR 2:120 and 13 KAR 2:130 and the normal administrative regulation amendment process would not conclude in nearly enough time for those changes to become effective for the 2024-2025 funding distribution. The emergency administrative regulation will be replaced by an ordinary administrative regulation and the ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
MADISON SILVERT, Chair

GENERAL GOVERNMENT CABINET
Council on Postsecondary Education
(Emergency Amendment)

13 KAR 2:130E. Comprehensive funding model for the allocation of state general fund appropriations to Kentucky Community and Technical College System institutions.

EFFECTIVE: April 30, 2024

RELATES TO: KRS 48.600-48.630, 164.001, 164.092

STATUTORY AUTHORITY: KRS 164.092(12)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.092(12) requires the Council on Postsecondary Education to promulgate an administrative regulation to implement a comprehensive funding model for the public postsecondary education system. This administrative regulation establishes the formula by which general fund appropriations shall be distributed in the Kentucky Community and Technical College System sector.

Section 1. Definitions.

(1) "Academic year" means the Summer, Fall, and Spring terms[means July 1 through June 30 and all terms completed therein].

(2) "Credentials" means the total number of certificates, diplomas, and associate degrees awarded during the academic year["Associate degree" means total number of associate degrees awarded during the academic year, including degrees conferred to resident and non-resident students].

(3) "Council" is defined by KRS 164.092(1)(c).

(4) "Equity adjustment" means ten (10) percent of total KCTCS institution allocable resources divided by sixteen (16) and allocated to each institution using the Community Needs Index.

(5) "FAFSA form" means the free application for federal student aid form completed by students to determine eligibility for federal student financial aid.

(6) "First-generation college students" means students who report on the FAFSA that neither parent has earned a college degree or credential, or one (1) parent if the other parent's education level is unknown.

(7)[(5)] "Formula base amount" is defined by KRS 164.092(1)(e) and includes a deduction for mandated programs.

(8)[(6)] "Full-[]time equivalent student enrollment" means the total academic year credit hours taken divided by thirty (30)[fall semester credit hours earned divided by fifteen (15)].

~~[(7)] "High-wage, high-demand credentials" means credentials tied to occupations identified in the Kentucky Office of Employment and Training's Kentucky Occupational Outlooks and annual Occupational Employment statistics wage data that meet the following criteria:~~

~~[(a)] [Have a median annual wage that is greater than or equal to the wage at the 75th percentile for all occupations in the state of Kentucky;]~~

~~[(b)] [Show growth greater than or equal to the projected percent change for all Kentucky occupations; or]~~

~~[(c)] [Have 100 or more average annual job openings;]~~

~~[(9)][(8)] "Hold-harmless provision" is defined by KRS 164.092(1)(f).~~

~~[(10)][(9)] "Institution" means a college in the Kentucky Community and Technical College System.~~

~~[(11)][(40)] "KCTCS" is defined by KRS 164.092(1)(h).~~

~~[(12)][(41)] "KCTCS institution allocable resources" is defined by KRS 164.092(1)(i).~~

~~[(13)][(42)] "Low-income student[students]" means a student who has received a Federal Pell Grant at any time since 2005-2006 at KCTCS[the graduating institution].~~

~~[(14)][(43)] "Mandated program" means a research or public service activity not integral to the instructional mission of the institution that is:~~

~~(a) Funded with greater than \$200,000 of state appropriations; and~~

~~(b) Directed by statute, resolution, executive branch budget bill, executive order, or other legal mandate.~~

~~[(15)] "Non-traditional college students" is defined by KRS 164.092(1)(k).~~

~~[(16)][(44)] ["Non-resident student" means a student who does not meet the requirements for Kentucky residency for purposes of tuition set forth in 13 KAR 2:045.]~~

~~[(15)] ["Resident student" means a student certified as a Kentucky resident for purposes of tuition pursuant to 13 KAR 2:045 and any non-resident student attending an institution under a state tuition reciprocity agreement entered into by the council.]~~

~~[(16)] ["STEM+H degrees" mean degrees in the fields of science, technology, engineering, math, and health sciences as identified to annually by KCTCS.]~~

~~[(17)] "Stop-loss provision" is defined by KRS 164.092(1)(n)[(4k)].~~

~~[(18)] ["Targeted industry credentials" means credentials awarded in Classification of Instructional Programs (CIP) codes developed by the U.S. Department of Education's National Center for Education Statistics that crosswalk to occupations with education or training requirements of an associate degree or below in targeted industry sectors as identified in a targeted industry CIPs index provided annually by KCTCS.]~~

~~[(17)][(49)] "Underprepared students" means[mean] students who tested into developmental English, math, or reading upon entering KCTCS[at any period of enrollment] since the 2010-11 academic year.~~

~~[(18)][(20)] "Underrepresented [minority-]students" means first-generation college students[mean students who categorized themselves as Hispanic or Latino, American Indian or Alaska Native, Black or African American, Native Hawaiian or Other Pacific Islander, or two (2) or more races].~~

Section 2. Allocable Resources. The council shall determine total KCTCS institution allocable resources for any given year by calculating each institution's formula base amount and subtracting the equity adjustment and any amount protected by a hold harmless provision. These amounts shall then be combined along with any applicable increase or decrease in general fund appropriation.

Section 3. Data Sets. Unless indicated otherwise, each metric, except facilities square footage, shall be calculated using a three (3) year rolling average[the most recent set of finalized data].

Section 4. Student Success Outcomes. Thirty-five (35) percent of total KCTCS institution allocable resources shall be certified for distribution to each institution based on its share of the total volume

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of student success outcomes as established in KRS 164.092(8)(a)1. through 7., and in the following denominations:

(1) ~~Eight (8)~~~~Ten (10)~~ percent based on the credentials awarded in an academic year weighted to provide a premium for credentials that are aligned with the economic needs of the state; using an average of the most recent three (3) years of finalized data and weighted in the following manner:

[1.0]	[for an undergraduate certificate or diploma which a student can complete in less than one (1) academic year;]
[2.0]	[for an undergraduate certificate or diploma which a student can complete in at least one (1), but less than two (2) academic years; and]
[4.0]	[for an associate degree.]

~~[(2)] [Two (2) percent based on STEM+H credentials awarded in an academic year;]~~

~~[(2)]~~~~[(3)]~~ One (1)~~Two (2)~~ percent based on degrees~~credentials~~ awarded to underrepresented ~~[minority-]~~students in an academic year;

~~[(3)]~~~~[(4)]~~ Five (5)~~Two (2)~~ percent based on credentials awarded to low-income students in an academic year;

~~[(4)]~~~~[(5)]~~ Four (4)~~Two (2)~~ percent based on credentials awarded to underprepared students in an academic year;

~~[(5)]~~ Six (6) percent based on credentials awarded to non-traditional college students in an academic year;

~~[(6)]~~ Four (4)~~Two (2)~~ percent based on the number of students in the cohort who transferred to a baccalaureate degree granting college or university after the last term a student was enrolled at a KCTCS institution in the academic year;

~~[(7)] [Two (2) percent based on targeted industry credentials awarded in an academic year;]~~

~~[(8)] [One (1) percent based on high wage, high-demand credentials awarded in an academic year;]~~

~~[(7)]~~~~[(9)]~~ One (1)~~Two (2)~~ percent based on the number of full-time and part-time undergraduate students reaching or surpassing fifteen (15) cumulative earned credit hours in an academic year;

~~[(8)]~~~~[(10)]~~ Two (2)~~Four (4)~~ percent based on the number of full-time and part-time undergraduate students reaching or surpassing thirty (30) cumulative earned credit hours in an academic year; and

~~[(9)]~~~~[(11)]~~ Four (4)~~Six (6)~~ percent based on the number of full-time and part-time undergraduate students reaching or surpassing forty-five (45) cumulative earned credit hours in an academic year.

Section 5. Student Credit Hour Production. Thirty-five (35) percent of total KCTCS allocable resources shall be certified for distribution to each institution based on its share of total volume of weighted student credit hours earned during an academic year as established in KRS 164.092(8)(b). Credit hour weighting by course discipline shall be in accordance with the KCTCS Funding Model Classification of Instructional Program (CIP) Cost Factors Index.

Section 6. Operational Support. Thirty (30) percent of total KCTCS allocable resources shall be certified for distribution to each institution in support of vital campus operations as established in KRS 164.092(8)(c)1. through 3.

(1) Ten (10) percent shall be allocated based on facilities' square feet as reported annually to the council and as established in KRS 164.092(8)(c)1.

(2) Ten (10) percent shall be allocated based on direct instruction and student services costs as reported to The Integrated Postsecondary Education Data System (IPEDS) and as established in KRS 164.092(8)(c)2.

(3) Ten (10) percent shall be allocated based on total full-time equivalent student enrollment as established in KRS 164.092(8)(c)3.

Section 7. Stop-loss and Hold-Harmless Provisions.

(1) Any final amounts certified for distribution to any institution shall account for any hold-harmless or stop-loss provisions established in KRS 164.092(9).

(2) The council shall determine hold-harmless amounts for institutions ~~[in fiscal year 2018-2019]~~through application of the formula established in this administrative regulation.

(3) If the formula total amount generated for an institution is less than its initial allocable resources, the amount of that difference shall be certified to KCTCS as that institution's hold-harmless allocation.

~~[(4)] [The council shall apply these hold-harmless allocations to all applicable institutions in 2018-2019 and in any subsequent years as directed by the General Assembly.]~~

Section 8. Incorporation by Reference.

(1) The following material is incorporate by reference:

(a) "KCTCS Funding Model Classification of Instructional Program (CIP) Cost Factors Index", June 2017;

(b) "Community Needs Index (CNI)", April 2024; and

(c) "Credentials tied to the Economy", April 2024.~~[is hereby incorporated by reference.]~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Council on Postsecondary Education, 100 Airport Road, Third Floor~~1024 Capital Center Drive, Suite 320~~, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and <https://cpe.ky.gov/>.
MADISON SILVERT, Chair

APPROVED BY AGENCY: April 30, 2024

FILED WITH LRC: April 30, 2024 at 3:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 25, 2024 at 10:00 a.m. EST at the Council on Postsecondary Education, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601 in Conference Room A. 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 to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until June 30, 2024. 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: Sterling Crayton, Attorney, Council on Postsecondary Education, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, phone 502.892.3005, fax 502.573.1535, email sterling.crayton@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sterling Crayton

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation implements a comprehensive funding model by which general fund appropriations shall be distributed in the Kentucky Community and Technical College System.

(b) The necessity of this administrative regulation: KRS 164.092(12) requires the Council on Postsecondary Education to promulgate an administrative regulation to implement a comprehensive funding model for the public postsecondary education system.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms explicitly to the authorizing statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation allows the Council to determine total KCTCS institution allocable resources for any given year by calculating each institution's formula base amount, subtracting the equity adjustment and any amount protected by a hold harmless provision, and combining these amounts along with any applicable increase or decrease in general fund appropriation.

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

(a) How the amendment will change this existing administrative regulation: This amendment adds an adult learner metric, reallocates the equity adjustment using the community needs index, increases weightings for targeted student populations, eliminates the underrepresented minority student credential metric and replaces it with an metric for degrees awarded to underrepresented student that is defined as first generation students, reduces weighting of progression metrics, merges overlapping credential metrics, and now uses three-year rolling average data.

(b) The necessity of the amendment to this administrative regulation: This amendment conforms to changes made in SB 191 (2024 Regular Session) and constitutes incremental but constructive change to the funding model by creating financial incentives and leveraging the formula to advance state goals for postsecondary education.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of KRS 164.092 by further ensuring the improvement of opportunities for the Commonwealth's citizens and building a stronger economy through its public college and university system.

(d) How the amendment will assist in the effective administration of the statutes: The amendment assists in the effective administration of KRS 164.092 by outlining how resources should be allocated to KCTCS institutions in accordance with the provisions of the statute.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The 16 community and technical colleges in the Kentucky Community and Technical College System will be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities will not be required to take any new action in order to comply with this amendment, but may modify actions in order to best perform in the model.

(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 entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The entities will not be required to take any action in order to comply with this amendment, but may modify actions in order to best perform in the model.

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

(a) Initially: See 4(b) above.

(b) On a continuing basis: See 4(b) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: CPE will use general fund dollars 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: This regulation does not assess fees.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not assess fees.

(9) TIERING: Is tiering applied? No. All regulated entities are of the same class, i.e. KCTCS institutions.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. 164.092

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Council on Postsecondary Education and the Kentucky Community and Technical College System.

(a) Estimate the following for the first year:

Expenditures: Approximately \$200,000 per year for CPE to manage and run the model. No cost of implementation for postsecondary institutions.

Revenues: None for CPE. In and of itself, this regulation will not generate any revenue, however depending on campus performance and the overall general fund appropriation to higher education, institutions could see increases in general fund revenue.

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(4) Identify additional regulated entities not listed in questions (2) or (3): N/A

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: Duties related to this regulation are generally assumed by Council staff members as part of their many other responsibilities. There are no additional costs of administration.

(b) Methodology and resources used to determine the fiscal impact: General analysis.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This regulation is not anticipated to have a major economic impact on state or local government or regulated entities. This regulation will provide financial incentives to colleges across the Commonwealth overseen by the Kentucky Community and Technical College System.

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

STATEMENT OF EMERGENCY 201 KAR 28:240E

Pursuant to KRS 13A.190(1)(a)3. and 319A.310 Section 15.B.1, this emergency administrative regulation is being promulgated to meet the requirements of the Board of Licensure for Occupational Therapy to review any rule adopted by the Occupational Therapy Licensure Compact pursuant to Section 10 of the Compact within sixty (60) days of adoption for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation pursuant to KRS Chapter 13A. This emergency administrative regulation incorporates by reference the rules adopted by the Occupational Therapy Compact Commission. KRS 319A.310. Section 15.B.1. requires that this emergency administrative regulation be promulgated, and therefore the filing of an ordinary administrative regulation alone is not sufficient. This emergency administrative regulation will be replaced by an ordinary administrative regulation. The ordinary administrative regulation filed with this emergency administrative regulation is identical.

RENEE CAUSEY-UPTON, PhD, OTD, OTR/L, CLA, FAOTA, Chair
ANDY BESHEAR, Governor

BOARDS AND COMMISSIONS
Board of Licensure for Occupational Therapy
(New Emergency Administrative Regulation)

201 KAR 28:240E. Occupational Therapy Licensure Compact.

EFFECTIVE: May 14, 2024
 RELATES TO: KRS 319A.310

STATUTORY AUTHORITY: KRS 319A.070(1), (3), 319A.310
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.310, Section 15.B.1. requires the Board of Licensure for Occupational Therapy to review any rule adopted by the Occupational Therapy Compact Commission pursuant to Section 10 of the Compact within sixty (60) days of adoption for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation pursuant to KRS Chapter 13A. This administrative regulation incorporates by reference the rules adopted by the Occupational Therapy Compact Commission.

Section 1. The Board of Licensure for Occupational Therapy shall comply with all rules of the Occupational Therapy Compact, which includes the Occupational Therapy Compact Rules as of March 20, 2024.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference: "The Occupational Therapy Compact Rules", March 20, 2024, and as revised.

(a) Chapter 2. Rule on Definitions, adopted March 20, 2024; and
 (b) Chapter 3. Data System Reporting Requirements, adopted March 20, 2024.

(2)

(a) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Licensure for Occupational Therapy, 500 Mero Street, 2 SC 32, Frankfort, Kentucky 40602, Monday through Friday, 8 am to 4:30 p.m.; or

(b) This material may also be obtained on the Board of Licensure for Occupational Therapy Web site at <https://ot.ky.gov/>.

(3) This material may also be obtained at:

(a) The Occupational Therapy Compact Commission, 201 Park Washington Court, Falls Church, Virginia 22046;

(b) <https://otcompact.org/ot-compact-commission/governance-documents/>.

RENEE CAUSEY-UPTON, PhD, OTD, OTR/L, CLA, FAOTA, Chair
 APPROVED BY AGENCY: May 1, 2024

FILED WITH LRC: May 14, 2024 at 4:15 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 25, 2024, at 2:00 p.m. Eastern Time, at the Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky in PPC Conference Room 127CW. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to https://ppc.ky.gov/reg_comment.aspx or the contact person.

CONTACT PERSON: Sara Boswell Janes, Staff Attorney III, Department of Professional Licensing, Office of Legal Services, 500 Mero Street, 2 NC WK#2, office phone (502) 782-2709, fax (502) 564-4818, email Sara.Janes@ky.gov, link to public comment portal: https://ppc.ky.gov/reg_comment.aspx.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sara Boswell Janes

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation implements KRS 319A.310, the Occupational Therapy Licensure Compact.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because KRS 319A.310, Section 15.B.1. requires rules adopted by the Occupational Therapy Compact Commission to be promulgated as administrative regulations pursuant to KRS Chapter 13A.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the specific requirements of the authorizing statute, KRS 319A.310, Section 15.B.1. which requires rules adopted by the Occupational Therapy Licensure Compact to be promulgated as administrative regulations pursuant to KRS Chapter 13A.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation conforms to the content of KRS 319A.310 which requires this promulgation.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the 4044 active and 114 inactive licensees in some capacity, and will also affect new applicants for licensure.

(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 Board will have to review the information collected on licensees by and through its applications to determine if regulatory revisions to the material incorporated by reference are necessary to comport with the required data elements for the compact. If amendments are needed the Board will be required to go through the administrative regulation amendment process.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost will be limited to attorney fees for drafting administrative regulation amendments, some administrative expenses for staffing meetings under the Open Meetings Act, and per diem for board members' regulations committee work.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, the Board will be active in the Occupational Therapy Compact which will open avenues for more access to occupational therapy in Kentucky, and also allow Kentucky occupational therapists to work across state lines providing more access to services for the public in all states.

(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 for the implementation of this administrative regulation.

(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: The board's operations are funded by fees paid by credential holders and applicants.

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

(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 applied as the changes apply to all equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 319A.070(1), (3) and KRS 319A.310. Additionally, interstate compacts are specifically authorized under the federal constitution (Article 1, Section 10, Clause 3- the Compacts Clause) and take precedence over any conflicting state law pursuant to the Compacts Clause and the Contracts Clause, U.S. Constitution, Article 1, Section 10, Clause 1.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Licensure for Occupational Therapy is the promulgating agency and the only other affected state unit, part or division.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: Unknown.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? It will likely take more than one year for the data system and compact to become operational. There will likely be some state expenditures necessary for administering applications for compact privileges within and without the Commonwealth and which may require imposition of a fee to cover the cost of administration. However, expenditures, revenue and cost savings in subsequent years, if any, are currently indeterminable.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): None anticipated.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no difference in expenditures, revenues or cost savings to local entities in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): There are no other regulated entities not otherwise listed.

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no anticipated fiscal impact to this administrative regulation in the first year. It is possible there will be a fiscal impact of administering applications for compact privileges for in-state licensees who apply for the privilege to practice in another state, and for out of state licensees who apply for the privilege to practice in Kentucky. The Compact Commission is in its infancy and the work to be conducted by the state board on behalf of the compact is yet to be determined.

(b) Methodology and resources used to determine the fiscal impact: Methodology and resources are currently indeterminable since there are no known duties outlined for the state in relation to the compact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This

administrative regulation will not have an overall negative or adverse major economic impact to the entities identified.

(b) The methodology and resources used to reach this conclusion: Methodology and resources are currently indeterminable since there are no known duties outlined for the state in relation to the compact; however, given the number of licensees, current budget and anticipated number of applications for out of state licensees to obtain the privilege to practice in Kentucky, no major economic impact is anticipated.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. There is no federal mandate.

(2) State compliance standards. N/A

(3) Minimum or uniform standards contained in the federal mandate. N/A

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/A

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

STATEMENT OF EMERGENCY 501 KAR 6:330E

An emergency regulation, pursuant to KRS 13A.190(1)(a)1., is necessary to meet an imminent threat to public health, safety, and welfare posed by staff in Department of Corrections (DOC) correctional institutions. This emergency regulation includes amendments to the DOC policy and procedure regarding employee drug testing. An imminent threat is posed by staff drug use and difficulty terminating staff testing positive for drug or other unauthorized substance use because of language in the policy concerning drug testing. The amendments reflected in this emergency regulation help address these threats. An ordinary administrative regulation is not sufficient because the DOC needs an immediate response to the use of drugs. The DOC needs to be able to terminate employees for testing positive for drug or other unauthorized substance use for the safety of the correctional institutions. This administrative regulation will be replaced by an ordinary administrative regulation that is being filed with the emergency administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation. An emergency administrative regulation governing a portion of the same subject matter has not been filed within the previous nine (9) months.

ANDY BESHEAR, Governor
HILARYE DAILEY, Deputy Commissioner

JUSTICE AND PUBLIC SAFETY CABINET Department of Corrections (New Emergency Administrative Regulation)

501 KAR 6:330E. Corrections policies and procedures: personnel.

EFFECTIVE: May 15, 2024
RELATES TO: KRS 18A.043, Chapter 196, 196.160, 196.230, Chapter 197, 510.120(1)(c)
STATUTORY AUTHORITY: KRS 196.035, 196.070, 196.160, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020 requires the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary and for the government and official conduct of all officials connected with the penitentiary. KRS 196.160 authorizes the commissioner to adopt,

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amend, or rescind administrative regulations governing dress and grooming standards of institutional uniformed officers and employees. KRS 197.110(5) authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes policies and procedures concerning personnel for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 3", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 3 includes:

3.1	Code of Ethics/Social Media Use (5/15/24)
3.9	Student Intern Placement Procedure (5/15/24)
3.10	Appearance and Dress for Nonuniformed Staff (5/15/24)
3.11	Drug Free Workplace Employee Drug Testing (5/15/24)
3.17	Uniformed Employee Dress Code (5/15/24)
3.22	Staff Sexual Offenses (12/10/13)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

HILARYE DAILEY, Deputy Commissioner

APPROVED BY AGENCY: May 15, 2024

FILED WITH LRC: May 15, 2024 at 11:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning personnel for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020 requires the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary and for the government and official conduct of all officials connected with the penitentiary. KRS 196.160 authorizes the commissioner to adopt, amend, or rescind administrative regulations governing dress and grooming standards of institutional uniformed officers and employees. KRS 197.110(5) authorizes the department to promulgate

administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning personnel. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning personnel. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections and approximately 3,900 employees and 23,995 inmates.

(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: Staff and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 196.070, 196.160, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Employees and other staff

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

**STATEMENT OF EMERGENCY
501 KAR 6:430E**

An emergency regulation, pursuant to KRS 13A.190(1)(a)1., is necessary to meet an imminent threat to public health, safety, and welfare posed by inmates in Department of Corrections (DOC) correctional institutions. This emergency regulation includes amendments to the DOC policy and procedure regarding inmate correspondence. Inmates have used the legal mail system to introduce illegal contraband in the form of paper soaked in substances including cocaine, Spice, other synthetic drugs, and bug spray. Recent smuggling involving contraband sent by mail into the institutions has caused inadvertent exposure to drugs that required medical intervention, facility lockdowns, hazardous material cleanups, and staffing issues due to illness from exposure. The amendments reflected in this emergency regulation help address these threats. An ordinary administrative regulation is not sufficient because the DOC needs an immediate response to the presence of illegal drugs and other contraband that increases gang activity and violence as those involved seek control of the supply and distribution. Within the last month there have been attempts to introduce cocaine-laced papers and Spice-laced papers into the institutions, which puts inmates as well as DOC staff at risk of harm. This administrative regulation will be replaced by an ordinary administrative regulation that is being filed with the emergency

administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation. An emergency administrative regulation governing a portion of the same subject matter has not been filed within the previous nine (9) months.

ANDY BESHEAR, Governor
HILARYE DAILEY, Deputy Commissioner

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Emergency Administrative Regulation)**

**501 KAR 6:430E. Corrections policies and procedures:
communication, mail, and visiting.**

EFFECTIVE: May 15, 2024

RELATES TO: KRS Chapters 196, 197

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035

authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes policies and procedures concerning communication, mail, and visiting for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 16", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 16 includes:

16.1	Inmate Visits (5/15/24)
16.2	Inmate Correspondence (5/15/24)
16.3	Inmate Access to Telephones (10/12/12)
16.4	Inmate Packages (8/12/16)
16.5	Video Visitation (5/15/24)
16.6	Inmate Tablets (5/15/24)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

HILARYE DAILEY, Deputy Commissioner

APPROVED BY AGENCY: May 15, 2024

FILED WITH LRC: May 15, 2024 at 11:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 21, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2024. Send written notification of intent to

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be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning inmate communication, mail, and visiting for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning communication, mail, and visiting. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning communication, mail, and visiting. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, and visitors.

(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: Staff, visitors, and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates and inmate families

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

**STATEMENT OF EMERGENCY
803 KAR 25:089E**

The schedule of fees made effective by this administrative regulation governs the amount of reimbursement a medical provider may seek from a payment obligor for medical treatment provided to an employee who contracted an occupational disease or was injured in the course of employment. The Department of Workers' Claims must amend this administrative regulation by emergency to comply with KRS 342.035(1) which requires that the schedule of fees be reviewed and updated, if appropriate, every two (2) years on July 1. Medical costs in the workers' compensation system shall be fair, current, and reasonable for similar treatment in the same community where paid for by general insurers. The medical fee schedule meets this statutory guideline. By complying with that statutory guideline, the medical fee schedule update insures injured employees receive quality and appropriate health care and medical providers are appropriately compensated. KRS 342.035(1) directs the Commissioner to contract with a consultant to evaluate the schedule of fees. The Commissioner is to consider recommendations arising from the evaluation and promulgate a regulation, effective on an emergency basis, to effect changes to the fee schedule. This emergency regulation complies with the statutory mandate to have the schedule of fees in place by July 1 and protects human health and public health, safety, and welfare by updating medical costs. The current administrative regulation incorporates the 2022 fee schedule. After review, it was necessary to update and revise the 2022 fee schedule to address current medical costs. Because KRS 342.035(1) requires the medical fee schedule to be updated in order to remain fair, current, and reasonable, the current administrative regulation must be amended to incorporate the 2024 fee schedule. The schedule of fees provided in this emergency administrative regulation cannot be provided through an ordinary administrative regulation because the ordinary rulemaking process cannot be completed in time to meet the statutory requirements. 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
SCOTT C. WILHOIT, Commissioner

**EDUCATION AND LABOR CABINET
Department of Workers' Claims
(Emergency Amendment)**

803 KAR 25:089E. Workers' compensation medical fee schedule for physicians.

EFFECTIVE: May 14, 2024

RELATES TO: KRS 342.0011(32), 342.019, 342.020, 342.035

STATUTORY AUTHORITY: KRS 342.020, 342.035(1), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.035(1) requires the commissioner of the Department of Workers' Claims to promulgate administrative regulations to ensure that all fees, charges, and reimbursements for medical services under KRS Chapter 342 are limited to charges that are fair, current, and reasonable for similar treatment of injured persons in the same community for like services, where treatment is paid for by general health insurers. KRS 342.035(4) requires the commissioner to promulgate an administrative regulation establishing the workers' compensation medical fee schedule for physicians. Pursuant to KRS 342.035 requires a schedule of fees to be reviewed and updated, if appropriate, every two (2) years on July 1. This administrative regulation establishes the medical fee schedule for physicians.

Section 1. Definitions.

(1) "Medical fee schedule" means the 2024 Kentucky Workers' Compensation Schedule of Fees for Physicians[~~2022 Kentucky Workers' Compensation Schedule of Fees for Physicians~~].

(2) "Physician" is defined by KRS 342.0011(32).

Section 2. Services Covered.

(1) The medical fee schedule shall govern all medical services provided to injured employees by physicians under KRS Chapter 342.

(2) The medical fee schedule shall also apply to other health care or medical services providers to whom a listed CPT, HCP, CS, or Transportation code, is applicable unless:

(a) Another fee schedule of the Department of Workers' Claims applies;

(b) A lower fee is required by KRS 342.035 or a managed care plan approved by the commissioner pursuant to 803 KAR 25:110; or

(c) An insurance carrier, self-insured group, or self-insured employer has an agreement with a physician, medical bill vendor, or other medical provider to provide reimbursement of a medical bill at an amount lower than the medical fee schedule.

Section 3. Fee Computation.

(1) The appropriate fee for a procedure or item covered by the medical fee schedule shall be the Maximum Allowable Reimbursement (MAR) listed in the 2024[~~2022~~] Kentucky Workers' Compensation Schedule of Fees for Physicians for those procedures or items for which a specific monetary amount is listed.

(2) Procedures Listed Without Specified Maximum Allowable Reimbursement Monetary Amount. The appropriate fee for a procedure or item for which no[~~a~~] specific monetary amount is not listed shall be determined and calculated in accordance with numerical paragraph seven [~~six~~-(6)] of the General Instructions of the medical fee schedule unless more specific Ground Rules are applicable to that service or item, in which case the fee shall be calculated in accordance with the applicable Ground Rules.

(3) The resulting fee shall be[~~not be more than~~] the maximum fee allowed for the service provided.

Section 4.

(1) A physician or healthcare or medical services provider located outside the boundaries of Kentucky shall be deemed to have agreed to comply with this administrative regulation if it treats a patient who is covered under KRS Chapter 342.

(2) Pursuant to KRS 342.035, medical fees due to an out-of-state physician or healthcare or medical services provider shall be calculated under the fee schedule in the same manner as for an in-state physician.

Section 5. Incorporation by Reference.

(1) "2024 Kentucky Workers' Compensation Schedule of Fees for Physicians", July 1, 2024 Edition[~~"2022 Kentucky Workers' Compensation Schedule of Fees for Physicians", July 1, 2022 Edition~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Workers' Claims, Mayo-Underwood Building 3rd Floor, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) The fee schedule may be obtained directly from FAIR Health, Inc., at <https://orders.fairhealth.org/>. A link to FAIR Health, Inc., may be found on the Department of Workers' Claims Web site at <https://elc.ky.gov/Workers-Compensation/Pages/Medical-Services.aspx>.[~~This material may also be obtained from or through [https://labor.ky.gov/comp/Pages/Medical-Services.aspx#Physician Fee Schedule](https://labor.ky.gov/comp/Pages/Medical-Services.aspx#Physician-Fee-Schedule).~~]

This is to certify the Commissioner has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 342.260, 342.270 and 342.285.

SCOTT C. WILHOIT, Commissioner

APPROVED BY AGENCY: May 8, 2024

FILED WITH LRC: May 14, 2024 at 3:10 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 27, 2024, at 10:00 a.m. (EDT) at the Department of Workers' Claims, 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing

may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through June 30, 2024. 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: B. Dale Hamblin, Jr., Assistant General Counsel, Workers' Claims Legal Division, Mayo-Underwood Building, 3rd Floor, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-4404, fax (502) 564-0681, email Dale.Hamblin@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: B. Dale Hamblin, Jr.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates the medical fee schedule for physicians and the requirements for using the fee schedule.

(b) The necessity of this administrative regulation: Pursuant to KRS 342.035, the commissioner is required to promulgate an administrative regulation regarding fee schedules.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation incorporates the extensive fee schedule for physicians and requirements for the fee schedule.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It is imperative to have fee schedules to control the medical costs of the workers' compensation system. Injured employees should receive quality medical care and physicians should be appropriately paid.

(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 medical fee schedule has been updated and will be incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: KRS 342.035 requires the schedule of fees to be reviewed and updated every two (2) years, if appropriate.

(c) How the amendment conforms to the content of the authorizing statutes: The schedule of fees has been appropriately updated to ensure that medical fees are fair, current, and reasonable for similar treatment in the same community for general health insurance payments.

(d) How the amendment will assist in the effective administration of the statutes: The schedule of fees assists the workers' compensation program by updating fees for physicians to ensure injured employees get qualified and appropriate medical treatment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All physicians and medical providers providing services to injured employees pursuant to KRS Chapter 342, injured employees, insurance carriers, self-insurance groups, self-insured employers and third-party administrators.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Insurance carriers, self-insured groups, self-insured employers, third party administrators, and medical providers must purchase the new schedule of fees to accurately bill and pay for medical services. Other parties to workers' compensation claims are only indirectly impacted by the new fee schedule.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Insurance carriers, self-insured groups, self-insured employers or third-party administrators and medical providers can purchase the fee schedule book for \$150, a portable document format ("PDF") version for \$75 for the first user and \$60 for each user thereafter, or an electronic version for \$175 for the first user and \$60 for each user thereafter.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Medical providers will receive fair, current, and reasonable fees for services provided to injured employees. Injured employees will be treated by qualified medical providers.

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

(a) Initially: The contract for reviewing and updating the physicians fee schedule is \$85,010.

(b) On a continuing basis: No continuing costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department of Workers' Claims normal budget is the source of funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding 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 sets forth a current schedule of fees to be paid to physicians. Fees have been updated to be fair, current, and reasonable for similar treatment in the same community as paid by health insurers.

(9) TIERING: Is tiering applied? Tiering is not applied, because the updated fee schedule applies to all parties equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 342.035.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Department of Workers' Claims within the Education and Labor Cabinet. Every state unit, part, or division, with one employee subject to KRS Chapter 342, is affected; specifically, this administrative regulation governs the allowable reimbursements a medical provider may charge, and a payment obligor pay, for physician services provided under KRS Chapter 342.

(a) Estimate the following for the first year:

Expenditures: The contract for reviewing and updating the physicians fee schedule is \$85,010.00.

Revenues: None

Cost Savings: While there is no direct cost savings, ensuring that charges and fees are fair, current, and reasonable for similar treatment of injured persons in the same community for like services where treatment is paid for by general health insurers, helps ensure injured employees receive treatment by qualified medical providers while maintaining premium costs.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no continuing expenditures related to the 2024 Workers' Compensation Medical Fee Schedule for Physicians; however, the Department is statutorily required to reevaluate the fee schedule every two years and additional expenditures will be required to perform these subsequent evaluations. While there is no direct cost savings, ensuring that charges and fees are fair, current, and reasonable for similar treatment of injured persons in the same community for like services where treatment is paid for by general health insurers, helps ensure injured employees receive treatment by qualified medical providers while maintaining premium costs. This administrative regulation does not generate revenue.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All local entities with one employee subject to KRS Chapter 342, is affected; specifically, this administrative regulation governs the allowable reimbursements a medical provider may charge, and a payment obligor pay, for physician services provided under KRS Chapter 342.

(a) Estimate the following for the first year:

Expenditures: The fee schedule book may be purchased for \$150, a portable document format ("PDF") version for \$75 for the first

user and \$60 for each user thereafter, or an electronic version for \$175 for the first user and \$60 for each user thereafter. There may be increased medical costs for self-insured employers; however, without knowing what medical services will be required, it is not possible to estimate any increase. Employers that have obtained a workers' compensation insurance policy will not experience expenditures outside of insurance premiums.

Revenues: None

Cost Savings: While there is no direct cost savings, ensuring that charges and fees are fair, current, and reasonable for similar treatment of injured persons in the same community for like services where treatment is paid for by general health insurers, helps ensure injured employees receive treatment by qualified medical providers while maintaining premium costs.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, or cost savings in the second year; however, the Department is statutorily required to reevaluate the fee schedule every two years and additional expenditures may be required following subsequent evaluations.

(4) Identify additional regulated entities not listed in questions (2) or (3): Insurance carriers, self-insured groups, self-insured employers, third-party administrators, and medical providers.

(a) Estimate the following for the first year:

Expenditures: The fee schedule book may be purchased for \$150, a portable document format ("PDF") version for \$75 for the first user and \$60 for each user thereafter, or an electronic version for \$175 for the first user and \$60 for each user thereafter.

Revenues: None

Cost Savings: While there is no direct cost savings, ensuring that charges and fees are fair, current, and reasonable for similar treatment of injured persons in the same community for like services where treatment is paid for by general health insurers, helps ensure injured employees receive treatment by qualified medical providers while maintaining premium costs.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, or cost savings in the second year; however, the Department is statutorily required to reevaluate the fee schedule every two years and additional expenditures may be required following subsequent evaluations.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no direct fiscal impact on state or local government because the fee schedule governs the cost of medical services between medical treatment providers and payment obligors. Where an employer is self-insured and directly paying workers' compensation benefits, there may be some increased costs for medical services; however, without knowing what medical services will be required, it is not possible to estimate the fiscal impact. Employers that have obtained a workers' compensation insurance policy will not experience expenditures outside of insurance premiums.

(b) Methodology and resources used to determine the fiscal impact: This administrative regulation governs the charges and reimbursement for medical treatment provided to injured employees. The CPT codes used in the Fee Schedule were updated to 2024 standards. The Fee Schedule is based on Fair Health Commercial Database Values at the 45th percentile with no fees in the 2024 version being reduced from those in the 2022 Fee Schedule and there was a 7.5% cap on any increase in rates over those in the 2022 Fee Schedule for the same procedure code, with the exception of home health, which is designated By Report, and dental codes, which have no cap. Radiology rates were retained at the 2022 Fee Schedule rates. Fair Health benchmarks are based on actual charge data as reported on claims, which are collected and aggregated from over 60 national and regional insurers across the country. After the data is run through a rigorous validation process, charges are organized by procedure code and geographic areas. The charges are arrayed from lowest to highest and assigned a percentile. In a case where the frequency of collected data for a particular procedure code/geographic area combination is not sufficient to produce a benchmark based on the actual data for that code, a benchmark is derived for that code using a relative value and conversion factor methodology applied to charges

for codes in a related procedure code group. When necessary, usual and customary rates may also be obtained from a nationally recognized source that accounts for the rural areas of Kentucky. The conversion factor for Anesthesia is \$78.53. Increases to transportation fees are based upon current CMS values. Ground transportation is assigned 145% of Medicare and air transportation is assigned 210% of Medicare. Codes were added to this fee schedule at the request of the stakeholders for ease of billing and reimbursement purposes. There are 9,137 codes in the 2024 Kentucky Workers' Compensation Schedule of Fees for Physicians. Employers that have obtained a workers' compensation insurance policy will not experience expenditures outside of insurance premiums.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) It is not anticipated that this administrative regulation will create an overall negative or adverse major economic impact to the entities identified in questions (2) - (4).

(b) The methodology and resources used to reach this conclusion: The National Council on Compensation Insurance (NCCI) has reported a loss cost decrease in the voluntary market and a favorable loss experience for Kentucky over the last three years. This NCCI report reflects the result of prior fee schedules which were created using the same methodology used to establish in the 2024 Workers' Compensation Medical Fee Schedule for Physicians.

STATEMENT OF EMERGENCY 902 KAR 45:001E

This emergency administrative regulation is being promulgated to implement the requirements of HB 544, 2023 Ky. Acts ch. 78. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)3. to continue the process of regulating delta-8 tetrahydrocannabinol and any other hemp-derived substances. This emergency administrative regulation is necessary to implement the requirements of HB 544, 2023 Ky. Acts ch. 78, which requires the cabinet to regulate covered products, as specified in EO 2022-799, to prohibit the sale of intoxicating products to anyone under twenty-one (21) years of age, to set the laboratory testing requirements, and to require products be labeled in accordance with the act and KRS 217.037. This emergency administrative regulation will be filed with an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC C. FRIEDLANDER, Secretary

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

902 KAR 45:001E. Definitions for hemp-derived cannabinoid products.

EFFECTIVE: April 24, 2024
RELATES TO: KRS Chapter 13B, 217.015, 217.025, 217.035, 217.037, 217.039, 260.850, 438.305(4), 2023 Ky Acts ch. 78
STATUTORY AUTHORITY: KRS 217.125, 217.135
NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. This administrative regulation establishes the definitions applicable to hemp-derived cannabinoid products.

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Section 1. Definitions.

(1) "Adult-use cannabinoid" means a product with intoxicating properties that changes the function of the nervous system and results in alterations of perception, cognition, or behavior.

(2) "Approved source" means:

(a) A Kentucky hemp grower or handler licensed by the Kentucky Department of Agriculture, or an out-of-state hemp grower or handler who is duly authorized to produce hemp under the laws of the applicable jurisdiction;

(b) A hemp product manufacturer or processor permitted by the Kentucky Department for Public Health or

(c) A manufacturer or processor permitted by another state regulatory authority for hemp-derived cannabinoid products if that state has been approved by the department as having equivalent state standards for processing, laboratory testing, and labeling requirements.

(3) "Cabinet" is defined by KRS 217.015(3).

(4) "Cannabidiol" or "CBD" is defined by KRS 217.039(1)(a).

(5) "Cannabinoid" means a compound found in the hemp plant *Cannabis sativa* L from a United States Department of Agriculture sanctioned domestic hemp production program and does not include cannabinoids derived from any other substance.

(6) "Cannabinoid product class" means a group of cannabinoid products that:

(a) Have all ingredients in common; and

(b) Are produced by or for the same company.

(7) "Cartoon" means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria:

(a) The use of comically exaggerated features;

(b) The attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique; or

(c) The attribution of unnatural or extra-human abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds or transformation.

(8) "Child-resistant" means packaging that is:

(a) Designed or constructed to be significantly difficult for children under five (5) years of age to open and not difficult for adults to use properly; and

(b) Resealable to maintain this effectiveness for children through multiple openings for any product intended for more than a single use or containing multiple servings.

(9) "Cosmetic" is defined by KRS 217.015(7).

(10) "Direct supervision" means the continuous, on-site observation of an employee with the supervisor physically present.

(11) "Food service establishment" is defined by KRS 217.015(21).

(12) "Hemp" is defined by KRS 260.850(5).

(13) "Hemp-derived cannabinoid" means an ingestible, inhalable, or cosmetic product that is processed or derived from hemp.

(14) "Home-based processor" is defined by KRS 217.015(56).

(15) "Hydrogenation" means the chemical reaction between molecular hydrogen (H₂) and another compound or element.

(16) "Imminent health hazard" is defined by KRS 217.015(24).

(17) "Infused" means adding a cannabinoid ingredient to an ingestible cannabinoid product.

(18) "Non-intoxicating cannabinoid" means a product with non-psychoactive properties that does not change the function of the nervous system and does not result in alteration of perception, cognition, or behavior.

(19) "Person" is defined by KRS 217.015(32).

(20) "Proof of age" is defined by KRS 438.305(4).

(21) "Revocation" means the permit to operate is cancelled by the department.

(22) "Serious adverse event" means a medical occurrence associated with the use of a cannabinoid product that results in one (1) or more of the following:

(a) Death;

(b) A life-threatening event;

(c) Inpatient hospitalization, or prolongation of an existing hospitalization;

(d) A persistent or significant incapacity, or substantial disruption in the ability to conduct normal life functions; or

(e) A congenital anomaly or birth defect.

(23) "Tentatively identified compounds" or "TIC" means compounds detected in a sample that are not among the target analytes.

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 22, 2024

FILED WITH LRC: April 24, 2024 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 24, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by June 17, 2024, 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 virtually 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, 2024. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Julie Brooks

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the terms used for hemp-derived cannabinoid product sampling and testing requirements, cannabinoid processing and manufacturing, and retail sales including sales at food service establishments.

(b) The necessity of this administrative regulation: Many hemp-derived cannabinoid products sold in Kentucky continue to be unregulated. This administrative regulation is necessary to ensure a consistent understanding of the terms related to cannabinoid processing, manufacturing, sampling and testing, and retail sales.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures a consistent understanding of the terms used in the processing, manufacturing, sampling, testing, and retail sales of hemp-derived cannabinoid products.

(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.

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(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 currently thirty-eight (38) manufacturers of cannabinoid products registered with the department. The department is unclear of the number of retail establishments that sell cannabinoid products. The department does not permit the testing facilities and has no method to determine the number of facilities in the commonwealth.

(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: Cannabinoid processor and manufacturers, testing laboratories, and retail establishments will need to be aware of the defined terms.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Compliance with this new administrative regulation will not add to the cost for the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All entities will have a consistent understanding of the terms related to cannabinoid products.

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

(a) Initially: The current budget for the food manufacturing permitting and inspection program is \$1,080,900. The increase in required permitting and inspection processes to implement this administrative regulation will cost the department an additional \$1,551,397 in the first year.

(b) On a continuing basis: The department will continue to need an additional \$1,551,397, at a minimum, in subsequent years.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding to implement and enforce this administrative regulation will be from a mix of fees paid to the department and state general fund dollars.

(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 establishes any fees or directly or indirectly increases any fees: This administrative regulation does not contain fees.

(9) TIERING: Is tiering applied? Tiering is not applied. The terms defined in this administrative regulation are applicable to all regulated entities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 217.125 and 217.155.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department for Public Health, Division of Public Health Protection and Safety is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: Expenditures to the department to implement this administrative regulation will be approximately \$1,551,397 per year.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation will not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures for the Department for Public Health may be impacted by changes in salary, fringe benefits and travel cost

for state and local health department employees. These changes cannot be determined at this time.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities are processors and manufacturers of hemp-derived cannabinoid products, testing facilities, and retail establishments including food service establishments.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation does not impact the expenditures of the regulated entities.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation does not have a significant fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: This administrative regulation is a definitions-only regulation.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion: This administrative regulation is a definitions-only regulation.

STATEMENT OF EMERGENCY 902 KAR 45:012E

This emergency administrative regulation is being promulgated to implement the requirements of HB 544, 2023 Ky. Acts ch. 78. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)3. to continue the process of regulating delta-8 tetrahydrocannabinol and any other hemp-derived substances. This emergency administrative regulation is necessary to implement the requirements of HB 544, 2023 Ky. Acts ch. 78, which requires the cabinet to regulate covered products, as specified in EO 2022-799, to prohibit the sale of intoxicating products to anyone under twenty-one (21) years of age, to set the laboratory testing requirements, and to require products be labeled in accordance with the act and KRS 217.037. This emergency administrative regulation will be filed with an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC C. FRIEDLANDER, Secretary

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

902 KAR 45:012E. Hemp-derived cannabinoid product retail and food service establishment requirements.

EFFECTIVE: April 24, 2024
RELATES TO: KRS Chapter 13B, 217.015, 217.025, 217.035, 217.037, 217.039, 217.992, 2023 Ky Acts ch. 78

VOLUME 50, NUMBER 12– June 1, 2024

STATUTORY AUTHORITY: KRS 217.125, 217.127, 217.135, 217.155

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.125(2) requires the secretary to provide by administrative regulation a schedule of fees for permits to operate and for inspection activities carried out by the cabinet pursuant to KRS 217.025 through 217.390. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspection any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale. This administrative regulation establishes the permit requirements for retail sale of hemp-derived cannabinoid products, including the permit fee, and methods for use of hemp-derived cannabinoid as an additive to food products. Retail establishments registered with the department prior to the effective date of this administrative regulation shall be exempted from the permit fee requirement until the annual renewal date. In accordance with 2023 Ky. Act ch. 78, in order to limit the ability of minor children accessing adult-use hemp-derived cannabinoid use products, this administrative regulation prohibits the sale of adult-use products within 1,000 feet of an elementary, middle, or high school. Retail establishments registered with the department prior to the effective date of this administrative regulation shall be exempted from this location requirement.

Section 1. Retail Establishment and Food Service Establishment Registration.

(1)

(a) Only approved cannabinoid products or class of products in accordance with 902 KAR 45:021 may be sold in retail and food service establishments. All other cannabinoid products or class of products shall be prohibited.

(b) Adult-use cannabinoid products or class of products shall be registered in accordance with 902 KAR 45:021, Section 1(5).

(c) A retailer shall ensure that all cannabinoid products sold are properly registered with the department.

(d) A retailer may register a product in lieu of the processor or manufacturer.

(2) Retail establishments and food service establishments offering adult-use cannabinoid products shall be permitted by the cabinet in accordance with this administrative regulation.

(3) The permit shall be:

(a) Completed online at <https://redcap.chfs.ky.gov/surveys/?s=C8AHC9AYMP74REEM>;

(b) Nontransferable in regard to person or address;

(c) Renewed annually; and

(d) Include a \$2,000 annual permit fee.

(4) All retail establishments registered with the department prior to April 27, 2024, shall have the fee required by subsection (3)(d) of this section waived until the date of the next annual renewal.

(5) A retailer shall ensure all locations are permitted by the cabinet.

(6) Retail establishments and food service establishments offering adult-use cannabinoid products at a temporary event or festival shall:

(a) Register with the cabinet at <https://redcap.chfs.ky.gov/surveys/?s=C8AHC9AYMP74REEM>; and

(b) Include a \$250 temporary event registration fee.

(7) Retail establishments offering adult-use cannabinoid products shall not be located within 1,000 feet of an elementary, middle, or high school. Retail establishments registered with the department prior to April 27, 2024, shall be exempted from the location requirements.

(8) A business that distributes, sells, or serves adult-use hemp-derived cannabinoid products shall not employ any person who is

under twenty-one (21) years of age, unless the person employed is at least eighteen (18) years of age and under the direct supervision of a person twenty-one (21) years of age or older.

Section 2. Retail Sale of Cannabinoid Products.

(1) All cannabinoid products sold in a retail establishment shall:

(a) Be from an approved source;

(b) Be packaged and labeled in accordance with 902 KAR 45:021, Section 3; and

(c) Have a valid printed certificate of analysis available upon request.

(2) Cannabinoid retailers shall maintain records of wholesale cannabinoid product purchase, including the name and address of the cannabinoid processor or manufacturer, and the wholesaler or distributor.

(3) The following hemp-derived products shall not be marketed, sold, or distributed to any person in the Commonwealth:

(a) Whole hemp buds;

(b) Ground hemp floral material;

(c) Ground hemp leaf material; and

(d) Any hemp product with a delta-9-THC concentration in excess of zero and three-tenths (0.3) percent.

(4) All adult-use cannabinoid products shall:

(a) Be secured in the retail setting to prevent theft or other access to persons under the age of twenty-one (21); and

(b) Not be sold, gifted, or otherwise transferred to any person under the age of twenty-one (21).

(5)

(a) Any person who sells adult-use cannabinoid products at retail shall require proof of age of the buyer to verify the buyer is age twenty-one (21) years or older; and

(b) May deliver or ship adult-use cannabinoid products to consumers over twenty-one (21) years of age in packages clearly marked "Adult-use only".

(6) All persons located in another state or country who deliver, ship, or cause to be delivered or shipped cannabinoid products directly to any Kentucky consumer shall hold a valid hemp cannabinoid wholesaler or distributor permit issued by the Commonwealth.

Section 3. Ingestible Cannabinoid Products at Food Service Establishments.

(1) Only registered, pre-packaged adult-use ingestible cannabinoid products may be offered as ready-to-consume or for direct consumption at food service establishments.

(2) Adult-use cannabinoids shall not be added to an ingestible food product at a food service establishment.

(3) Non-intoxicating cannabinoids may be added to an ingestible product prior to retail sale at a food service establishment.

(4) The non-intoxicating cannabinoid shall be obtained from an approved source.

(5) The food service establishment shall obtain a valid certificate of analysis from the approved source and provide a copy upon inspection.

(6) A food service establishment offering non-intoxicating cannabinoid products in a finished food product shall provide to consumers upon request:

(a) The common name of the product; and

(b) The manufacturer or distributor of the product.

(7) A food service establishment shall notify the cabinet within twenty-four (24) hours of becoming aware or within twenty-four (24) hours of when the food service establishment should have been aware of any serious adverse event to a hemp-derived cannabinoid product sold by the establishment.

Section 4. Inspection and Enforcement.

(1)

(a) Retail establishments offering adult-use cannabinoid products shall be inspected by the cabinet or its duly authorized agent; and

(b) Retail establishments offering only non-intoxicating cannabinoid products may be inspected by the cabinet or its duly

authorized agent upon complaint, receipt of a report of a serious adverse event, or at the discretion of the cabinet.

(2) The location of the permitted establishment, all general business records, including employee records, and vehicles utilized to transport products are subject to reasonable inspection.

(3) All cannabinoid establishments, whether permitted or not, shall cooperate with the cabinet or its duly authorized agent during any inspections, complaint investigation, requests for information or data, in order to verify compliance with this administrative regulation.

(4) Products not in compliance with this administrative regulation shall be seized and destroyed by the cabinet or its duly authorized agent.

(5) The permit holder shall take immediate steps to correct conditions that have caused an imminent health hazard.

(6)

(a) The permit holder shall notify the cabinet within twenty-four (24) hours of the knowledge of an imminent health hazard that cannot be controlled by immediate corrective action or if product, product packaging, cosmetic, or cosmetic packaging has become contaminated because of an imminent health hazard.

(b) Notification to the cabinet shall be made by:

1. Email to food.safety@ky.gov; or
2. Phone to (502) 564-7181.

(7) If the cabinet has evidence that a permit holder has failed to act to correct an imminent health hazard:

(a) The permit shall be suspended immediately; and

(b) The permit holder may request an administrative hearing in accordance with KRS Chapter 13B.

(8) A permit holder shall notify the cabinet within twenty-four (24) hours of becoming aware of any serious adverse event to a cannabinoid product sold or transferred by the permit holder.

(9) In all other instances of violation of this administrative regulation, the cabinet shall serve the permit holder with a written notice specifying the violation and afford the holder an opportunity to correct.

(10) If a permit holder has failed to comply with the written notice within the timeframe granted, the cabinet shall issue a notice of intent to suspend the permit.

(11)

(a) The notice in subsection (11) of this section shall include notification that the permit shall be suspended at the end of ten (10) days following service of the notice, unless a written request for an administrative hearing is filed with the cabinet by the permit holder within the ten (10) day period; and

(b) The administrative hearing shall be conducted in accordance with KRS 13B.080.

(12) For a permitted establishment that has had a suspended permit two (2) or more times within a five (5) year period, the cabinet shall initiate permit revocation proceedings. Prior to this action, the cabinet shall notify the permit holder in writing, stating the reasons for which the permit revocation is being sought and advising that the permit shall be permanently revoked at the end of ten (10) days following service of the notice, unless a request for an administrative hearing is filed with the cabinet pursuant to KRS Chapter 13B by the permit holder within the ten (10) day period.

(13) Any person who violates any provision of this administrative regulation may be fined, found guilty of a criminal offense, or both pursuant to KRS 217.992.

(14) State and local law enforcement officers shall have concurrent jurisdiction to enforce violations of this section.

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

FILED WITH LRC: April 24, 2024 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 24, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by June 17, 2024, 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

virtually 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, 2024. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Julie Brooks

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for retail sale of hemp-derived cannabinoid products, and methods for use of hemp-derived cannabinoid as an additive to food products.

(b) The necessity of this administrative regulation: This new administrative regulation is necessary because many hemp-derived cannabinoid products sold in Kentucky remain unregulated by both the state and the federal Food and Drug Administration. Some products containing hemp-derived cannabinoids have concentrations that produce a psychoactive effect and are unsafe if consumed in large quantities. This administrative regulation is necessary to ensure that all hemp-derived cannabinoid products produced and sold in the state are safe for human consumption and are not targeted for sale to persons under the age of twenty-one (21). This administrative regulation establishes the permit requirements for retail sale of hemp-derived cannabinoid products, including the permit fee, and methods for use of hemp-derived cannabinoid as an additive to food products. Retail establishments registered with the department prior to the effective date of this administrative regulation shall be exempted from the permit fee requirement until the annual renewal date. In accordance with 2023 Ky. Act ch. 78, in order to limit the ability of minor children accessing adult-use hemp-derived cannabinoid use products, this administrative regulation prohibits the sale of adult-use products within 1,000 feet of an elementary, middle, or high school. Retail establishments registered with the department prior to the effective date of this administrative regulation shall be exempted from this location requirement.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.125(2) requires the secretary to provide by administrative regulation a schedule of fees for permits to operate and for inspection activities carried out by the cabinet pursuant to KRS 217.025 through 217.390. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspection any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This new administrative regulation will ensure proper oversight of the sale of hemp-derived cannabinoids and will help to ensure these products are safe for human consumption.

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

FISCAL IMPACT STATEMENT

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The department is unsure of the total number of retail establishments offering hemp-derived cannabinoids for sale at this time.

(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: Retail establishments and food service establishments will need to be aware of the registration requirements, will need to ensure the products are properly labeled and registered with the department, will need to obtain the required paperwork, and will need to take the necessary precautions to limit the sale of adult use products to individuals under the age of twenty-one (21).

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Retail establishments that offer adult-use cannabinoid products will pay a \$2,000 permit fee. The retail establishment has the option of registering the product for the processor or manufacturer and may have a cost associated with that process.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Retail establishments and food service establishments will be able to ensure the products offered to consumers are safe for human consumption.

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

(a) Initially: The current budget for the food manufacturing permitting and inspection program is \$1,080,900. The increase in required permitting and inspection processes to implement this emergency administrative regulation will cost the department an additional \$1,551,397 in the first year.

(b) On a continuing basis: The department will continue to need an additional \$1,551,397, at a minimum, in subsequent years. An increase in permitted facilities will result in increased costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general fund dollars and revenue received from permitting and product registration are the sources of funding for this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees and funding is necessary to implement the registration, permitting and inspection requirements of this new administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This new administrative regulation does establish a new fee for retail establishments that offer adult-use cannabinoid products for sale. This fee is necessary to help offset the costs associated with the registration, permitting, and inspection processes.

(9) TIERING: Is tiering applied? Tiering is applied. Retail establishments registered with the department prior to April 27, 2024, are not required to pay the permit fee until the annual renewal date, and are exempted from the location requirements. Only retail establishments that offer adult-use cannabinoid products are required to register with the department. However, all products sold are to be in compliance with this administrative regulation.

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 217.125, 217.127, 217.135, and 217.155.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department for Public Health, Division of Public Health Protection and Safety is the promulgating agency. The department has coordinated with the Department of Alcoholic Beverage Control in the Public Protection Cabinet for retail inspection activities.

(a) Estimate the following for the first year:

Expenditures: Expenditures for the department to implement this administrative regulation will be approximately \$1,551,397 per year.

Revenues: The amount of revenue cannot be determined. While retail establishments are required to register with the department, they are not assessed a fee at this time and less than 100 stores are registered.

Cost Savings: This administrative regulation does not generate cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures in subsequent years will be dependent on changes in the salary, fringe, and benefit cost. Changes in revenue cost in subsequent years will be dependent on the number of permits issued and the number of products registered.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local law enforcement entities may be affected by this administrative regulation

(a) Estimate the following for the first year:

Expenditures: The department is not able to calculate the expenditures for affected local entities at this time.

Revenues: This administrative regulation will not generate revenue for affected local entities.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department is not able to determine changes in expenditures, revenues or cost savings for affected local entities.

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities include retail establishments and food service establishments that offer cannabinoid products for sale.

(a) Estimate the following for the first year:

Expenditures: The expenditure for retail establishments that sell adult-use cannabinoid products will be \$2,000 per year to obtain a permit from the department. Food service establishments will pay the permit fee according to 902 KAR 45:110.

Revenues: The total revenue for retail establishments and food service establishments cannot be determined.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures will not change in subsequent years without an amendment to this administrative regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The cost to the department to administer this administrative regulation is \$1,551,397. The total amount of potential revenue generated by this administrative regulation cannot be determined at this time.

(b) Methodology and resources used to determine the fiscal impact:

Positions	Personnel Classification	Grade	Annual Salary + 5% Probationary Increase	Fringe Benefits - FICA - Retirement - HTH/Life Ins.	Total Annual Salary and Fringe Benefits	Number of Employees	Total Amount	
Administrative Clerk	Program Coordinator	Gr. 14	\$ 59,213.70	\$ 53,711.55	\$ 112,925.25	1	\$ 112,926.25	
Retail Inspectors	Program Evaluator	Gr. 14	\$ 59,213.70	\$ 53,711.55	\$ 112,925.25	5	\$ 564,626.27	
Processor/manufacturing Inspectors, Enforcement staff, and Supervisors	Program Administrator	Gr. 15	\$ 65,135.20	\$ 58,082.80	\$ 123,218.00	6	\$ 739,307.99	
Manager	Branch Manager	Gr. 16	\$ 71,646.12	\$ 62,889.17	\$ 134,535.29	1	\$ 134,536.29	
TOTAL								\$ 1,551,396.79

The total range for the potential revenue was calculated by multiplying the current number of permitted facilities times the lowest

and highest permit fee amounts, which is 38X1,000 and 38X3,000 respectively. The total expenditure was calculated based on the need for thirteen (13) additional environmental management staff to oversee the permitting and inspection activities. The thirteen (13) additional staff include a branch manager, administrative support staff, two (2) supervisors, two (2) processing/manufacturing inspectors, five (5) retail inspectors, and two (2) enforcement staff. The breakdown of expenditures is as follows: -- Administrative Clerk: Program Coordinator (Grade 14); Annual Salary + 5% Probationary increase: \$59,213.70; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$53,711.55; Total Annual Salary and Fringe Benefits: \$112,925.25 x 1 Employee = Total Amount: \$112,926.25 ---- Retail Inspectors: Program Evaluator (Grade 14); Annual Salary + 5% Probationary increase: \$59,213.70; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$53,711.55; Total Annual Salary and Fringe Benefits: \$112,925.25 x 5 Employees = Total Amount: \$564,626.27 ---- Processor/manufacturing Inspectors, Enforcement staff, and Supervisors: Program Administrator (Grade 15); Annual Salary + 5% Probationary increase: \$65,135.20; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$58,082.80; Total Annual Salary and Fringe Benefits: \$123,218.00 x 6 Employees = Total Amount: \$739,307.99 ---- Manager: Branch Manager (Grade 16); Annual Salary + 5% Probationary increase: \$71,646.12; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$62,889.17; Total Annual Salary and Fringe Benefits: \$134,535.29 x 1 Employee = Total Amount: \$134,535.29 ---- TOTAL AMOUNT = \$1,551,396.79

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The expenditures for the department will exceed \$1,000,000, resulting in an overall negative or adverse major economic impact. The overall economic impact for the regulated entities cannot be determined. While these entities will have expenditures associated with the permit and product registration, these will be offset by the revenue received in product sells.

(b) The methodology and resources used to reach this conclusion: Legislation has delegated new authority to the Kentucky Department for Public Health (KDPH) to regulate recreational adult-use products, such as delta-8 THC, for the safety of Kentuckians. These products, which may only be sold to adults aged 21 years or older, are increasingly complex, diverse, and evolving. An estimated 1,000-1,500 retailers and 40 manufacturers of recreational adult-use drugs are believed to be operating in Kentucky. Manufacturers of hemp THC products use complex chemistry conversion methods to process distillates, which increases the technical training required for inspection. Due to the intricacies involved, the successful oversight and regulation of these products in Kentucky will require additional staffing and the use of a hybrid approach that blends the traditional roles of the Department of Alcoholic Beverage Control, such as the enforcement of laws and age verification, with the expertise of the Food and Drug Administration (FDA). In order to adequately oversee the manufacture and retail sale of these products, the department would propose establishing a new branch with specialized staff. An estimated additional thirteen (13) staff will be needed to carryout the following activities: Regulatory Oversight: Establish and enforce standards for product manufacturing, packaging, and labeling for human consumption; Establish and enforce distribution controls to consumers to prohibit and prevent sales of adult-use products to individuals under 21 years of age; Prohibit the manufacture and sale of unallowable products; Protect consumers from harmful exposure to chemicals, contaminants, and adulterants that would have an adverse impact on human health; Evaluate the use of chemicals when added to products, such as food ingredients and substances that come into contact with food through food processing, manufacturing, packaging, storage, or other handling to ensure these uses are safe; Monitor products for contaminants and take action when the level of a contaminant causes a product to be unsafe. Licensing and Inspections: Administer licensure and registration for processors, manufacturers, distributors, and retailers and conduct regular inspections to ensure compliance with regulatory requirements. Surveillance and Monitoring: Collect and analyze data on adverse events and product

quality to guide decision-making and interventions. Collaboration and Partnerships: Collaborate with federal/state agencies, professional organizations, academic institutions, and industry stakeholders to exchange information, share best practices, and coordinate efforts to address common challenges.

**STATEMENT OF EMERGENCY
902 KAR 45:021E**

This emergency administrative regulation is being promulgated to implement the requirements of HB 544, 2023 Ky. Acts ch. 78. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)3. to continue the process of regulating delta-8 tetrahydrocannabinol and any other hemp-derived substances. This emergency administrative regulation is necessary to implement the requirements of HB 544, 2023 Ky. Acts ch. 78, which requires the cabinet to regulate covered products, as specified in EO 2022-799, to prohibit the sale of intoxicating products to anyone under twenty-one (21) years of age, to set the laboratory testing requirements, and to require products be labeled in accordance with the Act and KRS 217.037. This emergency administrative regulation will be filed with an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC C. FRIEDLANDER, Secretary

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(New Emergency Administrative Regulation)**

902 KAR 45:021E. Hemp-derived cannabinoid products registration, processing, manufacturing, storage and distribution requirements.

EFFECTIVE: April 24, 2024
RELATES TO: KRS Chapter 13B, 217.015, 217.025, 217.035, 217.037, 217.039, 217.992, 2023 Ky Acts ch. 78
STATUTORY AUTHORITY: KRS 217.125, 217.127, 217.135, 217.155

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.125(12) requires the secretary to provide by administrative regulation a schedule of fees for permits to operate and for inspection activities carried out by the cabinet pursuant to KRS 217.025 through 217.390. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspecting any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale. This administrative regulation establishes the product registration, the processing and manufacturing procedures for hemp-derived cannabinoid products, including the permit fee, and the labeling and packaging requirements for products containing hemp-derived cannabinoids. Establishments permitted with the department prior to the effective date of this administrative regulation shall be exempted from the permit fee requirement until the annual renewal date.

Section 1. Permit and Product Registration.

(1) In-state permit.

(a) A person located in Kentucky seeking to process, manufacture, store, or distribute hemp-derived cannabinoid products shall be permitted by the cabinet.

- (b) The permit shall be:
1. Nontransferable in regard to person or address;
 2. Posted in a conspicuous place in the facility;
 3. Renewed annually; and
 4. Include the fee paid in accordance with:

- a. For a hemp processing permit, the fee is \$3,000.
- b. For a hemp manufacturing permit, the fee is \$1,000.
- c. For a hemp cannabinoid wholesale warehouse and distributor permit, the fee is \$1,000.
- d. For a hemp cosmetic permit, the fee is \$200.
5. Include the product registration fee required by subsection (4) of this section.

(2) The permit fee established pursuant to subsection (1)(b)4. of this section shall be waived for all facilities permitted as of April 27, 2024, and such facilities shall pay the permit fee at next annual renewal date.

(3)

(a) All out-of-state processors and manufacturers of hemp-derived cannabinoid products available for distribution in Kentucky shall submit an annual registration to the department.

(b) The registration for an out-of-state processor or manufacturer shall:

1. Be renewed annually by December 31 each year; and
2. Include:

a. A copy of the current, valid permit to process or manufacture hemp-derived cannabinoids issued from the state regulatory authority;

b. A copy of the state regulation pertaining to the production of hemp-derived cannabinoid products; and

c. The product registration fee required by subsection (5) of this section.

(4) Cannabinoids requiring registration:

(a) Adult-use cannabinoids shall include:

Cannabinoid	CAS Number
Delta-10-tetrahydrocannabinol (Delta-10-THC)	95543-62-7
Delta-9-tetrahydrocannabinol (THC) with three tenths of one percent (0.3%) or less Total THC	1972-08-3
Delta-8-tetrahydrocannabinol (Delta-8-THC)	5957-75-5
Delta-9-tetrahydrocannabinolic acid A (THCA-A) with three tenths of one percent (0.3%) or less Total THC	23978-85-0
Delta-9-tetrahydrocannabivarin (THCV)	31262-37-0
Delta-9-tetrahydrocannabivarinic acid (THCVA)	39986-26-0
Delta-6-tetrahydrocannabinol (Delta 6)	95720-02-8
Hexahydrocannabinol (HHC)(-)	6692-85-9
Tetrahydrocannabiphorol (THCp)	54763-99-4
Tetrahydrocannabinol methyl ether (THCM)	36403-68-6

(b) Non-intoxicating cannabinoids shall include:

Cannabinoid	CAS Number
Cannabidiol (CBD)	13956-29-1
Cannabidiolic acid (CBDA)	1244-58-2
Cannabidivarin (CBDV)	24274-48-4
Cannabidivarinic acid (CBDVA)	31992-13-5
Cannabichromene (CBC)	20675-51-8
Cannabichromenic acid (CBCA)	185505-15-1
Cannabigerolic acid (CBGA)	25555-57-1
Cannabigerol (CBG)	25654-31-3
Cannabinol (CBN)	521-35-7
Cannabitriol (CBT)	11003-36-4

(c) All other cannabinoids are prohibited for sale in Kentucky unless pre-approved by the cabinet.

(5) Product registration fee.

(a) A product registration fee of \$200 shall be paid for each cannabinoid product or cannabinoid product class sold in Kentucky.

(b) The fee shall be paid to the cabinet by check or money order made payable to the Kentucky State Treasurer.

(6) A new product registration shall be required for changes:

(a) In the chemical composition or formula of the cannabinoid product; or

(b) To the serving size or directions for use.

(7) All in-state processors and manufacturers permitted by the cabinet, and all out-of-state processors and manufacturers registering with the cabinet shall submit:

(a) The name and address of the applicant;

(b) The name and address of the brand or company whose name shall appear on the label, if other than the applicant's;

(c) The name of the product;

(d) The name and address of the origin of the adult-use cannabinoid product with which the final product was manufactured;

(e) A complete copy of the front and back of the label that will appear on the product; and

(f) A certificate of analysis from an accredited third-party laboratory for the lot for each product.

(8) A new in-state processor or manufacturer permit, or out-of-state registration shall be required for any changes to the requirements of subsection (7) of this section.

Section 2. Processing, Manufacture, Storage, or Distribution of Hemp-derived Cannabinoid Products.

(1) All processors and manufacturers shall meet:

(a) The applicable requirements of 902 KAR 45:160 Section 2(1)(u); and

(b) The requirements of 902 KAR 45:160, Sections 4, 5, 6, 7, 8, 9, 10, 11, and 14.

(2) Cannabinoid products shall not be manufactured, marketed, sold, or distributed by a home-based processor.

(3) The following hemp-derived products shall not be manufactured:

(a) Hemp cigarettes;

(b) Hemp cigars;

(c) Chew, dip, or other smokeless material consisting of hemp leaf material or hemp floral material; and

(d) Hemp leaf material or floral material teas.

(4) A business that processes, manufactures, warehouses, distributes, sells, or serves adult-use hemp-derived cannabinoid products shall not employ any person who is under twenty-one (21) years of age, unless the person employed is at least eighteen (18) years of age and under the direct supervision of a person twenty-one (21) years of age or older.

(5) Non-intoxicating cannabinoid products shall:

(a) Have at least a fifteen (15) non-intoxicating cannabinoid to one (1) adult-use cannabinoid ratio;

(b) Contain two and five-tenths (2.5) milligrams or less of adult-use cannabinoid per serving.

(6) The serving size of an ingestible cannabinoid product shall be:

(a) As a whole unit where one (1) unit equals one (1) serving;

(b) Equal the maximum amount recommended, as appropriate, on the label for consumption per occasion in whole units; and

(c) Based on the amount typically consumed.

(7) A hemp-derived cannabinoid processing or manufacturing facility shall not treat or otherwise adulterate a cannabinoid product with:

(a) Any non-cannabinoid additive that increases toxicity or addictive potential, excluding caffeine;

(b) Alcohol;

(c) Nicotine; or

(d) Other chemicals that may increase carcinogenicity or cardiac effects.

(8) All products shall be homogenized to ensure uniform distribution of cannabinoids throughout the product.

(9) Only permitted hemp-derived cannabinoid processing facilities shall perform cannabinoid extraction, conversion, catalyzation, distillation, hydrogenation, or other refinement processes.

(10) A hemp-derived cannabinoid processor or manufacturer shall only use the following solvents: water, glycerin, vegetable oils, animal fats, butane, propane, carbon dioxide, ethanol, isopropanol, acetone, heptane, ethyl acetate, and pentane. The use of any other solvent is expressly prohibited unless pre-approved by the cabinet.

(11) A hemp-derived cannabinoid processor using hydrocarbon-based solvents shall use only such solvents of ninety-nine (99)

percent or better purity. Nonhydrocarbon-based solvents shall be food grade.

(12)

(a) A current copy of safety data sheets and a receipt of purchase for all solvents used or to be used in an extraction process shall be kept on file;

(b) The processor shall retain in its facility a certificate of analysis (COA) from the original manufacturer with purity and impurity limits and results for all solvents used; and

(c) Certificates shall be retained for two (2) years.

(13)

(a) Solvents shall be collected and stored in food-grade containers to maintain purity; and

(b) Solvent containers shall be replaced or safely purged, cleaned, and sanitized periodically.

(14) Extraction processes shall take place in an environment properly ventilated to control all sources of ignition where a flammable atmosphere is, or could be, present.

(15) Cannabinoid processing facilities shall not use pressurized canned flammable fuel, such as butane intended for use in outdoor activities, handheld torch devices, and refillable cigarette lighters.

(16) Cannabinoid processing facilities using carbon dioxide shall have equipment and facilities approved by local fire code officials, if applicable.

(17) Processes using flammable gas or flammable liquid shall have leak or gas detection measures, or both.

(18) A permittee shall not use dimethylsulfoxide (DMSO) in the manufacture of hemp-derived cannabinoid products, and possession upon the permitted premises is prohibited.

(19)

(a) A hemp-derived cannabinoid manufacturer may use terpenes or other hemp essential oil but shall not use non-cannabinoid derived inactive ingredients not listed in the federal Food and Drug Administration inactive ingredient database at <https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm> in the manufacture of inhalable hemp-derived cannabinoid product and distillate intended for use through a vaporizer delivery device or pressurized metered dose inhaler; and

(b) Any non-cannabinoid derived inactive ingredients used shall be less than or equal to the concentration listed in the database.

(20) The following substances shall be prohibited in hemp-derived cannabinoid extraction intended for inhalation:

(a) Acetates;

(b) Medium-chain triglycerides (MCT);

(c) Polyethylene glycol (PEG);

(d) Propylene glycol (PG or PPG);

(e) Diketones:

1. 2,3-butanedione (Diacetyl);

2. 2,3-pentanedione (acetylpropionyl); and

3. 3-hydroxybutanone (acetoin);

(f) Myclobutanil;

(g) Artificial food coloring; and

(h) Benzoic acid.

(21) Hazard analysis and risk-based preventive controls.

(a) Processing facilities shall conduct a hazard analysis in accordance with 902 KAR 45:160 Section 2(1)(u) to identify and evaluate, based on experience, illness data, scientific report, and other information known, or reasonably foreseeable hazards associated with each type of cannabinoid product produced by extraction, conversion, catalyzation, distillation, hydrogenation, or other refinement processes, and shall include:

1. Processing reagents or catalysis;

2. Processing by-products or compounds; and

3. Tentatively identified compounds.

(b) The hazard analysis shall include an evaluation of the hazards identified to assess the severity of illness or injury from the hazard and the probability that the hazard will occur in the absence of preventive controls.

(c) A processing facility shall identify and implement preventive controls to provide assurances that any hazards requiring a preventive control shall be significantly minimized or prevented, and the hemp-derived cannabinoid product not adulterated.

(d) The cabinet may initiate an investigation of a processing facility as a result of a by-product or compound with no toxicity study or a TICs report from a testing facility and may require a processing or manufacturing facility to submit samples for additional testing, including testing for analytes that are not required by this administrative regulation, at the processing or manufacturing facility's expense.

Section 3. Record Keeping.

(1) A master formulation record shall be prepared and maintained for each unique hemp-derived cannabinoid product.

(2) The master formulation record shall include at least the following information:

(a) Name of the cannabinoid product;

(b) Ingredient identities and amounts;

(c) Specifications on the delivery device (if applicable);

(d) Complete instructions for preparing the cannabinoid product, including equipment, supplies, and description of the manufacturing steps;

(e) Process controls and procedures; and

(f) Any other information needed to describe the production and ensure its repeatability.

(3) A batch or process lot manufacturing record shall be created for each production batch of cannabinoid product.

(4) The batch manufacturing record shall include at the least the following information:

(a) Name of the cannabinoid product;

(b) Master formulation record reference for the cannabinoid product;

(c) Date and time of preparation of the cannabinoid product;

(d) Production batch number;

(e) Signature or initials of individuals involved in each manufacturing step;

(f) Name, vendor, or manufacturer, production batch number, and expiration date of each ingredient;

(g) Weight or measurement of each ingredient;

(h) Documentation of process controls;

(i) Any deviations from the master formulation record, and any problems or errors experienced during the manufacture, and corrective actions; and

(j) Total quantity of the cannabinoid product manufactured.

Section 4. Product Packaging and Labeling.

(1) Each cannabinoid product manufactured, marketed, sold, or distributed in the commonwealth shall be packaged and labeled in accordance with KRS 217.037, HB 544, 2023 Ky. Acts ch. 78, and this administrative regulation.

(2) Each container of adult-use cannabinoid product shall:

(a) Have a tamper-evident seal; and

(b) Be in child-resistant packaging.

(3) Each container of non-intoxicating cannabinoid product or cosmetic shall have a tamper-evident seal.

(4) Cannabinoid product packaging shall not include:

(a) Any cartoon images;

(b) Likeness to images, characters, or phrases that are popularly used to advertise to children;

(c) Likeness to or imitation of any commercially available candy, snack, baked good, or beverage packaging or labeling;

(d) The terms "candy" or "candies", or any variation in the spelling of these words; or

(e) The logo of the department or cabinet, or any seal, flag, crest, coat of arms, or other insignia that could reasonably mislead any person to believe the product has been endorsed, manufactured, or used by any state, county, or municipality or any agency thereof, excluding the use of seals associated with state or federal programs used in accordance with state or federal law and regulations.

(5) The total amount of hemp-derived cannabinoid per serving and the total amount per container shall accurately reflect testing results and shall not contain less than eighty (80) percent or more than 120% of the concentration of total cannabinoid content as listed on the product label:

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(a) For hemp-derived cannabinoid ingestible and inhalable products, potency shall be labeled as milligrams per serving for total tetrahydrocannabinol and the primary cannabinoid marketed, as applicable; and milligrams per package for total tetrahydrocannabinol and the primary cannabinoids marketed; and

(b) Other hemp-derived cannabinoids labeled milligrams per gram (mg/g) per serving, excluding cosmetics, and milligrams per package, if listed on the label.

(6) Adult-use hemp-derived cannabinoid products shall include the following warning label statements:

(a) "Warning: Contains THC."

(b) "This product is intended for use by adults 21 years and older. Keep out of reach of children."

(c) "There may be health risks associated with the consumption of this product."

(d) "There may be additional health risks associated with the consumption of this product for those who are pregnant, nursing, or plan to become pregnant."

(e) "The intoxicating effects of this product may be delayed by two or more hours."

(f) "May cause drowsiness or impairment. Do not drive a motor vehicle or operate machinery while using this product."

(g) "Use of this product may result in a positive drug screen."

(7) A quick response or QR code may be used as a link to the warning statements required by subsection (6) of this section. The QR code shall be labeled as "Warning Statements" directly above or below the code and shall be large enough to be smart-phone readable.

Section 5. Inspection and Enforcement.

(1) The cabinet or its duly authorized agent shall conduct an onsite inspection of all permitted cannabinoid processing and manufacturing establishments, storage warehouses, and distribution centers.

(2) The location of the permitted establishment, all general business records, including employee records, and vehicles utilized to transport products are subject to reasonable inspection.

(3) All cannabinoid establishments, whether permitted or not, shall cooperate with the cabinet or its duly authorized agent during any inspections, complaint investigation, and requests for information or data, in order to verify compliance with this administrative regulation.

(4) All products not in compliance with this administrative regulation may be seized and destroyed by the cabinet or its duly authorized agent.

(5) The permit holder shall take immediate steps to correct conditions that have caused an imminent health hazard.

(6)

(a) The permit holder shall notify the cabinet within twenty-four (24) hours of the knowledge of an imminent health hazard that cannot be controlled by immediate corrective action or if product, product packaging, cosmetic, or cosmetic packaging has become contaminated because of an imminent health hazard.

(b) Notification to the cabinet shall be made by:

1. Email to food.safety@ky.gov; or

2. Phone to (502)564-7181.

(7) If the cabinet has evidence that a permit holder has failed to act to correct an imminent health hazard, the following enforcement provisions shall be initiated:

(a) Suspend the permit without an administrative hearing; or

(b) Suspend that portion of the operation affected by the imminent health hazard without an administrative hearing.

(8) If a permit suspension is due to an imminent health hazard, the permit holder may submit a request for an administrative hearing to the cabinet in accordance with KRS Chapter 13B.

(9) A permit holder shall notify the cabinet within twenty-four (24) hours of becoming aware of any serious adverse event to a hemp-derived cannabinoid product sold or transferred by the permit holder.

(10) In all other instances of violation of this administrative regulation, the cabinet shall serve the permit holder with a written notice specifying the violation and afford the holder an opportunity to correct.

(11) If a permit holder has failed to comply with the written notice within the timeframe granted, the cabinet shall issue a notice of intent to suspend the permit.

(12)

(a) The notice in subsection (11) of this section shall include notification that the permit shall be suspended at the end of ten (10) days following service of the notice, unless a written request for an administrative hearing is filed with the cabinet by the permit holder within the ten (10) day period; and

(b) The administrative hearing shall be conducted in accordance with KRS 13B.080.

(13) For a permitted facility that has had a suspended permit two (2) or more times within a five (5) year period, the cabinet shall initiate permit revocation proceedings. Prior to this action, the cabinet shall notify the permit holder in writing, stating the reasons for which the permit revocation is being sought and advising that the permit shall be permanently revoked at the end of ten (10) days following service of the notice, unless a request for an administrative hearing is filed with the cabinet pursuant to KRS Chapter 13B by the permit holder within the ten (10) day period.

(14) Any person who violates any provision of this administrative regulation may be fined, found guilty of a criminal offense, or both pursuant to KRS 217.992.

(15) State and local law enforcement officers shall have concurrent jurisdiction to enforce violations of this section.

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 22, 2024

FILED WITH LRC: April 24, 2024 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 24, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by June 17, 2024, 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 virtually 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, 2024. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Julie Brooks

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the registration, processing, and manufacturing procedures for hemp-derived cannabinoid products, and the labeling and packaging requirements for products containing hemp-derived cannabinoids.

(b) The necessity of this administrative regulation: Many hemp-derived cannabinoid products sold in Kentucky remain unregulated. This administrative regulation is necessary to ensure that all hemp-derived cannabinoid products produced, manufactured and sold in the state are safe for human consumption.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate

administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.125(2) requires the secretary to provide by administrative regulation a schedule of fees for permits to operate and for inspection activities carried out by the cabinet pursuant to KRS 217.025 through 217.390. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspection any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale. This administrative regulation establishes the product registration, the processing and manufacturing procedures for hemp-derived cannabinoid products, including the permit fee, and the labeling and packaging requirements for products containing hemp-derived cannabinoids. Establishments permitted with the department prior to the effective date of this administrative regulation shall be exempted from the permit fee requirement until the annual renewal date.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures all hemp-derived cannabinoid products manufactured, processed, distributed, or sold are safe for human consumption, and are labeled in a manner that allows the end user to understand the effects of the products.

(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 currently thirty-eight (38) manufacturers of cannabidiol (CBD) products registered with the department.

(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 requirements of this administrative regulation are not new requirements for processors and manufacturers. Processors and manufacturers will need to make sure their products comply with the requirements of this 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 permit will cost processors \$3,000 plus \$200 per registered product or product class. The permit for manufacturers is \$1,000 plus \$200 per registered product or product class. The permit for warehouses is \$1,000. The permit for cosmetic manufacturers is \$200. Out-of-state processors and manufacturer will pay \$200 per to register products or product class shipped into the commonwealth.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Producers and manufacturers will be able to offer products that are safe for human consumption.

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

(a) Initially: The current budget for the food manufacturing permitting and inspection program is \$1,080,900. The increase in required permitting and inspection processes to implement this emergency administrative regulation will cost the department an additional \$1,551,397 in the first year.

(b) On a continuing basis: The department will continue to need an additional \$1,551,397, at a minimum, in subsequent years. An increase in permitted facilities will result in increased costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general fund dollars and revenue received from permitting and product registration are the sources of funding for this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Processors and manufacturers currently pay between a \$125 and \$1,000 fee depending on the size of the facility and level of risk of the products produced. The fees established in this administrative regulation are necessary to offset the cost associated with implementing this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does establish permitting and project registration fees. The proposed fee structure is an increase from the current assessed fee. The current fee structure references the fee structure for food manufacturing and processors and manufacturers may pay between a \$125 and \$1,000 fee depending on the size of the facility. It is not appropriate to regulate cannabinoid products as food products. Products that contain cannabinoids should be regulated under their own classification. This includes the permit and product registration fee structure.

(9) TIERING: Is tiering applied? Tiering is applied. The fee for all processors and manufacturers currently permitted by the department on the effective date of this administrative regulation will be waived until the date of the next annual renewal. All new applications for a permit will be assessed the fee upon initial filing.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 217.125, 217.127, 217.135, and 217.155.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department for Public Health, Division of Public Health Protection and Safety is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: Expenditures for the department to implement this administrative regulation will be approximately \$1,551,397 per year.

Revenues: Revenues for the permitting of processors and manufacturers in this administrative regulation can range between \$38,000 to \$114,000. The revenue for product registration cannot be determined at this time.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures for the Department for Public Health may be impacted by changes in salary, fringe benefits, and travel cost for state and local health department employees. These changes cannot be determined at this time. Expenditures for regulated entities will not change without an amendment to this administrative regulation.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local law enforcement entities may be affected by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: The department is not able to calculate the expenditures for affected local entities at this time.

Revenues: This administrative regulation will not generate revenue for affected local entities.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department is not able to determine changes in expenditures, revenues or cost savings for affected local entities.

(4) Identify additional regulated entities not listed in questions (2) or (3): This administrative regulation will impact all cannabinoid processors, manufacturers, storage warehouses, and distributors.

Currently there are thirty-eight (38) entities permitted by the department.

(a) Estimate the following for the first year:

Expenditures: Expenditures will range from \$200 for cosmetic manufacturers to \$3,000 for processors and manufacturers who produce adult-use cannabinoid products.

Revenues: Revenues for the affected entities will be dependent on product sales.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures will not change in subsequent years without an amendment to this administrative regulation. Revenues can change depending on product sales.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation may generate between \$38,000 and \$114,000 in revenue. Additional revenue will be generated by the product registration fee, but that total cannot be determined at this time. The cost to the department to administer this administrative regulation is \$1,551,397.

(b) Methodology and resources used to determine the fiscal impact:

Positions	Personnel Classified	Grade	Annual Salary + 5% Probationary Increase	Fringe Benefits - FICA - Retirement - Hlth/Life Ins.	Total Annual Salary and Fringe Benefits	Number of Employees	Total Amount
Administrative Clerk	Program Coordinator	Gr.14	\$ 59,213.70	\$ 53,711.55	\$ 112,925.25	1	\$ 112,926.25
Retail Inspectors	Program Evaluator	Gr.14	\$ 99,213.70	\$ 93,711.55	\$ 112,925.25	6	\$ 664,626.27
Processor/manufacturing Inspectors, Enforcement staff, and Supervisors	Program Administrator	Gr.15	\$ 65,135.20	\$ 58,082.80	\$ 123,218.00	6	\$ 739,307.99
Manager	Branch Manager	Gr.16	\$ 71,646.12	\$ 62,889.17	\$ 134,535.29	1	\$ 134,536.29
TOTAL							\$ 1,551,396.79

The total range for the potential revenue was calculated by multiplying the current number of permitted facilities times the lowest and highest permit fee amounts, which is 38X1,000 and 38X3,000 respectively. The total expenditure was calculated based on the need for thirteen (13) additional environmental management staff to oversee the permitting and inspection activities. The thirteen (13) additional staff include a branch manager, administrative support staff, two (2) supervisors, two (2) processing/manufacturing inspectors, five (5) retail inspectors, and two (2) enforcement staff. The breakdown of expenditures is as follows: -- Administrative Clerk: Program Coordinator (Grade 14); Annual Salary + 5% Probationary increase: \$59,213.70; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$53,711.55; Total Annual Salary and Fringe Benefits: \$112,925.25 x 1 Employee = Total Amount: \$112,926.25 ---- Retail Inspectors: Program Evaluator (Grade 14); Annual Salary + 5% Probationary increase: \$99,213.70; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$93,711.55; Total Annual Salary and Fringe Benefits: \$112,925.25 x 5 Employees = Total Amount: \$564,626.27 ---- Processor/manufacturing Inspectors, Enforcement staff, and Supervisors: Program Administrator (Grade 15); Annual Salary + 5% Probationary increase: \$65,135.20; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$58,082.80; Total Annual Salary and Fringe Benefits: \$123,218.00 x 6 Employees = Total Amount: \$739,307.99 -- -- Manager: Branch Manager (Grade 16); Annual Salary + 5% Probationary increase: \$71,646.12; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$62,889.17; Total Annual Salary and Fringe Benefits: \$134,535.29 x 1 Employee = Total Amount: \$134,536.29 --- - TOTAL AMOUNT = \$1,551,396.79

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The expenditures for the department will exceed \$1,000,000, resulting in an overall negative or adverse major economic impact. The overall economic impact for the regulated entities cannot be determined. While these entities will have expenditures associated with the permit and product registration, these will be offset by the revenue received in product sales.

(b) The methodology and resources used to reach this conclusion: Legislation has delegated new authority to the Kentucky Department for Public Health (KDPH) to regulate recreational adult-use products, such as delta-8 THC, for the safety of Kentuckians. These products, which may only be sold to adults aged 21 years or

older, are increasingly complex, diverse, and evolving. An estimated 1,000-1,500 retailers and 40 manufacturers of recreational adult-use drugs are believed to be operating in Kentucky. Manufacturers of hemp THC products use complex chemistry conversion methods to process distillates, which increases the technical training required for inspection. Due to the intricacies involved, the successful oversight and regulation of these products in Kentucky will require additional staffing and the use of a hybrid approach that blends the traditional roles of the Department of Alcoholic Beverage Control, such as the enforcement of laws and age verification, with the expertise of the Food and Drug Administration (FDA). In order to adequately oversee the manufacture and retail sale of these products, the department would propose establishing a new branch with specialized staff. An estimated additional thirteen (13) staff will be needed to carry out the following activities: Regulatory Oversight: Establish and enforce standards for product manufacturing, packaging, and labeling for human consumption; Establish and enforce distribution controls to consumers to prohibit and prevent sales of adult-use products to individuals under 21 years of age; Prohibit the manufacture and sale of unallowable products; Protect consumers from harmful exposure to chemicals, contaminants, and adulterants that would have an adverse impact on human health; Evaluate the use of chemicals when added to products, such as food ingredients and substances that come into contact with food through food processing, manufacturing, packaging, storage, or other handling to ensure these uses are safe; Monitor products for contaminants and take action when the level of a contaminant causes a product to be unsafe. Licensing and Inspections: Administer licensure and registration for processors, manufacturers, distributors, and retailers and conduct regular inspections to ensure compliance with regulatory requirements. Surveillance and Monitoring: Collect and analyze data on adverse events and product quality to guide decision-making and interventions. Collaboration and Partnerships: Collaborate with federal/state agencies, professional organizations, academic institutions, and industry stakeholders to exchange information, share best practices, and coordinate efforts to address common challenges.

**STATEMENT OF EMERGENCY
902 KAR 45:031E**

This emergency administrative regulation is being promulgated to implement the requirements of HB 544, 2023 Ky. Acts ch. 78. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)3. to continue the process of regulating delta-8 tetrahydrocannabinol and any other hemp-derived substances. This emergency administrative regulation is necessary to implement the requirements of HB 544, 2023 Ky. Acts ch. 78, which requires the cabinet to regulate covered products, as specified in EO 2022-799, to prohibit the sale of intoxicating products to anyone under twenty-one (21) years of age, to set the laboratory testing requirements, and to require products be labeled in accordance with the act and KRS 217.037. This emergency administrative regulation will be filed with an ordinary administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC C. FRIEDLANDER, Secretary

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(New Emergency Administrative Regulation)**

902 KAR 45:031E. Hemp-derived cannabinoid product sampling and testing requirements.

EFFECTIVE: April 24, 2024
RELATES TO: KRS Chapter 13B, 217.015, 217.025, 217.035, 217.037, 217.039, 260.850, 438.305(4), 2023 Ky Acts ch. 78
STATUTORY AUTHORITY: KRS 217.125, 217.155

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspection any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale. This administrative regulation establishes the hemp-derived cannabinoid product sampling and testing requirements.

Section 1. Product Sampling and Testing Requirements.

- (1) Sampling and testing for all cannabinoid products shall be:
 - (a) Done for each batch or process lot; and
 - (b) Conducted with representative samples to ensure:
 1. All batches or process lots are adequately assessed for contaminants; and
 2. The cannabinoid profile is consistent throughout.
 - (2) Testing shall only be performed on the final product equivalent to what will be consumed.
 - (3) Samples shall be collected using appropriate aseptic techniques.
 - (4) A cannabinoid processing or manufacturing facility shall assign each batch or process lot a unique batch or lot number that shall be:
 - (a) Documented and maintained in the processing and manufacturing facility for at least two (2) years and available to the department upon request;
 - (b) Provided to the individual responsible for taking samples; and
 - (c) Included on the product label.
 - (5) Sample size, handling, storage, and disposal.
 - (a) Cannabinoid products samples shall consist of enough material from the batch or process lot to ensure that the required attributes in the products are homogenous and consistent with the testing facility's accredited sampling policies and procedures.
 - (b) A cannabinoid processing or manufacturing permittee shall prepare sampling policies and procedures that contain the information necessary for collecting and transporting samples from cannabinoid products in a manner that does not endanger the integrity of the sample for any analysis required by this administrative regulation.
 - (6) Reserve samples.
 - (a) Processors and manufacturers shall collect and hold reserve samples of each batch or process lot of packaged and labeled product.
 - (b) The reserve samples shall:
 1. Be held using the same container-closure system that the packaged and labeled product is distributed, or if distributing to be packaged and labeled, using a container-closure system that provides the same characteristics to protect against contamination or deterioration;
 2. Be identified with the batch or process number;
 3. Be retained for the shelf-life date, as applicable, or for two (2) years from the date of distribution of the last batch or process lot of the product associated with the reserve sample; and
 4. Consist of at least twice the quantity necessary for all tests or examinations to determine if the product meets specifications.
 - (7) Laboratory requirements.
 - (a) Testing facilities used by the cannabinoid processing or manufacturing facility shall be an independent third-party, fully accredited to the standard established by International Organization for Standardization (ISO) 17025 by an International Laboratory Accreditation Cooperation recognized accreditation body.
 - (b) The testing facility shall:
 1. Maintain ISO 17025 accreditation; and
 2. Comply with all required analytes standards for the relevant test methods of:
 - a. Cannabinoids;
 - b. Microbial impurities;
 - c. Mycotoxins;
 - d. Residual pesticides;

- e. Heavy metals; and
- f. Residual solvents, if applicable.
- (c) Cannabinoid processing or manufacturing facilities shall maintain on file proof of a valid certificate of accreditation for the laboratory completing product testing that:
 1. Is issued by an accreditation organization; and
 2. Attests to the laboratory's competence to perform testing, including all the required analytes for the relevant test methods required.
- (8) Testing requirements.
 - (a) A processing or manufacturing facility shall test every batch or process lot of cannabinoid product for sale or distribution prior to sell or transfer.
 - (b) Test shall be performed using cannabinoid quantification technique with a high enough specificity and sensitivity to differentiate between cannabinoids and isomers of cannabinoids.
 - (c) Cannabinoid products shall be tested for:
 1. Cannabinoids, which shall include all cannabinoids specified in 902 KAR 45:021, Section 1(3)(a);
 2. Microbial impurities;
 3. Mycotoxins;
 4. Residual pesticides;
 5. Heavy metals; and
 6. Residual solvents, if applicable.
 - (d) Infused cannabinoid products may not require additional testing for microbial impurities, mycotoxins, residual pesticides, heavy metals, or residual solvents, as applicable, if the cannabinoid distillate used to make an infused product was:
 1. Tested for microbial impurities, mycotoxins, residual pesticides, heavy metals, or residual solvents in compliance with this administrative regulation; and
 2. Test results indicate the batch or process lot was within established limits.
 - (e) An infused cannabinoid product shall be tested if the addition of ingredients or processing practice create a reasonable or foreseeable microbial impurity, mycotoxin, residual pesticide, heavy metals, or residual solvents hazard.
 - (f) All vaporizer delivery device or pressurized metered dose inhaler cartridge batches or process lots shall be tested for Acetates.
 - (g) In accordance with KRS 217.039, all applicable certificates of analysis shall accompany the final product.

Section 2. Standards for Cannabinoid Testing.

- (1) A testing facility shall establish a limit of quantitation of one (1) milligram per gram (mg/g) or lower for all adult-use cannabinoids analyzed and reported.
- (2) A testing facility shall report the result of the cannabinoid testing on the certificate of analysis, that includes at minimum:
 - (a) Total tetrahydrocannabinol concentration, calculated in accordance with subsection (3) of this section and reported in percentages;
 - (b) Tetrahydrocannabinol-A concentration;
 - (c) Milligrams per serving for total tetrahydrocannabinol and the primary cannabinoid marketed, excluding cosmetics, as applicable;
 - (d) Milligrams per package for total tetrahydrocannabinol and the primary cannabinoid marketed, excluding cosmetics, as applicable; and
 - (e) The results of all other hemp-derived cannabinoids analyzed on the COA both as a percentage and milligrams per gram (mg/g).
- (3) The following calculation shall be used for calculating total tetrahydrocannabinol concentration expressed in weight: Total cannabinoid concentration (mg/g) = (cannabinoid acid form concentration (mg/g) x 0.877) + cannabinoid concentration (mg/g).
- (4) For cannabinoid infused products, excluding cosmetics, potency shall be reported as milligrams of total tetrahydrocannabinol and the primary cannabinoid marketed, excluding cosmetics per gram.
- (5) Cannabinoid products shall not contain a delta-9 tetrahydrocannabinol concentration of more than three-tenths of one percent (0.3) on a dry weigh basis.
- (6) The serving size from a vaporizer delivery device or pressurized metered dose inhaler shall not exceed one (1) inhalation lasting two (2) seconds per serving.

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Section 3. Standards for Microbial Impurities.

(1) Cannabinoid products shall be tested by a testing facility for the presence of microbial impurities.

(2) The sample of inhalable cannabinoid products shall be deemed to have passed the microbial impurities testing if the following conditions are met:

(a) Total *Escherichia coli* is not detected above 100 colony forming units/gram;

(b) Shiga toxin–producing *Escherichia coli* is not detected in one (1) gram;

(c) *Salmonella* spp. is not detected in one (1) gram;

(d) Pathogenic *Aspergillus* species *A. fumigatus*, *A. flavus*, *A. niger*, and *A. terreus* are not detected in one (1) gram;

(e) *Listeria* Spp. is not detected in one (1) gram; and

(f) A total combined yeast and mold do not exceed 100,000 colony forming units per gram.

(3) The sample of ingestible or cosmetic cannabinoid products shall be deemed to have passed the microbial impurities testing if the following conditions are met:

(a) Total *Escherichia coli* is not detected above 100 colony forming units/gram;

(b) Shiga toxin–producing *Escherichia coli* is not detected in one (1) gram;

(c) *Salmonella* spp. is not detected in one (1) gram;

(d) *Listeria* Spp. is not detected in one (1) gram; and

(e) A total combined yeast and mold do not exceed 100,000 colony forming units per gram.

(4) If the sample fails microbial impurities testing, the batch or process lot from which the sample was collected shall not be released for retail sale.

(5) If a sample from a batch or process lot of a cannabinoid product fails microbiological contaminant testing, the batch may be further processed if the processing method effectively sterilizes the batch.

(6) A batch or process lot that is sterilized in accordance with subsection (5) of this section shall be sampled and tested in accordance with this administrative regulation, if not otherwise required for that product, for microbiological contaminants, and residual solvents.

(7) A batch or process lot that fails microbiological contaminant testing after undergoing a sterilization process in accordance with subsection (5) of this section shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

Section 4. Standards for Mycotoxin Testing.

(1) Cannabinoid products shall be tested by a testing facility for the following mycotoxins: aflatoxin B1, B2, G1, and G2 ochratoxin A.

(2) A batch or process lot shall be deemed to have passed mycotoxin testing if the following conditions are met:

(a) Total of aflatoxin B1, B2, G1, and G2 does not exceed twenty (20) microgram per kilogram (µg/kg) of substance; and

(b) Ochratoxin A does not exceed twenty (20) µg/kg of substance.

(3) A batch or process lot that fails mycotoxin testing in accordance with this subsection shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

Section 5. Standards for Testing Residual Pesticides.

(1) Cannabinoid products shall be tested by a testing facility for the following residual pesticides and shall not exceed the maximum allowable concentration for each:

Residual pesticide	Chemical Abstract Service (CAS) assigned number	Maximum allowable concentration stated in parts per million (ppm)
Abamectin	71751-41-2	0.5 ppm
Acephate	30560-19-1	0.4 ppm

Acequinocyl	57960-19-7	2.0 ppm
Acetamiprid	135410-20-7	0.2 ppm
Aldicarb	116-06-3	0.4 ppm
Azoxystrobin	131860-33-8	0.2 ppm
Bifenazate	149877-41-8	0.2 ppm
Bifenthrin	82657-04-3	0.2 ppm
Boscalid	188425-85-6	0.4 ppm
Carbaryl	63-25-2	0.2 ppm
Carbofuran	1563-66-2	0.2 ppm
Chlorantraniliprole	500008-45-7	0.2 ppm
Chlorfenapyr	122453-73-0	1.0 ppm
Chlormequat chloride	7003-89-6	0.2 ppm
Chlorpyrifos	2921-88-2	0.2 ppm
Clofentezine	74115-24-5	0.2 ppm
Cyfluthrin	68359-37-5	1.0 ppm
Cypermethrin	52315-07-8	1.0 ppm
Daminozide	1596-84-5	1.0 ppm
DDVP (Dichlorvos)	62-73-7	0.1 ppm
Diazinon	333-41-5	0.2 ppm
Dimethoate	60-51-5	0.2 ppm
Ethoprophos	13194-48-4	0.2 ppm
Etofenprox	80844-07-1	0.4 ppm
Etoxazole	153233-91-1	0.2 ppm
Fenoxycarb	72490-01-8	0.2 ppm
Fenpyroximate	134098-61-6	0.4 ppm
Fipronil	120068-37-3	0.4 ppm
Flonicamid	158062-67-0	1.0 ppm
Fludioxonil	131341-86-1	0.4 ppm
Hexythiazox	78587-05-0	1.0 ppm
Imazalil	35554-44-0	0.2 ppm
Imidacloprid	138261-41-3	0.4 ppm
Kresoxim-methy	143390-89-0	0.4 ppm
Malathion	121-75-5	0.2 ppm
Metalaxyl	57837-19-1	0.2 ppm
Methiocarb	2032-65-7	0.2 ppm
Methomyl	16752-77-5	0.4 ppm
Methyl parathion	298-00-0	0.2 ppm
Myclobutanil,	88671-89-0	0.2 ppm (prohibited at any concentration for inhalation)
Naled	300-76-5	0.5 ppm
Oxamyl	23135-22-0	1.0 ppm
Paclobutrazol	76738-62-0	0.4 ppm
Permethrins (measured as the cumulative residue of cis- and trans-isomers)	52645-531 (54774-45-7 and 51877-74-8)	0.2 ppm
Phosmet	732-11-6	0.2 ppm
Piperonyl_butoxide	51-03-6	2.0 ppm
Prallethrin	23031-36-9	0.2 ppm
Propiconazole	60207-90-1	0.4 ppm
Propoxur	114-26-1	0.2 ppm
Pyrethrins (measured as the cumulative residue of pyrethrin 1, cinerin 1 and jasmolin 1)	8003-34-7(121-21-1, 25402-06-6 and 4466-14-2)	1.0 ppm
Pyridaben	96489-71-3	0.2 ppm
Spinosad	168316-95-8	0.2 ppm
Spiromesifen	283594-90-1	0.2 ppm
Spirotetramat	203313-25-1	0.2 ppm
Spiroxamine	118134-30-8	0.4 ppm
Tebuconazole	107534-96-3	0.4 ppm
Thiacloprid	111988-49-9	0.2 ppm
Thiamethoxam	153719-23-4	0.2 ppm
Trifloxystrobin	141517-21-7	0.2 ppm

(2) A batch or process lot that fails residual pesticide testing in accordance with this section shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

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Section 6. Standards for Testing for Heavy Metals.

(1) Cannabinoid products shall be tested by a testing facility for the following metals and shall not exceed the maximum allowable concentration for each:

- (a) Arsenic, maximum allowable concentration: one and five-tenths (1.5) ppm;
- (b) Cadmium, maximum allowable concentration: zero and four-tenths (0.4) ppm;
- (c) Lead, maximum allowable concentration: one (1) ppm; and
- (d) Mercury, maximum allowable concentration: one and two-tenths (1.2) ppm.

(2) Cannabinoid distillate intended for inhalable products shall be tested by a testing facility for the following metals and shall not exceed the maximum allowable concentration for each:

- (a) Arsenic, maximum allowable concentration: zero and two-tenths (0.2) ppm;
- (b) Cadmium, maximum allowable concentration: zero and two-tenths (0.2) ppm;
- (c) Lead, maximum allowable concentration: zero and five-tenths (0.5) ppm; and
- (d) Mercury, maximum allowable concentration: zero and one-tenths (0.1) ppm.

(3) A batch or process lot that fails heavy metals testing in accordance with this section shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

Section 7. Standards for Testing Residual Solvents.

(1) Cannabinoid products shall be tested by a testing facility for residual solvents, as appropriate, and shall not exceed the maximum allowable concentration for each solvent used according to the table below:

Solvent	CAS assigned number	Maximum allowable concentration stated in parts per million (ppm)
Acetone	67-64-1	1,000 ppm
Benzene	71-43-2	2 ppm
Butanes, (measured as the cumulative residue of n-butane and iso-butane),	106-97-8 and 75-28-5	1,000 ppm
Ethanol	64-17-5	5,000 ppm
Ethyl Acetate	141-78-6	1,000 ppm
Heptane	142-82-5	1,000 ppm
Hexanes (measured as the cumulative residue of n-hexane, 2-methylpentane, 3-methylpentane, 2,2-dimethylbutane, and 2,3-dimethylbutane)	110-54-3, 107-83-5 and 79-29-8	60 ppm
Methanol	67-56-1	600 ppm
Pentanes (measured as the cumulative residue of n-pentane, iso-pentane, and neo-pentane)	109-66-0, 78-78-4 and 463-82-1	1,000 ppm
2-Propanol (IPA)	67-63-0	1,000 ppm
Propane	74-98-6	1,000 ppm
Toluene*	108-88-3	180 ppm
Total Xylenes* (measured as the cumulative residue of 1,2-dimethylbenzene, 1,3-dimethylbenzene, and 1,4-dimethylbenzene, and the non-xylene, ethylbenzene),	1330-20-7 (95-47-6, 108-38-3 and 106-42-3 and 100-41-4)	430 ppm

*Note: These solvents are not approved for use. Due to their possible presence in the solvents approved for use, limits have been listed here accordingly.

(2) A processing or manufacturing facility shall be exempt from testing for solvents if the facility:

- (a) Did not use any solvent listed in subsection (1) of this section;
- (b) Used a mechanical extraction process to separate cannabinoids; or

(c) Used only water, animal fat, or vegetable oil as a solvent to separate the cannabinoids.

(3) If a sample from a batch or process lot fails solvent testing, the batch or process lot may be remediated using procedures that would reduce the concentration of solvents to less than the action level.

(4) A batch or process lot that is remediated in accordance with subsection (3) of this section shall be:

- (a) Sampled and tested in accordance with this administrative regulation; and
- (b) Tested for solvents if not otherwise required for that product under this administrative regulation.

(5) A batch or process lot that fails solvent testing that is not remediated or that if remediated fails testing shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

Section 8. Standards for Water Activity.

(1) Plant material, such as flower, shake, and plant trim, used to process and manufacture hemp-derived cannabinoid products shall have a water activity (Aw) rate of less than 0.65.

(2) If the plant material sample fails testing for water activity, the batch from which the sample was taken may:

- (a) Be used to make a cannabinoid distillate; or
- (b) Continue to dry or cure.

(3) Plant material that undergoes additional drying or curing as described in subsection (2)(b) of this section shall be re-sampled and tested in accordance with this section.

Section 9. Failed Testing and Remediation.

(1) A sample that fails any initial testing may be reanalyzed by the testing facility.

(2) If the reanalyzed sample passes, the processing or manufacturing facility shall resample the batch or process lot using another accredited testing facility to confirm the result in order for the batch or process lot to pass testing.

(3) A batch or process lot shall fail testing if the testing facility detects the presence of a contaminant in a sample above any limit of detection (LOD) established in this administrative regulation:

- (a) During an initial test where no reanalysis is requested; or
- (b) Upon reanalysis as described in this subsection.

(4) If a sample fails a test or a reanalysis, the batch or process lot:

- (a) May be remediated or sterilized in accordance with this administrative regulation; or
- (b) If it cannot be remediated or sterilized in accordance with this administrative regulation, it shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

(5) A hemp-derived cannabinoid product batch or process lot shall only be remediated twice. If the batch or process lot fails after a second remediation attempt and the second retesting, the entire batch or process lot shall be destroyed in a manner approved by the cabinet.

(6) A hemp-derived cannabinoid product from a batch or process lot that failed testing shall not be combined with another batch or process lot. Mixed products shall be considered adulterated, regardless of the LOD or defect level of the final product.

Section 10. Certificate of Analysis.

(1) The testing facility shall:

- (a) Generate a certificate of analysis (COA) for each representative sample that the testing facility analyzes; and
- (b) Ensure the COA contains the results of all required analyses performed for the representative sample.

(2) The COA shall contain, at minimum:

- (a) The testing facility's name, premises address, and license number, processor's or manufacturer's name, and premises address;
- (b) Batch or lot number of the batch or process lot from which the sample was obtained. For products that are already packaged at the time of sampling, the labeled batch or lot number on the

packaged hemp-derived cannabinoid products shall match the batch or lot number on the COA;

(c) Sample identifying information, including matrix type and unique sample identifiers;

(d) Sample history, including the date collected, the date received by the testing facility, and the date of all sample analyses and corresponding testing results;

(e) The analytical methods, analytical instrumentation used, and corresponding LOD and limits of quantitation (LOQ);

(f) Analytes detected during the analyses of the sample that are unknown, unidentified, or injurious to human health if consumed, if any; and

(g) A chromatograph of the cannabinoid test results.

(3) The testing facility shall report test results for each representative sample on the COA as an overall "pass" or "fail" for the entire batch:

(a) When reporting qualitative results for each analyte, the testing facility shall indicate "pass" or "fail";

(b) When reporting quantitative results for each analyte, the testing facility shall use the appropriate units of measurement as required in accordance with this administrative regulation;

(c) When reporting results for each test method, the testing facility shall indicate "pass" or "fail";

(d) When reporting results for any analytes that were detected below the analytical method LOQ, indicate "<LOQ", notwithstanding cannabinoid results;

(e) When reporting results for any analytes that were not detected or detected below the LOD, indicate "ND"; and

(f) Indicate "NT" for any test that the testing facility did not perform.

(4)

(a) In accordance with 2023 Ky. Acts ch. 78, a cannabinoid manufacturer or processor that ships adult-use products out of state for use or sale outside the Commonwealth of Kentucky:

1. Shall abide by the testing and labeling requirements of this administrative regulation if the receiving state or jurisdiction does not have testing and labeling requirements; or

2. May defer to the receiving state's testing requirements if that state has equivalent testing requirements.

3. Products intended for out-of-state sale shall be stored separately from in-state products and shall have signage indicating the products are for out-of-state sale.

(b) Batch number of the batch from which the sample was obtained shall be on the COA for all products shipped out of state.

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 22, 2024

FILED WITH LRC: April 24, 2024 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 24, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by June 17, 2024, 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 virtually 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, 2024. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A,

Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Julie Brooks

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the hemp-derived cannabinoid product sampling and testing requirements.

(b) The necessity of this administrative regulation: Many hemp-derived cannabinoid products sold in Kentucky continue to be unregulated. This administrative regulation is necessary to ensure that all hemp-derived cannabinoid products produced and sold in the state are safe for human consumption.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures all hemp-derived cannabinoid products manufactured, processed, distributed, or sold are safe for human consumption.

(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 currently thirty-eight (38) manufacturers of cannabidiol (CBD) products registered with the department.

(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: Cannabinoid processor and manufacturers are currently in compliance with the requirements of 902 KAR 45:190E. This new administrative regulation does not require any additional actions for compliance with product sampling and testing requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Compliance with this new administrative regulation will not add to the cost for the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Producers and manufacturers will be able to ensure products offered are of the highest quality and are safe for human consumption.

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

(a) Initially: The current budget for the food manufacturing permitting and inspection program is \$1,080,900. The increase in required permitting and inspection processes to implement this administrative regulation will cost the department an additional \$1,551,397 in the first year.

(b) On a continuing basis: The department will continue to need an additional \$1,551,397, at a minimum, in subsequent years.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding to implement and enforce this administrative regulation will be from a mix of fees paid to the department and state general fund dollars.

(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 establishes any fees or directly or indirectly increases any fees: This administrative regulation does not contain fees.

(9) TIERING: Is tiering applied? Tiering is applied. Testing for solvents is only required when they are used in the manufacturing or processing procedures.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 217.125 and 217.155.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department for Public Health, Division of Public Health Protection and Safety is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: Expenditures to the department to implement this administrative regulation will be approximately \$1,551,397 per year.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation will not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures for the Department for Public Health may be impacted by changes in salary, fringe benefits and travel cost for state and local health department employees. These changes cannot be determined at this time.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.

(a) Estimate the following for the first year:

Expenditures: Not applicable

Revenues: Not applicable

Cost Savings: Not applicable

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities are processors and manufacturers of hemp-derived cannabinoid products, and testing facilities.

(a) Estimate the following for the first year:

Expenditures: Expenditures for the additional regulated entities will be associated with the sampling and testing requirements of this administrative regulation.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department is not able to determine changes in expenditures in subsequent years at this time.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation does not have a significant fiscal impact. The department does not permit or inspect the testing facilities. Producers and manufacturers of cannabinoid products are responsible for covering the costs associated with the testing.

(b) Methodology and resources used to determine the fiscal impact: The department does not permit or inspect the testing facilities. The increased expenditures listed in question (2) are the

overall expenditures needed to increase the workforce to oversee the permitting and inspecting for processing and manufacturing facilities, and retail establishments.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion: The department does not permit or inspect the testing facilities.

STATEMENT OF EMERGENCY 915 KAR 1:010E

This emergency administrative regulation is being promulgated in order to meet an imminent deadline for the promulgation of an administrative regulation that is established by KRS Chapter 218B, which was created by 2023 Ky. Acts Ch. 146 that Governor Andy Beshear signed into law on March 31, 2023. KRS Chapter 218B legalizes the cultivation, processing, dispensing, and use of medicinal cannabis in the Commonwealth of Kentucky, beginning on January 1, 2025, and directs the Cabinet for Health and Family Services to implement and oversee the medicinal cannabis program. KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing initial application and renewal procedures for cannabis business licenses on or before July 1, 2024. This administrative regulation is being filed on an emergency basis so that proposed cannabis businesses have an opportunity to review and understand the application process and requirements to be eligible for a cannabis business license in advance of the initial license application acceptance period. This emergency administrative regulation will be replaced by an ordinary administrative regulation, which is being filed contemporaneously herewith. The companion ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC C. FRIEDLANDER, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES Office of the Secretary (New Emergency Administrative Regulation)

915 KAR 1:010E. Initial and renewal applications for cannabis business licenses.

EFFECTIVE: April 18, 2024

RELATES TO: KRS Chapter 13B, Chapter 218B, 523.100

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing initial application and renewal procedures for cannabis business licenses. This administrative regulation establishes those procedures.

Section 1. Types of Applications for Cannabis Business Licenses.

(1) The cabinet shall accept the following types of applications for cannabis business licenses:

(a) Initial application; and

(b) Renewal application.

(2) By submitting an initial or renewal application to the cabinet, an applicant consents to any investigation of the applicant's ability to meet the requirements of KRS Chapter 218B and 915 KAR Chapter 1.

(3) An application for an initial license or renewal license is not complete and shall be rejected by the cabinet unless:

(a) The payment of the applicable fee provided in Section 2 or Section 4 is submitted with the application; and

(b) All required information for each section of the application, including attachments and any supplemental information requested by the cabinet, is submitted to the cabinet within the allowable time period.

(4) An application submitted under this administrative regulation shall contain the following statement acknowledged by the applicant: "A false statement made in this application is punishable under the applicable provisions of KRS 523.100."

Section 2. Initial License Application Fees. An applicant for an initial cannabis business license shall pay the applicable application fee by credit card or automated clearing house (ACH) transfer at the time of application submission to the cabinet. The initial application fee is nonrefundable except as indicated below in Section 3(6) of this administrative regulation. The initial license application fees shall be:

- (1) Tier I cultivator: \$3,000;
- (2) Tier II cultivator: \$10,000;
- (3) Tier III cultivator: \$20,000;
- (4) Tier IV cultivator: \$30,000;
- (5) Processor: \$5,000;
- (6) Producer: \$5,000 plus the applicable cultivator tier application fee;
- (7) Dispensary: \$5,000; and
- (8) Safety Compliance Facility: \$3,000.

Section 3. Initial Applications for Cannabis Business Licenses.

(1) An initial license is valid for one (1) year from the date of issuance shown on the license. The cabinet shall publish notice of initial license application availability on the Web site for the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>, including the time frame during which initial license applications shall be accepted. This notice shall also state the category and number of cannabis business licenses available for issuance at the close of the application period.

(2) An applicant shall only use the initial license application form prescribed by the cabinet and made available through the Web site for the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(3) An applicant shall submit an initial license application to the cabinet in the manner prescribed by the application instructions.

(4) An applicant shall apply for a separate license for each location where it intends to operate a cannabis business. During an initial license application availability period, an applicant shall only apply for a license in one (1) cannabis business license type (cultivator, processor, producer, dispensary, or safety compliance facility) being offered at that time. An applicant may submit multiple applications for a license within one (1) cannabis business license type so long as the following criteria is met:

(a) Each application contains a separate and distinct physical address where the applicant proposes to conduct cannabis business activities;

(b) Each application contains documentation of sufficient capital in accordance with subsection (5)(q) of this section and the applicant shall not use the same capital for more than one (1) application;

(c) For the four (4) cannabis cultivator tiers, an applicant shall only submit one (1) application per cultivation tier; and

(d) For dispensaries, an applicant shall only submit one (1) application per medicinal cannabis region as identified in 915 KAR 1:020, Section 3 and shown on the map published on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(5) The applicant shall submit the following in the initial license application:

(a) The legal name, business type, any trade or doing business as (DBA) name, mailing address, federal tax identification number, Web site (if any), email address, and phone number of the proposed cannabis business and confirmation that the entity is registered with the Kentucky Secretary of State in good standing and authorized to do business in Kentucky;

(b) The type of cannabis business license requested;

(c) Business entity formation documents such as articles of incorporation, articles of organization, or bylaws;

(d) Proposed location of cannabis business activities, including the physical address of the proposed cannabis business and the global positioning system (GPS) coordinates for any proposed cannabis business activities as well as:

1. Documentation such as a contingent agreement for property sale or lease or an existing deed or lease that shows the applicant has the authority to use the proposed location as a cannabis business for, at a minimum, the term of the license; and
2. A site plan for the proposed cannabis business.

(e) The name, address, date of birth, and curricula vitae or resume of each principal officer and board member of the proposed cannabis business as well as any additional information required by the cabinet;

(f) Disclosure of any individual or business entity with an ownership interest of at least ten (10) percent equity or similar interest in the proposed cannabis business and each identified individual or entity's ownership percentage as well as any additional information required by the cabinet;

(g) Disclosure of any parent company or parent individual that has an ownership interest in the proposed cannabis business and each identified individual or entity's ownership percentage as well as any additional information required by the cabinet;

(h) A document showing the ownership organizational structure of the proposed cannabis business;

(i) The name and address of any individual or entity providing financial support to the proposed cannabis business that are not involved in the day-to-day operations beyond providing financial resources as well as any additional information required by the cabinet;

(j) The name and address of any physician or advanced practice registered nurse that has an ownership or investment interest in or compensation agreement with the proposed cannabis business as well as any additional information required by the cabinet;

(k) Disclosure of whether any principal officer or board member of the applicant has been convicted of a felony criminal offense, and if so, a description of each felony offense;

(l) Disclosure of any instances in which a business or not-for-profit entity that any of the applicant's board members managed or served on the board of was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding;

(m) If applicable, documentation that the applicant is capable of successfully establishing and operating a cannabis business in the Commonwealth, including:

1. Demonstrated experience establishing and operating a for-profit or nonprofit organization or other business within Kentucky or any other jurisdiction, and the nature of the business conducted by the organization;

2. Any history relating to receipt of a similar license or other authorization in other jurisdictions, including provisional licenses, suspensions, revocations, or disciplinary actions to include civil monetary fines or warnings; and

3. Any history of response to suspensions, revocations, disciplinary actions, civil monetary fines, or warnings imposed relating to any similar license or other authorization in another jurisdiction, and the plans of correction or other responses made to those actions.

(n) A description of the duties, responsibilities, and roles of each principal officer, board member, employee, and any other individual or entity with a financial interest in the proposed cannabis business who are not involved in the day-to-day operations of the business;

(o) A timeline showing the steps and estimated amount of time the applicant shall take to begin cannabis business activities in the Commonwealth;

(p) Financial plan for the proposed cannabis business, including budget and cash flow planning and debt management;

(q) Documentation of sufficient capital available to the applicant, either on deposit or through extension of credit from one (1) or more financial institutions, in the following amounts as applicable:

1. Tier I cultivator: \$50,000;

2. Tier II cultivator: \$200,000;
3. Tier III cultivator: \$500,000;
4. Tier IV cultivator: \$1,000,000;
5. Processor: \$150,000;
6. Producer: \$150,000 plus the applicable cultivator tier amount;
7. Dispensary: \$150,000; or
8. Safety compliance facility: \$150,000

(r) A summary of the intended plan of operation that describes, at a minimum, how the applicant's proposed cannabis business operations shall address:

1. Security;
2. Employee qualifications, supervision, and training;
3. Transportation of medicinal cannabis;
4. Storage and labeling of medicinal cannabis;
5. Inventory management;
6. Recordkeeping;
7. Preventing unlawful diversion of medicinal cannabis; and
8. Workforce development and job creation.

(s) The name, mailing address, business title, phone number, and email address of the primary contact for the application as well as the name, address, and email address of any entity or individual who assisted the applicant with preparing the application;

(t) Documentation of any management service agreement in place for the proposed cannabis business;

(u) A notarized signature page signed by the applicant; and

(v) An attestation that:

1. The site of the proposed cannabis business is not within 1,000 feet of an existing elementary or secondary school or a daycare center. For the purpose of this administrative regulation, 1,000 feet shall be measured in a straight line from the nearest property line of an existing elementary school, secondary school, or daycare center to the nearest property line of the applicant's proposed place of business;

2. The applicant can continuously maintain sufficient capital for operations of its proposed cannabis business for, at a minimum, the term of the initial license;

3. The applicant can continuously maintain effective security, surveillance, and accounting control measures to prevent diversion, abuse, and other illegal conduct regarding medicinal cannabis;

4. The applicant shall comply with KRS Chapter 218B and 915 KAR Chapter 1;

5. The applicant consents to the cabinet verifying information provided in the application with any relevant governmental agency or third party;

6. If issued a license, the applicant shall pay the applicable license fee within fifteen (15) calendar days of notification in a manner prescribed by the cabinet.

7. If issued a license, the applicant shall conduct a criminal background check into the criminal history of each person seeking to be a principal officer, board member, agent, volunteer, or employee of the cannabis business before that person begins work and shall not employ, take on as a volunteer, or have as a board member, principal officer, or agent any person who was convicted of a disqualifying felony offense or is younger than twenty-one (21) years of age;

8. The applicant consents to reasonable inspections, examinations, searches, and seizures as contemplated by KRS Chapter 218B and 915 KAR Chapter 1;

9. The applicant shall obtain and maintain workers' compensation insurance for all employees in the Commonwealth and shall pay all required employer contributions to the Kentucky Office of Unemployment Insurance;

10. The applicant shall obtain and maintain commercial general liability insurance for \$1,000,000 per occurrence and \$2,000,000 per aggregate and commercial automobile insurance for any vehicle used to transport medicinal cannabis or medicinal cannabis products;

11. The applicant shall complete all trainings required by the cabinet for the proposed cannabis business's principals, agents, employees, and volunteers;

12. The applicant shall establish any standard operating procedures required by KRS Chapter 218B and 915 KAR Chapter 1 prior to the first date of cannabis business activities in the

Commonwealth, including those specific to its cannabis business category. The standard operating procedures that apply to cannabis businesses include:

- a. Security;
- b. Recordkeeping;
- c. Employee qualifications, supervision, and training;
- d. Quality assurance;
- e. Adverse event reporting and recall;
- f. Waste disposal and sanitation;
- g. Transportation of medicinal cannabis;
- h. Inventory management, including storage and labeling of medicinal cannabis;
- i. Cash management and anti-fraud procedures; and
- j. Preventing unlawful diversion of medicinal cannabis.

13. For an applicant seeking a safety compliance facility license, one (1) or more of its prospective principal officers or board members shall not be a principal officer or board member of a cultivator, processor, producer, or dispensary applying to operate in the Commonwealth;

14. For an applicant seeking a cultivator, processor, producer, or dispensary license, one (1) or more of its prospective principal officers or board members shall not be a principal officer or board member of a safety compliance facility applying to operate in the Commonwealth;

15. The applicant consents to sharing medicinal cannabis sales data with law enforcement;

16. The applicant shall use the Commonwealth's designated electronic monitoring system and seed to sale tracking system required by KRS 218B.140 in the manner prescribed by the cabinet;

17. The applicant has disclosed all individuals and entities with an ownership interest of at least ten (10) percent equity or similar interest in the proposed cannabis business as well as any parent companies and parent company individuals with an ownership interest in its proposed cannabis business; and

18. The applicant swears and affirms that all information and documentation provided with the initial license application is true and correct.

(6) An initial license application received after the submission time frame stated in the published notice of initial license application availability shall be rejected by the cabinet without further consideration along with the return of the initial application fee.

(7) The cabinet shall acknowledge receipt of an initial application for a cannabis business license within fifteen (15) calendar days of submission by the applicant. The cabinet shall review each application to determine whether the application is complete. The cabinet shall provide written notice to an applicant when it has determined the application is complete. If the cabinet determines an application is not complete, the cabinet shall provide written notice to the applicant of the identified deficiencies in the application. The applicant shall have ten (10) calendar days from the date of the deficiency notification to cure the identified deficiencies and provide any missing information or documentation to the cabinet in the manner prescribed by the cabinet. If the applicant fails to cure any deficiency within ten (10) calendar days from the date of the deficiency notification, the cabinet shall reject the application as incomplete.

(8) The cabinet shall provide notification to applicants as to whether an application for a license has been approved or denied within forty-five (45) calendar days of receiving an application and determining its complete. Any application denials shall be done in accordance with KRS 218B.090(2) and (4), including providing written notice to the applicant that he or she may file a written request for an administrative hearing on the application within thirty (30) calendar days after the mailing date of the notice. Any hearing resulting from the applicant's written request shall be conducted in accordance with KRS Chapter 13B.

Section 4. License Renewal Fees. An applicant for renewal of a cannabis business license shall pay the applicable annual renewal fee by credit card or ACH transfer at the time of application submission to the cabinet. The annual renewal fee is refundable if the renewal application is denied. The annual renewal fees are:

- (1) Tier I cultivator: \$12,000;

- (2) Tier II cultivator: \$25,000;
- (3) Tier III cultivator: \$50,000;
- (4) Tier IV cultivator: \$100,000;
- (5) Processor: \$15,000;
- (6) Producer: \$15,000 plus the applicable cultivator tier annual renewal fee;
- (7) Dispensary: \$15,000; and
- (8) Safety compliance facility: \$12,000.

Section 5. Renewal Applications for Cannabis Business Licenses.

(1) A renewal license is valid for one (1) year from the date of issuance shown on the license. The requirements that a licensed cannabis business shall meet to receive an initial license are continuing requirements to maintain the license. A cannabis business shall continuously comply with the licensing requirements of KRS Chapter 218B and 915 KAR Chapter 1 during the initial licensure period and any subsequent renewal period.

(2) The cabinet shall notify each licensee at least ninety (90) calendar days prior to the date the license expires to allow the licensee to begin the renewal process if the licensee so chooses.

(3) A licensee shall only use the license renewal application form prescribed by the cabinet and made available through the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(4) A license renewal application shall be submitted to the cabinet at least sixty (60) calendar days prior to the expiration of the license. The cabinet shall reject a license renewal application if it is not submitted at least sixty (60) calendar days prior to the expiration of the license and shall return the annual renewal fee to the licensee along with written notice of the rejection.

(5) A licensee shall submit a license renewal application to the cabinet in the manner prescribed by the application instructions.

(6) A licensee shall include the following information with a license renewal application:

(a) Information regarding any charge, or any initiated, pending, or concluded investigation or proceeding, during the period of the initial license or prior renewal period, by any governmental or administrative agency, including an investigation or proceeding involving theft, loss, or possible diversion of medicinal cannabis by the licensee or from the licensee's facility;

(b) Information regarding the licensee's ability to continue with licensed activities, including any staffing issues, delays, medicinal cannabis shortages, medicinal cannabis product recalls, location issues, and financial issues that occurred since the license was issued;

(c) The licensee's history of compliance with KRS Chapter 218B and 915 KAR Chapter 1, including a summary of any noncompliance and corrective action taken during the current and any previous licensing period or a statement indicating that the licensee has not violated KRS Chapter 218B or 915 KAR Chapter 1 as of the date the renewal application is submitted; and

(d) Any additional information required by the cabinet.

(7) The cabinet shall acknowledge receipt of a renewal license application within fifteen (15) calendar days of submission by the applicant. The cabinet shall review each application to determine whether the application is complete. If the cabinet determines an application is not complete, the cabinet shall provide written notice to the applicant of the identified deficiencies in the application. The applicant shall have ten (10) calendar days from the date of the deficiency notification to cure the identified deficiencies and provide any missing information or documentation to the cabinet in the manner prescribed by the cabinet. If the applicant fails to cure any deficiency within ten (10) calendar days from the date of the deficiency notification, the cabinet shall reject the application as incomplete.

(8) If the cabinet determines that a license renewal application is lacking sufficient information upon which to make a renewal determination, the cabinet shall notify the licensee in writing of the factors that require additional information and documentation. The licensee shall have ten (10) calendar days from the date of the notice to provide the requested information and documentation to the cabinet. A licensee's failure to provide the requested information to

the cabinet by the deadline shall be grounds for denial of the license renewal application.

(9) The cabinet may conduct an onsite inspection of the licensee's facilities and records to assist with determining continuing compliance with KRS Chapter 218B and 915 KAR Chapter 1.

(10) An existing cannabis business license is immediately invalid upon expiration if the licensee has not filed a license renewal application and paid the required renewal fee in accordance with Section 4 of this administrative regulation. If a licensee properly submits a timely renewal application with applicable renewal fee, the cabinet may extend its existing license from the date the existing license expires until the cabinet can complete its renewal application review and issue a determination.

Section 6. Minimum Performance Standards for License Renewal.

(1) Pursuant to KRS 218B.080(5)(b), the renewal of a cannabis business license shall be contingent upon successful achievement of minimal performance standards established by the cabinet. The minimum performance standards for licensees participating in the Kentucky Medical Cannabis Program are:

(a) The licensee has, and is likely to continue to maintain, effective controls against diversion of medicinal cannabis at its facility;

(b) The licensee has not made false or misleading statements in:

- 1. A renewal application or any other application submitted to the cabinet;
- 2. Any document or written communication submitted to the cabinet; or
- 3. Any verbal communication to the cabinet.

(c) The licensee has a documented history of compliance with the licensee requirements in KRS Chapter 218B and 915 KAR Chapter 1;

(d) The licensee has effectively addressed any identified compliance issues through corrective action;

(e) The licensee has shown it has the ability to continue to comply with all state and local laws and administrative regulations applicable to the activities in which it may engage under the license, if renewed;

(f) The licensee has a documented history of successfully addressing and mitigating any quality or safety issues with its medicinal cannabis or medicinal cannabis products;

(g) The licensee timely completes all reporting required by KRS Chapter 218B and 915 KAR Chapter 1; and

(h) The licensee participates in surveys distributed by the cabinet and provides full, complete, and timely responses.

(2) The cabinet shall deny a renewal application for a cannabis business license if it determines the licensee has failed to:

(a) Meet one (1) or more of the minimum performance standards established in this section; or

(b) Any additional basis provided in KRS 218B.090.

(3) The cabinet shall provide written notification to a licensee as to whether its renewal application has been approved or denied within forty-five (45) calendar days of receiving an application and determining its complete. Any renewal application denials shall be done in accordance with KRS 218B.090(4), including providing written notice to the applicant that he or she may file a written request for an administrative hearing on the application within thirty (30) calendar days after the mailing date of the notice. Any hearing resulting from the applicant's written request shall be conducted in accordance with KRS Chapter 13B.

Section 7. Duty to Report. During the application process, an applicant for an initial cannabis business license or renewal license shall, upon discovery of any change in facts or circumstances reflected in the initial application or renewal application submitted to the cabinet, notify the cabinet in writing of the change or any newly discovered fact or circumstance that would have been included in the application if known at the time the application was submitted. The notification required under this section shall be sent via electronic mail to kymedcanreporting@ky.gov within twenty-four

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(24) hours of discovery. Failure to timely notify the cabinet of a change or newly discovered facts or circumstances may result in denial of the application.

SAM FLYNN, Executive Director

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 9, 2024

FILED WITH LRC: April 18, 2024

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 24, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by June 17, 2024, 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 virtually 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, 2024. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Oran S. McFarlan, III

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes initial application and renewal procedures for cannabis business licenses.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140(1)(c)(3).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing initial application and renewal procedures for cannabis business licenses. This administrative regulation establishes those procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the procedures for initial and renewal applications for cannabis business licenses.

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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: This administrative regulation affects cannabis businesses that desire to apply for and subsequently renew licenses to conduct cannabis business activities in the commonwealth.

(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: Cannabis businesses that desire to operate in Kentucky must follow the initial and renewal application procedures and requirements identified in this administrative regulation in order to be eligible to receive an initial license or renew an existing license.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The initial license application fees vary by cannabis business category and range from \$3,000 to \$35,000 for each submitted initial application. The annual renewal license fees also vary by cannabis business category and range from \$12,000 to \$115,000 for each submitted renewal application.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The cannabis businesses that receive a license from the Cabinet for Health and Family Services are authorized to conduct cannabis business activities in the commonwealth for the term of the license (i.e., one (1) year from the date of license issuance).

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

(a) Initially: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(b) On a continuing basis: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds provided by the commonwealth.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer the cannabis business license application process.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Yes, this administrative regulation establishes initial license application fees and annual renewal license fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All cannabis businesses will be treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.015, 218B.080, 218B.085, 218B.090, 218B.095, 218B.100, 218B.140, 523.100, Chapter 13B.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398.

Revenues: The commonwealth will receive initial license application fees paid by proposed cannabis businesses during the first year. The initial license application fees vary by cannabis business category and range from \$3,000 to \$35,000 for each submitted initial application. At this time, it is not known how many proposed cannabis businesses will apply for licenses and pay the attendant fees.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. The commonwealth will receive annual renewal license fees from licensed cannabis businesses that desire to continue operating in the commonwealth following the expiration of their existing license. The commonwealth may also receive additional initial license application fees if the Cabinet for Health and Family Services determines additional licenses should be issued in a given year based on criteria provided in 915 KAR Chapter 1. The annual renewal license fees vary by cannabis business category and range from \$12,000 to \$115,000 for each submitted renewal application.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): If its application is approved, a proposed cannabis will locate within a city or county in the commonwealth.

(a) Estimate the following for the first year:

Expenditures: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130

Revenues: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

(4) Identify additional regulated entities not listed in questions (2) or (3): Proposed cannabis businesses.

(a) Estimate the following for the first year:

Expenditures: A proposed cannabis business is required to pay the applicable initial license application fee at the time of initial application submission.

Revenues: Once operational, approved applicants will generate revenue through cannabis business activities. At this time, it is unknown how much revenue will be generated by those cannabis businesses.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Cannabis businesses are required to pay the applicable annual renewal license fee at the time of renewal application submission. This renewal license fee is refundable if the renewal application is denied.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. It is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 1 related to cannabis businesses.

(b) Methodology and resources used to determine the fiscal impact: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in

questions (2) - (4). (\$500,000 or more, in aggregate) The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services, and it is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 1 related to cannabis businesses.

(b) The methodology and resources used to reach this conclusion: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.

STATEMENT OF EMERGENCY 915 KAR 1:020E

This emergency administrative regulation is being promulgated in order to meet an imminent deadline for the promulgation of an administrative regulation that is established by KRS Chapter 218B, which was created by 2023 Ky. Acts Ch. 146 that Governor Andy Beshear signed into law on March 31, 2023. KRS Chapter 218B legalizes the cultivation, processing, dispensing, and use of medicinal cannabis in the Commonwealth of Kentucky, beginning on January 1, 2025, and directs the Cabinet for Health and Family Services to implement and oversee the medicinal cannabis program. KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses on or before July 1, 2024. This administrative regulation is being filed on an emergency basis so that proposed cannabis businesses have an opportunity to review and understand the initial and renewal licensure process and requirements in advance of the initial license application acceptance period. This emergency administrative regulation will be replaced by an ordinary administrative regulation, which is being filed contemporaneously herewith. The companion ordinary administrative regulation is identical to this emergency administrative regulation.

ANDY BESHEAR, Governor
ERIC C. FRIEDLANDER, Secretary

CABINET FOR HEALTH AND FAMILY SERVICES Office of the Secretary (New Emergency Administrative Regulation)

915 KAR 1:020E. Cannabis business licenses.

EFFECTIVE: April 18, 2024

RELATES TO: KRS Chapter 13B, Chapter 218B, 304.39-110, 523.100

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses. This administrative regulation establishes those procedures.

Section 1. General Requirements for Cannabis Business Licenses.

(1) The cabinet shall issue a license, by name and address, to a cannabis business only for the specific location identified by the cannabis business during the application and issuance process. A

license is only valid for the person or entity named in the license and only for the activity and location specified in the license.

(2) A licensed cannabis business shall conspicuously display its license within the premises of the cannabis business in a manner that is visible to visitors upon initial entry into its facility.

(3) A license shall not be issued to a cannabis business for operation within a personal residence or any other location where the cabinet or its authorized agents or law enforcement have limited access.

(4) A license shall not be issued to a cannabis business for a site or facility located on lands owned by the United States of America or the Commonwealth of Kentucky.

(5) A license is valid for one (1) year from the date of issuance as shown on the license.

Section 2. License Fees for Cannabis Businesses.

(1) A cannabis business shall pay the applicable license fee by credit card or automated clearing house (ACH) transfer to the cabinet within fifteen (15) calendar days of receipt of the invoice from the cabinet. The cabinet shall not issue a license to a cannabis business that fails to timely pay the applicable license fee.

(2) The initial nonrefundable license fees shall be:

- (a) Tier I cultivator: \$12,000;
- (b) Tier II cultivator: \$25,000;
- (c) Tier III cultivator: \$50,000;
- (d) Tier IV cultivator: \$100,000;
- (e) Processor: \$25,000;
- (f) Producer: \$25,000 plus the applicable cultivator tier initial license fee;

- (g) Dispensary: \$30,000; and
- (h) Safety compliance facility: \$12,000.

(3) The annual renewal license fees, which are refundable if the renewal application is denied, shall be:

- (a) Tier I cultivator: \$12,000;
- (b) Tier II cultivator: \$25,000;
- (c) Tier III cultivator: \$50,000;
- (d) Tier IV cultivator: \$100,000;
- (e) Processor: \$15,000;
- (f) Producer: \$15,000 plus the applicable cultivator tier renewal license fee;

- (g) Dispensary: \$15,000; and
- (h) Safety compliance facility: \$12,000.

Section 3. Initial Licensure of Cannabis Businesses and Use of Lottery.

(1) The cabinet shall publish notice of the number and category of cannabis business licenses available for distribution at the close of an initial license application period and provide the time frame during which initial license applications shall be accepted by the cabinet. This notice shall be published on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(2) In order to promote patient access to medicinal cannabis across the Commonwealth, the cabinet shall issue dispensary licenses within designated regions. The cabinet shall publish a map clearly identifying the medicinal cannabis regions on the Web site of the Kentucky Medical Cannabis Program. The eleven (11) medicinal cannabis regions in the Commonwealth are:

(a) Region 1 (Bluegrass): The geographical region comprised of the counties of Anderson, Bourbon, Boyle, Clark, Fayette, Franklin, Garrard, Harrison, Jessamine, Madison, Mercer, Scott, and Woodford;

(b) Region 2 (Kentuckiana): The geographical region comprised of the counties of Bullitt, Henry, Jefferson, Oldham, Shelby, Spencer, and Trimble;

(c) Region 3 (Northeast): The geographical region comprised of the counties of Bath, Boyd, Carter, Elliott, Fleming, Greenup, Lewis, Mason, Menifee, Montgomery, Morgan, Nicholas, Robertson, and Rowan;

(d) Region 4 (South Central): The geographical region comprised of the counties of Allen, Barren, Butler, Edmonson, Logan, Metcalfe, Monroe, Simpson, and Warren;

(e) Region 5 (Cumberland): The geographical region comprised of the counties of Bell, Casey, Clinton, Cumberland, Harlan, Knox, Laurel, Lincoln, McCreary, Pulaski, Rockcastle, Russell, Wayne, and Whitley;

(f) Region 6 (Mountain): The geographical region comprised of the counties of Breathitt, Clay, Estill, Floyd, Jackson, Johnson, Knott, Lawrence, Lee, Leslie, Letcher, Magoffin, Martin, Owsley, Perry, Pike, Powell, and Wolfe;

(g) Region 7 (Pennyrile): The geographical region comprised of the counties of Caldwell, Christian, Hopkins, Lyon, Muhlenberg, Todd, and Trigg;

(h) Region 8 (West Kentucky): The geographical region comprised of the counties of Ballard, Calloway, Carlisle, Crittenden, Fulton, Graves, Hickman, Livingston, McCracken, and Marshall;

(i) Region 9 (Lincoln Trail): The geographical region comprised of the counties of Adair, Breckinridge, Grayson, Green, Hardin, Hart, Larue, Marion, Meade, Nelson, Taylor, and Washington;

(j) Region 10 (Northern Kentucky): The geographical region comprised of the counties of Boone, Bracken, Campbell, Carroll, Gallatin, Grant, Kenton, Owen, and Pendleton; and

(k) Region 11 (Green River): The geographical region comprised of the counties of Daviess, Hancock, Henderson, McLean, Ohio, Union, and Webster.

(3) The cabinet shall issue at least four (4) dispensary licenses per medicinal cannabis region. For regions containing an urban-county government or a consolidated local government, the cabinet shall issue at least six (6) dispensary licenses, two (2) of which shall be issued to eligible cannabis businesses that physically locate their dispensary in the counties with an urban-county government or a consolidated local government. For all counties without an urban-county government or a consolidated local government, there shall be no more than one (1) dispensary per county.

(4) A dispensary licensee shall not change its retail location to another location within the same region without prior cabinet approval. A dispensary licensee shall not change its retail location to outside of the region where it was initially licensed.

(5) The licenses for cultivators, processors, producers, and safety compliance facilities are not subject to regional restrictions within the Commonwealth, and those licensees shall operate at the physical address identified on their respective licenses.

(6) Applicants for initial cannabis business licenses who comply with all application requirements contained in KRS Chapter 218B and 915 KAR 1:010, and whose applications are deemed complete by the cabinet, shall be eligible to receive the license requested. If the number of eligible applications does not exceed the maximum number of licenses available within a cannabis business category following the close of an initial license application period, the cabinet shall provide written notice to the eligible applicants that a license shall be issued to them upon timely payment of the applicable license fee. When an eligible applicant timely pays the applicable license fee, the cabinet shall issue a copy of the license to the applicant that contains the cannabis business's name, license number, physical location, issue date, and expiration date.

(7) If the number of eligible applications exceeds the maximum number of licenses available within a cannabis business category following the close of an initial license application period, the cabinet shall conduct a lottery to issue the licenses for that cannabis business category. The cabinet shall notify the eligible applicants of their entry into the lottery and publicly announce the date, time, and manner of randomly selecting eligible applicants for the requested license. A lottery to select the licensees in each cannabis business category, as needed, shall be held in a manner that can be observed by the public.

(8) The cabinet may consult or contract with a third-party lottery operator or other public agencies with relevant expertise in conducting lotteries. The entity selected to conduct the lottery shall conduct an independent lottery for each cannabis business category where the number of eligible applicants exceeds the number of available licenses. The cabinet shall assign a number to each eligible applicant in each license lottery and maintain the confidentiality of the list(s) containing the eligible applicants and their assigned numbers until after the random drawings have occurred.

(9) The cabinet shall provide written notice to the eligible applicants selected through the lottery process that a license shall be issued to them upon timely payment of the applicable license fee. When an eligible applicant timely pays the applicable license fee, the cabinet shall issue a copy of the license to the applicant that contains the cannabis business's name, license number, physical location, issue date, and expiration date.

(10) The cabinet shall provide written notice to eligible applicants that were not selected through the lottery process informing them of the same.

(11) If at the conclusion of the lottery selection process an eligible applicant declines the license or fails to pay its license fee within the required timeframe, the cabinet may conduct supplemental license lotteries as needed until all available cannabis business licenses have been issued and initial license fees paid. For any supplemental lottery for a license within a cannabis business category, eligible applicants who were not previously issued a license through the lottery process for that cannabis business category shall be entered into the supplemental lottery if their selection would comply with any applicable geographic restrictions contained in this administrative regulation.

Section 4. Requirements for Licensees Prior to First Day of Cannabis Business Activities.

(1) Prior to its first day of cannabis business activities in the Commonwealth, a licensee shall provide written confirmation to the cabinet that:

(a) The licensee has complied and will continue to comply with all applicable requirements of KRS Chapter 218B, including KRS 218B.095 and 915 KAR Chapter 1, and shall make available all records and documentation verifying such compliance upon the request of the cabinet;

(b) The licensee has submitted its complete physical address and the global positioning system (GPS) coordinates for any cannabis business activities to the cabinet and confirmed its business is not located within 1,000 feet of an existing elementary or secondary school or a daycare center. For the purpose of this administrative regulation, 1,000 feet shall be measured in a straight line from the nearest property line of an existing elementary school, secondary school, or daycare center to the nearest property line of the licensee's place of business. The cabinet shall have an opportunity to inspect the location prior to the first day of cannabis business activities at that location in order to identify any deficiencies for correction;

(c) The licensee has conducted and shall continue to conduct criminal background checks of each person seeking to be a principal officer, board member, agent, volunteer, or employee of the cannabis business before that person begins work and shall not employ, take on as a volunteer, or have as a board member, principal officer, or agent any person who was convicted of a disqualifying felony offense or is younger than twenty-one (21) years of age. The licensee shall maintain records of these background checks and provide same to the cabinet during subsequent inspections or upon request;

(d) The licensee has obtained and shall maintain workers compensation insurance for all employees in the Commonwealth and shall pay all required employer contributions to the Kentucky Office of Unemployment Insurance;

(e) The licensee has obtained and shall maintain, at a minimum, commercial general liability insurance for \$1,000,000 per occurrence and \$2,000,000 per aggregate and commercial automobile insurance as required by Kentucky law, specifically KRS 304.39-110, for any vehicle used to transport medicinal cannabis or medicinal cannabis products;

(f) The licensee has established written standard operating procedures required by KRS Chapter 218B and 915 KAR Chapter 1, including those specific to its cannabis business category, and shall provide written or electronic copies of the procedures to the cabinet during inspections or upon request. The standard operating procedures that apply to cannabis businesses include:

1. Security;
2. Recordkeeping;
3. Employee qualifications, supervision, and training;

4. Quality assurance;
5. Adverse event reporting and recall;
6. Waste disposal and sanitation;
7. Transportation of medicinal cannabis;
8. Inventory management, including storage and labeling of medicinal cannabis;

9. Cash management and anti-fraud procedures;
10. Preventing unlawful diversion of medicinal cannabis; and
11. Incident reporting procedures to notify the cabinet;

(g) The licensee continues to maintain sufficient capital for operations of its cannabis business for, at a minimum, the term of the license;

(h) The licensee has implemented appropriate security measures to deter and prevent theft of medicinal cannabis and unauthorized entrance into areas containing medicinal cannabis;

(i) The licensee has and shall continue to display its license at all times in a conspicuous location within the premises of the cannabis business in a manner that is visible to visitors upon initial entry into its facility;

(j) The licensee's principals, agents, employees, and volunteers have completed all trainings required by the cabinet to be completed prior to its first day of cannabis business activities in the Commonwealth;

(k) The licensee understands how to properly use the Commonwealth's designated electronic monitoring system and seed to sale tracking system for medicinal cannabis and shall use those systems as required throughout the entirety of its licensure period;

(l) The licensee consents to reasonable inspections, examinations, searches, and seizures; and

(m) The licensee swears and affirms that all information and documentation provided to the cabinet is true and correct and that any false statement made to the cabinet by the licensee is punishable under the applicable provisions of KRS 523.100.

(2) A licensee shall also provide the cabinet with thirty (30) calendar days advance notice of its intended first day of cannabis business activities in the Commonwealth and allow the cabinet an opportunity to inspect the licensee's site and facility prior to the first day of cannabis business activities. The licensee shall promptly correct any deficiencies identified by the cabinet during this inspection and shall not commence operations until deficiencies are corrected and approved by the cabinet. If the licensee fails to provide the notice required under this section or fails to correct identified deficiencies, the cabinet may take one (1) or more of the actions described in Section 12 of this administrative regulation.

(3) Once a cultivator or producer has received approval from the cabinet to commence operations, the cultivator or producer shall:

(a) Bring a start-up inventory of medicinal cannabis seeds, seedlings, and plants into its facility;

(b) Submit a written request to the cabinet via electronic mail to kymedcanreporting@ky.gov requesting that the cabinet open a window in the state's designated seed to sale tracking system for the cultivator or producer to enter its start-up inventory of medicinal cannabis seeds, seedlings, and plants into the system. This written request shall include the number and strain of all medicinal cannabis seeds, seedlings, and plants brought into the facility;

(c) Have fourteen (14) calendar days from receipt of the cabinet's approval of the cultivator or producer's written request in which to enter its start-up inventory into the state's designated seed to sale tracking system. A cultivator or producer shall enter its start-up inventory into the state's designated seed to sale tracking system as follows:

1. Seeds shall be entered into the system as a package;
2. Seedlings and plants shall be entered into the system as a batch; and

(d) Notify the cabinet in writing via electronic mail to kymedcanreporting@ky.gov when all its start-up inventory has been fully and accurately entered into the state's designated seed to sale tracking system and confirm the number and strain of medicinal cannabis seeds, seedlings, and plants brought into the facility.

(4) Following acquisition of its start-up inventory, a cultivator or producer may submit a written request to the cabinet via electronic mail to kymedcanreporting@ky.gov requesting that the cabinet open a window in the state's designated seed to sale tracking system for

the cultivator or producer to enter new medicinal cannabis seeds, seedlings, or plants into the system. This written request shall:

(a) State the proposed date to bring new inventory into the facility; and

(b) Provide the number and strain of all new medicinal cannabis seeds, seedlings, and plants that the cultivator or producer requests to bring into the facility.

(5) Upon receipt of the cabinet's approval of a written request made pursuant to subsection (4) of this section, the cultivator or producer shall have seven (7) calendar days to enter its new inventory into the state's designated seed to sale tracking system. A cultivator or producer shall enter its new inventory into the state's designated seed to sale tracking system as described in subsection (3)(c) of this section. A cultivator or producer shall notify the cabinet in writing via electronic mail to kymedcanreporting@ky.gov when all new inventory has been fully and accurately entered into the state's designated seed to sale tracking system and confirm the number and strain of medicinal cannabis seeds, seedlings, and plants brought into the facility.

Section 5. Requirements for Licensees During Licensure Period.

(1) A licensee shall only hold licenses in one (1) cannabis business category at any given time, except as provided in Section 10(4) of this administrative regulation. A licensee may hold multiple licenses in the same cannabis business category as long as each license contains a separate and distinct physical address where the cannabis business conducts licensed cannabis activities and the licensee is otherwise in compliance with the requirements of KRS Chapter 218B and 915 KAR Chapter 1, including any geographic restrictions contained in this administrative regulation.

(2) Duty to report.

(a) During the licensure period, a licensee shall notify the cabinet in writing of any change in facts or circumstances reflected in the initial license application, supplemental written confirmations, or any license renewal application submitted to the cabinet, or any newly discovered fact or circumstance which would have been included in the application or information provided to the cabinet if known at the time the information was submitted. This duty to report includes:

1. Notifying the cabinet of any physical change, alteration, or modification to a licensed facility that materially or substantially alters the facility or its usage, including an increase or decrease in the total square footage of the facility;

2. Significant electrical modifications that require inspection by local authorities; and

3. Sealing off, creation of, or relocation of a common entryway, doorway, passage, or other means of ingress or egress when the common entryway, doorway, or passage alters or changes limited access areas.

(b) During the licensure period, a licensee shall notify the cabinet following knowledge or discovery of the following events:

1. Inventory discrepancies;

2. Diversion, theft, or loss of any medicinal cannabis or medicinal cannabis product;

3. Unauthorized destruction of medicinal cannabis;

4. Any criminal proceeding involving the licensee's owners, principal officers, board members, employees, volunteers, financial backers, or agents arising out of actions taken on the licensee's premises or while using licensee property;

5. Security alarm activation or other event that requires response by law enforcement or security personnel;

6. Any loss, unauthorized dissemination, or unauthorized alteration of records related to medicinal cannabis, cardholders, employees, volunteers, or agents;

7. Accidents involving transport vehicles that occur while the licensee is transporting or delivering medicinal cannabis;

8. Any act involving cultivating, processing, producing, testing, transporting, or dispensing medicinal cannabis by any person that may create a health or safety risk to cardholders or the general public;

9. A dispensary declines the sale of medicinal cannabis to a cardholder; and

10. A dispensary desires to prohibit a cardholder from entering its premises.

(c) The notifications required under this subsection shall be:

1. Provided on a form prescribed by the cabinet and available on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>, that includes time and date of the event, individuals involved, and a detailed description of the event; and

2. Sent via electronic mail to kymedcanreporting@ky.gov within twenty-four (24) hours of discovery or knowledge of the event.

(d) If the licensee fails to provide the notice required under this section, the cabinet may take one (1) or more of the actions described in Section 12 of this administrative regulation.

(e) In the event a local government prohibits all cannabis business operations within its territory in accordance with KRS 218B.130, a licensee located within the affected territory shall notify the cabinet in writing via electronic mail to kymedcanreporting@ky.gov within twenty-four (24) hours of notification or discovery of this prohibition, including all information known regarding the prohibition, and may make a written request to the cabinet to change its cannabis business location in accordance with Section 9 of this administrative regulation.

(3) Inspection and investigation.

(a) The cabinet may conduct announced or unannounced inspections or investigations to determine the licensee's compliance with KRS Chapter 218B and 915 KAR Chapter 1. These investigations and inspections may occur during regular working hours and at other reasonable times in order to inspect the licensee's place of business, question privately any such principal officer, board member, agent, employee, or employee's representative, and investigate such facts, conditions, practices, or other matters deemed appropriate to determine whether the licensee is operating in compliance with KRS Chapter 218B and 915 KAR Chapter 1. If a licensee refuses such entry onto its premises, the cabinet may apply to the circuit court in the county in which the licensee is located for an order to enforce the right of entry.

(b) Following completion of an inspection or investigation, the cabinet shall have the authority to confiscate, possess, transport, and destroy any medicinal cannabis that has been deemed noncompliant with the standards established by KRS Chapter 218B and 915 KAR Chapter 1.

(c) The cabinet's authorized representatives shall also have the authority to:

1. Administer oaths;

2. Examine witnesses under oath;

3. Take depositions;

4. Certify to official acts;

5. Review records and accounts;

6. Take photographs;

7. Secure any other evidence deemed necessary to evaluate compliance with KRS Chapter 218B and 915 KAR Chapter 1; and

8. Issue subpoenas to compel the attendance of witnesses and parties and the production of books, accounts, correspondence, memoranda, and other records considered necessary and relevant to the matter under investigation by the cabinet.

(d) When a witness or party fails to comply with a subpoena issued by the cabinet, the circuit court in the county in which the witness or party is located may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena or order issued from such court or a refusal to testify therein, and may adjudge such person guilty of contempt of court and punish him or her as provided by law in other contempt cases. In any proceeding brought under this paragraph, a circuit court may modify or set aside the subpoena.

(e) An investigation or inspection may include:

1. Inspection of a licensee's site, facility, vehicles, equipment, books, records, papers, documents, data, and other physical or electronic information;

2. Interviews of licensee's principal officers, board members, agents, employees, volunteers, or employee representatives;

3. Interviews of licensee's former principal officers, board members, agents, employees, volunteers, or employee representatives; and

4. Inspection of equipment, instruments, tools, machinery, and vehicles that are used to grow, process, package, transport, and test medicinal cannabis.

(f) The cabinet and its authorized agents shall have free access to review and, if necessary, make copies of books, records, papers, documents, data, or other physical or electronic information that relates to the business of the licensee, including financial data, sales data, shipping data, pricing data, and employee data.

(g) Failure of a licensee to provide the cabinet and its authorized agents immediate access to any part of a licensee's site or facility, requested material, physical or electronic information, or individual as part of an inspection or investigation may result in the imposition of a civil monetary fine, suspension, or revocation of its license, or an immediate cessation of operations pursuant to a cease-and-desist order issued by the cabinet if continued operations would present a risk to the health, safety, or welfare of cardholders or the public.

(h) The cabinet and its authorized agents shall have access to any area within a licensee's site or facility, including any area being used to store medicinal cannabis, and are authorized to collect samples and test samples for testing.

(4) Training.

(a) Every principal, agent, employee, and volunteer of a licensee who has direct contact with cardholders, or physically handles cannabis seeds, seedlings, mature cannabis plants, medicinal cannabis, or medicinal cannabis products, shall complete applicable training required by the cabinet, which may include trainings for cultivating, processing, testing, and retail sale of medicinal cannabis and usage of the Commonwealth's designated electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The cabinet shall provide written notice to licensees of the availability of any required training and the frequency to complete the training.

(b) The cabinet shall publish a Guide to Worker Safety and Health in the Kentucky Medical Cannabis Industry on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>. Licensees shall maintain a physical copy of the Guide to Worker Safety and Health in the Kentucky Medical Cannabis Industry in their facility in a manner that is readily accessible to its employees or agents and ensure that employees receive annual training on the contents of the guide.

(c) A licensee shall train its principals, agents, employees, and volunteers on its established standard operating procedures within thirty (30) days of starting employment and once every calendar year thereafter.

(d) A licensee shall retain any training participation records of its principals, agents, employees, and volunteers and make them available for inspection by the cabinet upon request for a period of five (5) years.

(5) Insurance requirements.

(a) A licensee shall obtain and maintain commercial general liability insurance for, at a minimum, \$1,000,000 per occurrence and \$2,000,000 per aggregate.

(b) A licensee shall obtain and maintain commercial automobile insurance as required by Kentucky law, specifically KRS 304.39-110, for any vehicle used to transport medicinal cannabis or medicinal cannabis products.

(c) A licensee shall obtain and maintain workers' compensation insurance coverage for employees in the Commonwealth and shall pay all required employer contributions to the Kentucky Office of Unemployment Insurance.

(d) The insurance requirements contained in this section shall begin prior to the licensee's first day of cannabis business activities in the Commonwealth and continue for as long as the licensee is operating under a license issued by the cabinet.

(6) Reports.

(a) The cabinet may require ongoing reporting of operational and financial information from the licensee in a form and manner prescribed by the cabinet.

(b) The cabinet shall require any reports necessary to carry out its responsibilities under KRS Chapter 218B and 915 KAR Chapter 1.

Section 6. Failure to be Operational.

(1) If a licensee has not met the timeline estimates provided in its initial license application to begin cannabis business activities in the Commonwealth, the licensee shall notify the cabinet via electronic mail to kymedcanreporting@ky.gov within two (2) calendar days of determining a need to adjust its timeline. In its written notice to the cabinet, the licensee shall identify any operational deficiencies and provide an explanation for failing to adhere to its timeline estimates.

(2) Within seven (7) calendar days of providing the written notice required under this section, the licensee shall submit a corrective action plan to the cabinet that sets forth the licensee's updated timeline and a date certain for correcting the identified operational deficiencies.

(3) If the licensee fails to comply with its corrective action plan, the cabinet may impose penalties or sanctions as outlined in Section 12 of this administrative regulation.

Section 7. Closure of a Licensed Cannabis Business Location.

(1) A licensee shall notify the cabinet via electronic mail to kymedcanreporting@ky.gov immediately, but in no event fewer than thirty (30) calendar days prior to the projected date of closure, upon making a determination that it intends to close a cannabis business location.

(2) A licensee shall not accept or purchase seeds, seedlings, medicinal cannabis plants, medicinal cannabis, medicinal cannabis products, medicinal cannabis accessories, equipment, or medicinal devices or instruments for the closing location as of the date of closure notice submitted to the cabinet.

(3) The notice shall be accompanied by the licensee's written plan for closing its cannabis business location that includes:

(a) The projected date of closure;

(b) How the licensee intends to notify, prior to the projected date for closure, any person or entity to which the licensee provides medicinal cannabis or medicinal cannabis services from the closing location;

(c) How the licensee intends to dispose of seeds, seedlings, medicinal cannabis plants, medicinal cannabis, medicinal cannabis products, or other plant matter projected to still be at the closing location at the time of the projected closure; and

(d) How the licensee intends to dispose of equipment, devices, instruments, or medicinal cannabis accessories at the closing location.

(4) A licensee shall not remove or destroy any seeds, seedlings, medicinal cannabis plants, medicinal cannabis, other plant matter, medicinal cannabis products, equipment, medicinal cannabis accessories, or medicinal devices or instruments until the cabinet has approved its plan for closing the location and shall comply with all applicable requirements regarding disposal of medicinal cannabis contained in 915 KAR Chapter 1.

(5) The cabinet may enter and inspect the cannabis business location and facilities following receipt of the licensee's closure plan to determine whether to approve the closure plan. If the cabinet denies the closure plan, it shall notify the licensee in writing and require the licensee to submit a revised closure plan within seven (7) calendar days of the date of the denial notice. The cabinet shall review and consider the revised closing plan and issue a determination within seven (7) calendar days of receipt.

(6) If the cabinet approves the licensee's closure plan, the licensee shall surrender its license for the closing location to the cabinet on or before the date for closure provided in the plan.

Section 8. Request for Approval of a Change in Cannabis Business Ownership.

(1) If there is an impending change in ownership of a licensee from the ownership listed in the initial license application, the licensee shall submit a written request for approval of a change in ownership to the cabinet via electronic mail to kymedcanreporting@ky.gov. The cabinet shall consider the requirements for ownership of a cannabis business contained in KRS Chapter 218B and 915 KAR Chapter 1 as well as any other factors that the cabinet deems relevant in making its determination

on the request. The cabinet shall review the request and notify the licensee in writing whether the request is approved or denied.

(2) For each new individual or entity that is part of the proposed change in ownership, the licensee shall include in its request the information required of owners in the initial license application. The licensee shall also provide the cabinet with the names of all outgoing individuals or entities previously listed as owners.

(3) If the cabinet determines that a request for approval of a change in ownership is lacking sufficient information upon which to make a determination, the cabinet shall notify the licensee in writing of the areas that require additional information and documentation. The licensee shall have fifteen (15) calendar days from the mailing date of the notice to provide the requested information and documentation to the cabinet. A licensee's failure to provide the required information and documentation to the cabinet by the deadline shall be grounds for the denial of the requested change in ownership.

Section 9. Request for Approval of a Change in Cannabis Business Location.

(1) A licensee desiring to change the location of a site or facility shall submit a written request for approval of a change in location to the cabinet via electronic mail to kymedcanreporting@ky.gov. A change in location of a site or facility shall not occur unless the cabinet approves the change in writing. The cabinet shall consider the location requirements for a cannabis business contained in KRS Chapter 218B and 915 KAR Chapter 1 in making its determination on the request, and any other factors that the cabinet deems relevant. The cabinet shall review the request and notify the licensee in writing whether the request is approved or denied.

(2) A written request for approval of a change in location shall include the reason(s) for requesting the change and other information about the proposed new location, including:

(a) The proposed new physical address of the cannabis business and the GPS coordinates for any proposed cultivation, processing, producing, testing, or dispensing activities;

(b) Evidence that the licensee has the authority to use the proposed site as a cannabis business;

(c) Confirmation that the proposed location is not within 1,000 feet of an existing elementary or secondary school or a daycare center at the time the request is made; and

(d) A site plan for the cannabis business.

(3) If the cabinet in its discretion approves the request, the cabinet shall issue an amended license to the licensee reflecting the new physical address of the cannabis business. The expiration date of the amended license shall be the same as the expiration date of the previous license.

(4) Within ninety (90) calendar days of the issuance by the cabinet of an amended license under this section, the licensee shall change the location of its operation to the new location designated in the new license. Simultaneously, the licensee shall cease to operate at the former location and surrender its existing license to the cabinet. The following conditions shall apply:

(a) At no time may a licensee operate or exercise any of the privileges granted under the license in both locations;

(b) The cabinet may extend the ninety (90) day deadline for relocation for up to an additional ninety (90) calendar days;

(c) The licensee shall notify the cabinet via electronic mail to kymedcanreporting@ky.gov at least fifteen (15) calendar days prior to beginning cannabis business activities at the new location; and

(d) The cabinet may conduct an inspection to determine the appropriateness of the new location, and upon notification from the cabinet, the licensee shall immediately correct any deficiencies identified by the cabinet during this inspection and shall not commence operations at the new location until the deficiencies have been corrected and approved by the cabinet.

(5) For dispensary licenses, the cabinet shall not approve a change of location that is outside the boundaries of the medicinal cannabis region for which the license was issued or that otherwise is not in compliance with the location restrictions contained in Section 3(3) of this administrative regulation.

Section 10. Request to Sell Cannabis Business License.

(1) A licensee desiring to sell its cannabis business license shall submit a written request for approval of the sale to the cabinet via electronic mail to kymedcanreporting@ky.gov. The sale of a cannabis business license shall not occur unless the cabinet approves the sale in writing. The cabinet shall review the request and notify the licensee in writing whether the proposed sale is approved or denied. The cabinet shall consider the initial license application requirements for a cannabis business contained in KRS Chapter 218B and 915 KAR 1:010, and any other factors that the cabinet deems relevant in making its determination on the request.

(2) A written request to approve a license sale shall include the sale price, the reason(s) for requesting the sale, and information about the proposed purchaser, including:

(a) All information and documentation required to be submitted by a cannabis business as part of the initial license application process in order to show the proposed purchaser would be eligible for entry into a license lottery conducted according to this administrative regulation;

(b) Signed attestations from the proposed purchaser that are required as part of the initial license application process;

(c) A transition plan for transferring the license from the licensee to the proposed purchaser; and

(d) A notarized affidavit from the proposed purchaser swearing and affirming that all information and documentation provided to the cabinet along with the request is true and correct, and an acknowledgement that any false statement made to the cabinet as part of the proposed sale process is punishable under the applicable provisions of KRS 523.100.

(3) The cabinet shall approve a licensee's sale of a license if the proposed purchaser and any new location or facilities meet the requirements of KRS Chapter 218B and 915 KAR Chapter 1.

(4) The cabinet shall deny a licensee's sale of a license to any proposed purchaser who currently holds a license in a different cannabis business category than the one offered for sale (such as the proposed purchaser seeks to purchase a dispensary license while currently licensed as a tier I cultivator), except that a cultivator may sell its license to another licensed cultivator in the same or different cultivator tier (such as the proposed purchaser may purchase a tier II cultivator license while currently licensed as a tier I cultivator). Cultivators may hold licenses in more than one (1) cultivator tier at any given time as long as each license contains a separate and distinct physical address where cultivator conducts licensed cannabis activities and the licensee is otherwise in compliance with the requirements of KRS Chapter 218B and 915 KAR Chapter 1.

Section 11. Issuance of Additional Cannabis Business Licenses.

(1) Beginning January 1, 2025, the cabinet shall, on a quarterly basis, review the need for issuance of new licenses in each cannabis business category.

(2) In making its determination whether to issue new licenses, the cabinet may consider:

(a) The population of the Commonwealth;

(b) The number of active cardholders;

(c) Changes to the list of qualifying medical conditions for medicinal cannabis;

(d) Market supply and demand;

(e) Geographic distribution of dispensaries and other cannabis businesses;

(f) Workforce development opportunities; and

(g) Any other factors that the cabinet deems relevant to its analysis.

(3) If the cabinet determines there exists a need for additional cannabis business licenses in the Commonwealth, the cabinet shall issue a notice documenting the basis for this determination, including a list of the factors it considered to arrive at that determination.

(4) The cabinet shall publish on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>, the notice required by this section as well as a notice of initial license application availability. This notice shall provide the timeframe during which initial license applications shall be accepted by the

cabinet and the category and number of cannabis business licenses available for distribution at the close of the application period. Applicants for new cannabis business licenses shall adhere to the requirements of 915 KAR 1:010 regarding initial license applications and follow the initial license application instructions. The process for issuing new licenses shall comply with the requirements of this administrative regulation.

Section 12. Penalties and Sanctions.

(1) In addition to any other penalty imposed by law for violations of KRS Chapter 218B and 915 KAR Chapter 1, the cabinet may take one (1) or more of the following actions:

(a) Suspend or revoke a license if any of the following occur:

1. The licensee or any of its agents commit multiple violations or a serious violation of the requirements of KRS Chapter 218B and 915 KAR Chapter 1;

2. The licensee or any of its agents fail to maintain effective control against diversion of medicinal cannabis from its facility or under its control;

3. The licensee or any of its agents violate a provision of other state or local laws regarding the operation of its cannabis business;

4. The licensee or any of its agents engage in conduct, or an event occurs, that would have disqualified the cannabis business from being issued a license or having its license renewed; or

5. The licensee submitted false or misleading information on any application submitted to the cabinet.

(b) Impose a civil fine of not more than \$10,000 for each violation and an additional fine of not more than \$1,000 for each day of the continuing violation. In determining the amount of each fine, the cabinet shall take the following into consideration:

1. The seriousness of the violation;

2. The potential harm resulting from the violation to cardholders or the general public;

3. The willfulness of the violation;

4. Previous violations, if any, by the licensee being assessed;

5. The economic benefit to the licensee being assessed for failing to comply with the requirements of KRS Chapter 218B, 915 KAR Chapter 1, or an order issued by the cabinet; and

6. The economic deterrent to the licensee.

(c) Issue a cease-and-desist order to immediately stop or restrict the operations of a licensee to protect the public's health, safety, and welfare. The following applies to issuing a cease-and-desist order:

1. An order may include a requirement that a licensee cease or restrict some or all of its operations. In addition, the order may prohibit the use of some or all of the medicinal cannabis grown, processed, or to be sold by the licensee;

2. An order may be issued by an authorized agent of the cabinet immediately upon the completion of an inspection or investigation if the agent observes or suspects an operational failure or determines that the conditions will likely create a diversion of medicinal cannabis, contamination of medicinal cannabis, or a risk to cardholders or the general public;

3. An order may be issued by an authorized agent of the cabinet in circumstances where a licensee fails to provide timely notice of closure of a cannabis business location in accordance with Section 7 of this administrative regulation and the cabinet suspects the imminent closure of the cannabis business shall likely create a diversion of medicinal cannabis or a risk to cardholders or the general public;

4. An order may include:

a. An immediate evacuation of the site and facility, and the sealing of the entrances to the facility;

b. A quarantine of some or all of the medicinal cannabis found at the facility; and

c. The suspension of the sale or shipment of some or all of the medicinal cannabis found at the facility.

(d) Issue a written warning if the cabinet determines that either:

1. The public interest shall be adequately served under the circumstances by the issuance of the warning; or

2. The violation does not threaten the safety or health of cardholders or the general public, and the licensee shall take immediate action to remedy the violation.

(e) Require a licensee develop and adhere to a corrective action plan approved by the cabinet. The cabinet shall monitor compliance with the corrective action plan. Failure to comply with the corrective action plan may result in the cabinet taking additional action under the applicable provisions of this section as it deems appropriate.

(2) A person who aids, abets, counsels, induces, procures, or causes another person to violate KRS Chapter 218B or 915 KAR Chapter 1, or an order issued by cabinet, shall be subject to the civil penalties provided for under this section.

(3) Before the cabinet may revoke or suspend a license, the cabinet shall provide the licensee with written notice specifying the nature of the alleged violation(s) and allow the licensee an opportunity to appear and be heard pursuant to KRS Chapter 13B. Any resulting hearing shall be conducted in compliance with the requirements of KRS Chapter 13B.

(4) The cabinet shall provide a licensee with written notice of imposition of a civil fine, order of restitution, cease-and-desist order, written warning, or corrective action plan via certified mail to the address on the license. The licensee may, within thirty (30) calendar days after the date of the mailing of the cabinet's notice, file a written request for an administrative hearing regarding the action taken. The hearing shall be conducted in compliance with the requirements of KRS Chapter 13B.

Section 13. Technical Advisories.

(1) The cabinet may issue technical advisories by memorandum to assist licensees in complying with the KRS Chapter 218B and 915 KAR Chapter 1.

(2) Technical advisories shall not have the force of law or regulation, but shall provide guidance on the cabinet's interpretation of, and how a licensee may maintain compliance with, KRS Chapter 218B and 915 KAR Chapter 1.

(3) Notice of the availability of a technical advisory shall be published on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

Section 14. Minimal Performance Standards for Biennial Accreditation.

(1) As part of the license renewal process, licensees shall meet the minimum performance standards established in 915 KAR 1:010, Section 6 in order to be approved for a renewal license.

(2) If a licensee successfully meets the minimum performance standards established in 915 KAR 1:010, Section 6 over a two (2) year period, the cabinet shall recognize the licensee as an accredited cannabis business in the Commonwealth.

(3) The recognition provided under this section shall expire two (2) years after the date of issuance, and shall be renewed if the licensee continues to:

(a) Operate in the Commonwealth as of the expiration date; and

(b) Meet the minimum performance standards established in 915 KAR 1:010, Section 6.

SAM FLYNN, Executive Director

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 9, 2024

FILED WITH LRC: April 18, 2024 at 11:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on June 24, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by June 17, 2024, 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 virtually 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, 2024. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Oran S. McFarlan, III

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses. This administrative regulation establishes those procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses.

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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: This administrative regulation affects cannabis businesses that have applied for and subsequently receive licenses to conduct cannabis business activities in the commonwealth.

(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 requirements to receive a cannabis business license and remain in good standing throughout the licensure period are provided in this 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 initial license fees vary by cannabis business category and range from \$12,000 to \$125,000 for each licensed location. The annual renewal license fees also vary by cannabis business category and range from \$12,000 to \$115,000 for each licensed location.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The cannabis businesses that receive a license from the Cabinet for Health and Family Services are authorized to conduct cannabis business activities in the commonwealth for the term of the license, which is one (1) year from the date of license issuance. (5) Provide an estimate of how much it will cost to implement this administrative regulation:

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

(a) Initially: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(b) On a continuing basis: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds provided by the commonwealth.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer and enforce licensure of cannabis businesses.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Yes, this administrative regulation establishes initial license fees and annual renewal license fees for cannabis businesses to operate in Kentucky.

(9) TIERING: Is tiering applied? Tiering is not applied. Cannabis businesses will be treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.015, 218B.080, 218B.085, 218B.090, 218B.095, 218B.100, 218B.105, 218B.110, 218B.115, 218B.120, 218B.125, 218B.140, 304.39-110, 523.100, KRS Chapter 13B.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398.

Revenues: The commonwealth will receive initial license fees paid by proposed cannabis businesses during the first year. The initial license fees vary by cannabis business category and range from \$12,000 to \$125,000 for each licensed location.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. The commonwealth will receive annual renewal license fees from licensed cannabis businesses that desire to continue operating in the commonwealth following the expiration of their existing license. The annual renewal license fees vary by cannabis business category and range from \$12,000 to \$115,000 for each submitted renewal application. The annual renewal license fees are refundable if the renewal application is denied. The commonwealth may also receive additional initial license fees if the Cabinet for Health and Family Services determines additional licenses should be issued in a given year based on criteria provided in 915 KAR Chapter 1.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): If its application is approved, a proposed cannabis business will locate within a city or county in the commonwealth.

(a) Estimate the following for the first year:

Expenditures: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130

Revenues: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

(4) Identify additional regulated entities not listed in questions (2) or (3): Licensed cannabis businesses.

(a) Estimate the following for the first year:

Expenditures: The initial license fees vary by cannabis business category and range from \$12,000 to \$125,000 for each licensed location.

Revenues: Once operational, licensees will generate revenue through cannabis business activities. At this time, it is unknown how much revenue will be generated by those licensed cannabis businesses.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Cannabis businesses are required to pay the applicable annual renewal license fee at the time of renewal application submission. The annual renewal license fees vary by cannabis business category and range from \$12,000 to \$115,000 for each submitted renewal application. This renewal license fee is refundable if the renewal application is denied.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. It is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 1 related to cannabis businesses.

(b) Methodology and resources used to determine the fiscal impact: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services, and it is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 1 related to cannabis businesses.

(b) The methodology and resources used to reach this conclusion: As part of its Biennial Budget Request, the Cabinet for

Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.

AMENDED IN-PROCESS EMERGENCY ADMINISTRATIVE REGULATIONS

NOTE: Pursuant to KRS 13A.190, emergency regulations expire after 270 days (or 270 days plus the number of days an accompanying ordinary is extended) or upon replacement by an ordinary regulation, whichever occurs first. Other statutes or legislation may affect a regulation's actual end date.

NONE

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
JIC = Interim Joint Committee

BOARDS AND COMMISSIONS
Board of Dentistry
(Amended at ARRS Committee)

201 KAR 8:533. Licensure of dentists.

RELATES TO: KRS 39A.350-39A.366, 218A.205, 304.40-075, 313.010(9), 313.030, 313.254

STATUTORY AUTHORITY: KRS 218A.205, 313.021(1)(a), (b), (c), 313.035(1), (3), 313.254

NECESSITY, FUNCTION, AND CONFORMITY: KRS 313.035 and 218A.205 require the board to promulgate administrative regulations relating to requirements and procedures for the licensure of dentists. This administrative regulation establishes requirements and procedures for licensure of dentists.

Section 1. General Licensure Requirements. An applicant desiring initial licensure in Kentucky as a general dentist shall [dental licensure in the Commonwealth shall at a minimum]:

(1) Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, verified by testing as necessary;

(2) Submit a completed, signed, and notarized Application for Dental Licensure with an attached applicant photo taken within the past six (6) months;

(3) Pay the fee required by 201 KAR 8:520;

(4) Not be [currently] subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;

(5) Complete and pass the board's jurisprudence exam;

(6) Hold an active [Provide proof of having current] certification in cardiopulmonary resuscitation (CPR) or a more comprehensive program which meets or exceeds the American Heart Association Guidelines for CPR and ECC;

(7) Submit to a nationwide state and federal criminal background check by fingerprint through the Department of Kentucky State Police;

(8) Provide verification [within three (3) months of the date the application is received at the office of the board] of any license to practice dentistry held previously or currently in any state or other licensing jurisdiction;

(9) Hold a Doctor of Medicine in Dentistry (DMD) or Doctor of Dental Surgery (DDS) degree from a dental school, college, or department of a university accredited by the [Provide proof that the applicant is a graduate of a] Commission on Dental Accreditation (CODA) [accredited dental school or college or dental department of a university];

(10) Successfully complete [Provide proof that the applicant has successfully completed Part I and Part II of] the National Board Dental Examination (NBDE) Part I and Part II or the Integrated National Board Dental Examination (INBDE) [which is written and theoretical], conducted by the Joint Commission on National Dental Examinations (JCNDE); [and]

(11) Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank; and

(12) Complete all additional requirements for one (1) of the following:

(a) Licensure by clinical examination;

(b) Licensure by credentials; or

(c) Licensure by foreign training.

Section 2. Requirements for Licensure by Clinical Examination.

(1) An individual desiring initial licensure in Kentucky as a general dentist by clinical examination shall:

(a) [(1)] [Each individual desiring initial licensure as a dentist by examination shall complete] Complete all [of the] requirements [listed] in Section 1 of this administrative regulation; and;]

~~(b) [(2)]~~ Successfully complete all components of one (1) of the following [Each individual desiring initial licensure as a dentist by examination shall successfully complete a] clinical examinations [examination] within the five (5) years preceding the filing of the application [The board shall accept the following regional clinical examinations]:

1. [(a)] The examination of the Council of Interstate Testing Agencies (CITA);

2. [(b)] The examination of the Central Regional Dental Testing Service (CRDTS);

3. [(c)] The examination of the Commission on Dental Competency Assessments (CDCA);

4. [(d)] The examination of the States Resources for Testing and Assessments [Southern Regional Testing Agency] (SRTA); [and]

5. [(e)] The examination of the Western Regional Examining Board (WREB); or

6. [(f)] The Dental Licensure Objective Structured Clinical Examination (DLOSCE) of the [Joint Commission on National Dental Examinations (JCNDE)].

(2) [(3)] An individual applying more than two (2) years after graduating with a DDS or DMD [An individual desiring initial licensure as a dentist by examination more than two (2) years after fulfilling all of the requirements of his or her CODA accredited dental education] shall:

(a) Hold a license to practice dentistry in good standing in another state or territory of the United States or the District of Columbia; or

(b) Complete a continuing education plan approved by the board [If the applicant does not hold a license to practice dentistry in good standing, complete a board approved refresher course prior to receiving a license to practice dentistry in the Commonwealth of Kentucky].

(3) [(4)] An applicant who has taken a clinical examination three (3) times and failed to achieve a passing score shall [not be allowed to sit for the examination again until the applicant has] completed [completed and passed] a remediation plan approved by the board.

Section 3. Requirements for Licensure by Credentials. An individual desiring initial licensure in Kentucky as a general [Each individual desiring initial licensure as a] dentist by credentials shall:

(1) Complete all [of the] requirements [listed] in Section 1 of this administrative regulation;

(2) Successfully complete [Provide proof of having passed] a state, regional, or national clinical examination used to determine clinical competency in a state or territory of the United States or the District of Columbia; and

(3) Be licensed and actively practicing dentistry in a state or territory of the United States or the District of Columbia for a least [Provide proof that, for] five (5) of the six (6) years [immediately] preceding the filing of the application [the applicant has been engaged in the active practice of dentistry when he or she was legally authorized to practice dentistry in a state or territory of the United States or the District of Columbia if the qualifications for the authorization were equal to or higher than those of the Commonwealth of Kentucky].

Section 4. Requirements for Licensure by Foreign Training.

(1) An individual desiring initial licensure in Kentucky as a general dentist who is a graduate of a non-CODA accredited dental school, college, or department of a university shall:

(a) [(1)] Complete all requirements in Section 1 of this administrative regulation, except for subsection (9);

(b) [(2)] Pass the Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Service with a score of 650 on the paper-based test (PBT) or a score of 116 on the

internet-based test (iBT), if English is not the applicant's primary language;

~~(c)(3)~~ Successfully complete two (2) years of postgraduate training in a CODA accredited general dentistry program;

~~(d)(4)~~ Submit a letter of satisfactory program completion from the program director of each postgraduate training site; and

~~(e)(5)~~ Successfully complete a clinical examination required by Section 2(1)(b)(2) of this administrative regulation within five (5) years preceding the filing of the application.

~~(2)(6)~~ An individual applying for dental licensure more than two (2) years after completing a CODA accredited general dentistry program shall:

(a) Hold a license to practice dentistry in good standing in another state or territory of the United States or the District of Columbia; or

(b) Complete a continuing education plan approved by the board.

Section 5. Requirements for Student Limited Licensure.

~~(1)~~ [(1)] An [Each] individual desiring limited licensure in Kentucky as a student [limited license] shall:

~~(a)(1)~~ [(a)] Complete all [of the] requirements [listed] in Section 1 of this administrative regulation, except for [with the exception of] subsections (9) and (10);

~~(b)(2)~~ [(b)] Submit [Provide] a letter from the dean or program director of a postgraduate, residency, or fellowship program in [the Commonwealth of] Kentucky stating that the applicant has been accepted into the program and the expected date of completion;

~~(c)(3)~~ [(c)] Submit a signed Statement Regarding Student Licensure Limitations; and

~~(d)(4)~~ [(d)] Submit an official final transcript of the applicant's dental coursework with the degree posted.

~~(2)(5)~~ [(2)] A student limited license holder [An individual licensed under this section] shall only practice dentistry in conjunction with programs of the dental school where the individual is a student and shall only provide professional services to patients of these programs.

~~(3)(6)~~ [(3)] A student limited license may be renewed in accordance with Section 10 of this administrative regulation, but [Licenses issued under this section shall be renewed with all other dental licenses issued by the board and] shall automatically expire if when the student graduates from or exits the program [upon the termination of the holder's status as a student].

~~(4)(7)~~ [(4)] A program enrolling [an individual holding] a student limited license holder shall notify the board in writing of the date the student graduates from or exits the program.

~~(5)(8)~~ [(5)] Nothing in this section shall prohibit:

(a) A student from performing a dental procedure [operation] under the direct supervision of a competent instructor within the dental school, college, or department of a university or private practice facility approved by the board. The board may authorize a student [of any dental college, school, or department of a university] to practice dentistry within a [in any] state or municipal institution, [or] public school, [or under the] board of health, [or in a] public clinic, or [a] charitable entity [institution]. A fee shall not be accepted by the student beyond the expenses covered by a [provided by the] stipend;

(b) A student limited license holder from working under the general supervision of a licensed dentist within the confines of the postgraduate training program; and

(c) A volunteer health practitioner from providing services under KRS 39A.350-39A.366.

Section 6. [Section 5.] Requirements for Faculty Limited Licensure.

~~(1)~~ [(1)] An [Each] individual desiring limited licensure in Kentucky as a faculty member [limited license] shall:

~~(a)(1)~~ [(a)] Complete all [of the] requirements [listed] in Section 1 of this administrative regulation with the exception of subsections (9) and (10);

~~(b)(2)~~ [(b)] Submit [Provide] a letter from the dean or program director of a Kentucky [the] dental school stating that the applicant has received [showing] a faculty appointment [with one (1) of the Commonwealth's dental schools];

~~(c)(3)~~ [(c)] Submit a signed Statement Regarding Faculty Licensure Limitations; and

~~(d)(4)~~ [(d)] Submit an official final transcript of the applicant's [his or her] dental coursework with the degree posted.

~~(2)(5)~~ [(2)] A faculty limited license holder [An individual licensed under this section] shall only practice dentistry in conjunction with programs of the dental school where the individual is a faculty member and shall only provide professional services to patients of these programs.

~~(3)(6)~~ [(3)] A faculty limited license may be renewed in accordance with Section 10 of this administrative regulation, but [Licenses issued under this section shall be renewed with all other dental licenses issued by the board and] shall automatically expire if when the licensee leaves their faculty position [upon the termination of the holder's status as a faculty member].

~~(4)(7)~~ [(4)] A program employing [an individual holding] a faculty limited license holder shall notify the board in writing of the date the licensee leaves his or her their faculty position [exits the program].

[Section 6.] Requirements for Licensure of Foreign Trained Dentists.

~~(1)~~ [(1)] [Each individual desiring licensure as a dentist who is a graduate of a non-CODA accredited dental program shall successfully complete two (2) years of postgraduate training in a CODA accredited general dentistry program and shall:]

~~(a)~~ [(a)] [Provide proof of having passed the Test of English as a Foreign Language (TOEFL) administered by the Educational Testing Service with a score of 650 on the paper-based test (PBT) or a score of 116 on the internet-based test (iBT), if English is not the applicant's native language;]

~~(b)~~ [(b)] [Submit a completed, signed, and notarized Application for Dental Licensure with an attached applicant photo taken within the past six (6) months;]

~~(c)~~ [(c)] [Pay the fee required by 201 KAR 8:520;]

~~(d)~~ [(d)] [Not be currently subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;]

~~(e)~~ [(e)] [Complete and pass the board's jurisprudence exam;]

~~(f)~~ [(f)] [Provide proof of having current certification in cardiopulmonary resuscitation (CPR) that meets or exceeds the American Heart Association Guidelines for CPR and ECC;]

~~(g)~~ [(g)] [Submit to a state and federal criminal background check by fingerprint through the Department of Kentucky State Police;]

~~(h)~~ [(h)] [Provide verification within three (3) months of the date the application is received at the office of the board of any license to practice dentistry held previously or currently in any state or jurisdiction;]

~~(i)~~ [(i)] [Provide proof of having successfully completed two (2) years postgraduate training in a CODA accredited general dentistry program;]

~~(j)~~ [(j)] [Submit one (1) letter of recommendation from the program director of each training site;]

~~(k)~~ [(k)] [Provide proof of successful completion of Part I and Part II of the National Board Dental Examination, which is written and theoretical, conducted by the Joint Commission on National Dental Examinations within the five (5) years preceding application for licensure;]

~~(l)~~ [(l)] [Provide proof of successfully completing within the five (5) years prior to application a clinical examination required by Section 2(2) of this administrative regulation; and]

~~(m)~~ [(m)] [Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.]

~~(2)~~ [(2)] [An individual desiring initial licensure as a dentist who is a graduate of a non-CODA accredited dental program and applies more than two (2) years after fulfilling all of the requirements of his or her postgraduate training in a CODA accredited general dentistry program shall:]

~~(a)~~ [(a)] [Hold a license to practice dentistry in good standing in another state or territory of the United States or the District of Columbia; or]

~~(b)~~ [(b)] [If the applicant does not hold a license to practice dentistry in good standing, complete a board approved refresher course prior

to receiving a license to practice dentistry in the Commonwealth of Kentucky.]

Section 7. Requirements for Charitable Limited Dental Licensure.

(1) [(1)] An individual desiring limited licensure in Kentucky to provide charitable dental services [Each individual desiring a charitable limited license] shall:

(a) [(1)] [(a)] Understand, read, speak, and write the English language with a comprehension and performance level equal to at least the ninth grade of education, verified by testing as necessary;

(b) [(2)] [(b)] Submit a completed, signed, and notarized Application for Charitable [Dental] Limited Licensure with an attached applicant photo taken within the past six (6) months;

(c) [(3)] [(c)] Pay the fee required by 201 KAR 8:520;

(d) [(4)] [(d)] Not be subject to disciplinary action pursuant to KRS Chapter 313 that would prevent licensure;

(e) [(5)] [(e)] Hold [Have] a license to practice dentistry in good standing in another state or territory of the United States or the District of Columbia; and

(f) [(6)] [(f)] Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

(2) [(7)] [(2)] A charitable limited dental license holder [An individual licensed under this section] shall:

(a) Work only with charitable entities registered with the Cabinet for Health and Family Services that have met the requirements of KRS 313.254 and 201 KAR 8:581;

(b) Only perform procedures allowed by KRS 313.254(4) and (5) which shall be completed within the duration of the charitable event;

(c) Not prescribe any medications while practicing in Kentucky;

(d) Be eligible for the provisions of medical malpractice insurance procured under KRS 304.40-075; and

(e) [(d)] Perform these duties without expectation of compensation or charge to the individual, and without payment or reimbursement by any governmental agency or insurer.];

(e) [Have a charitable limited license that shall be valid for no more than two (2) years and shall expire during the regular dental renewal cycle; and]

[(f)] [Comply with reciprocity requirements if applicable.]

[1.] [A state that extends a reciprocal agreement shall comply with this section.]

[2.] [An individual shall notify the sponsor of a charitable clinic and the board of the intent to conduct or participate in the clinic.]

[3.] [An individual conducting or participating in a charitable clinic shall have a license to practice dentistry in the state in which the dentist practices.]

[(3)] [A dentist licensed under this section shall not be allowed to prescribe any medications while practicing in the Commonwealth.]

Section 8. Requirements for Specialty Licensure. An individual [Each individual] desiring initial licensure as a dental specialist in Kentucky as defined by KRS 313.010(9) shall:

(1) Submit a completed, signed, and notarized Application for Specialty Dental Licensure with an attached applicant photo taken within the past six (6) months;

(2) Pay the fee required by 201 KAR 8:520;

(3) Hold an active Kentucky license to practice general dentistry prior to being issued a specialty license; and

(4) Successfully complete [Submit satisfactory evidence of completing] a CODA accredited graduate or postgraduate specialty program after graduating [graduation] from a dental school.

Section 9. [Minimum] Continuing Education Requirements.

(1) A Kentucky licensed dentist shall complete thirty (30) hours of continuing education during the two (2) year licensure period defined by KRS 313.030(2), except in the following cases:

(a) [(1)] A licensee who was issued a new or reinstated license in the second year of the current biennial license period shall only complete one-half the required hours for that period;

(b) [(2)] A licensee who graduated in the first year of the current biennial license period shall only complete one-half the required hours for that period;

(c) [(3)] A licensee who graduated in the second year of the current biennial license period shall not be required to complete continuing education hours for that period;

(d) [(4)] A charitable limited license holder shall not be required to complete continuing education hours; or

(e) [(5)] A licensee may be granted a hardship waiver or deferment if the [such a] request is submitted to and approved by the board.

[(1)] [Each individual desiring renewal of an active dental license shall complete thirty (30) hours of continuing education that relates to or advances the practice of dentistry and would be useful to the licensee's practice.]

(2) [(6)] [(2)] Acceptable continuing education content [hours] shall include [course content designed to increase]:

(a) Competency in treating patients who are medically compromised or who experience medical emergencies during the course of dental treatment;

(b) Pharmaceutical [Knowledge of pharmaceutical] products and [the protocol of the] proper use protocols of medications;

(c) Competence to diagnose oral pathology;

(d) Awareness of currently accepted methods of infection control;

(e) Basic [Knowledge of basic] medical and scientific subjects [including biology, physiology, pathology, biochemistry, pharmacology, epidemiology, and public health];

(f) Clinical [Knowledge of clinical] and technological subjects;

(g) Patient [Knowledge of subjects pertinent to patient] management, safety, and oral healthcare;

(h) Mass [Competency in assisting in mass] casualty or mass immunization situations;

(i) Clinical dentistry performed on a charitable or volunteer basis [skills through the volunteer of clinical charitable dentistry that meets the requirements of KRS 313.254];

(j) Business [Knowledge of office business] operations and best practices; and [or]

(k) Dental [Participation in dental] association or society business meetings.

(3) [(7)] [(3)] The thirty (30) hours of continuing education shall include:

(a) A minimum of ten (10) hours [shall be] taken in a live interactive presentation format.];

(b) [(4)] A maximum of ten (10) hours [total may be taken] that meet the requirements of subsection (2) [(4)] [(2)] (i) - (k) of this section; and.];

(c) [(5)] A minimum of three (3) hours [of continuing education shall be taken] in the use of the Kentucky All Schedule Prescription Electronic Reporting System (KASPER), pain management, or addiction disorders.

(4) [(8)] [(6)] Dentists who hold a board-issued sedation permit shall also meet the continuing education requirements of 201 KAR 8:550, Section 8.

(5) [(9)] [(7)] All continuing education hours shall be documented [verified by the receipt of] a certificate of completion or [certificate of] attendance bearing:

(a) A [The] signature [of] or other verification of [by] the provider;

(b) The name of the licensee in attendance;

(c) The title of the course or meeting attended or completed;

(d) The date of attendance or completion;

(e) The number of hours earned; and

(f) Evidence of the method of delivery if the course was taken in a live interactive presentation format.

(6) [(10)] [(8)] The licensee shall be responsible for obtaining the qualifying documentation of continuing education [It shall be the sole responsibility of the individual licensee to obtain documentation] from the provider or sponsoring organization [verifying participation as established in subsection (7) of this section] and to retain those documents [the documentation] for a minimum of five (5) years.

(7) [(11)] [(9)] During the At license renewal process, licensees [each licensee] shall attest to their compliance [the fact that he or she has complied] with the requirements of this section.

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~~(8)(12)~~ [(10)] Licensees [Each licensee] shall be subject to audit of their compliance with the requirements of this section [~~proof of continuing education compliance by the board~~].

Section 10. [Requirements for] Renewal of a Dental License.

~~(1)~~ [(4)] All dental licenses issued by the board shall expire on December 31 of odd-numbered years and ~~shall/must~~ be renewed to remain active. A licensee [Each individual] desiring renewal of an active general, specialty, student limited, or faculty limited dental license shall:

~~(a)(1)~~ [(a)] Submit a [~~signed,~~] completed and signed Application for Renewal of Dental Licensure;

~~(b)(2)~~ [(b)] Pay the fee required by 201 KAR 8:520;

~~(c)(3)~~ [(c)] Maintain an active [~~with no more than a thirty (30) day lapse, CPR~~] certification in CPR or a more comprehensive program that meets or exceeds the American Heart Association Guidelines for CPR and ECC [~~unless a hardship waiver is approved by the board~~]; and

~~(d)(4)~~ [(d)] Meet the continuing education requirements [~~as provided for~~] in Section 9 of this administrative regulation [~~except in the following cases:~~]

[1.] [~~If a hardship waiver has been submitted to and is subsequently approved by the board;~~]

[2.] [~~If the licensee graduated in the first year of the biennial license period, the licensee shall complete one-half (1/2) of the hours as outlined in Section 9 of this administrative regulation; and~~]

[3.] [~~If the licensee graduated in the second year of the biennial license period, the licensee shall not be required to complete the continuing education requirements outlined in Section 9 of this administrative regulation.~~]

~~(2)(5)~~ [(2)] [~~If~~] A licensee who has not actively practiced dentistry in the two (2) [~~consecutive~~] years preceding the filing of the renewal application shall complete a continuing education plan approved by the board [~~, he or she shall complete and pass a board approved refresher course~~] prior to resuming the active practice of dentistry.

~~(3)(6)~~ A licensee desiring renewal of a charitable limited dental license shall repeat the initial licensure process required by Section 7 of this administrative regulation.

Section 11. Retirement of a Dental License.

~~(1)~~ [(1)] A licensee [Each individual] desiring to no longer hold an active dental license in Kentucky [~~retirement of a dental license~~] shall submit a completed and signed Retirement of License Form.

~~(2)(1)~~ [(2)] Upon receipt of this form, the board shall send written confirmation of retirement to the address provided [~~by the licensee on the Retirement of License form~~].

~~(3)(2)~~ [(3)] A licensee shall not retire a license that has [~~a~~] pending disciplinary action against it.

~~(4)(3)~~ [(4)] A license that is not properly retired or renewed shall be considered expired for reinstatement purposes [Each retirement shall be effective upon the processing of the completed and signed Retirement of License Form by the board].

Section 12. Reinstatement of a Dental License.

~~(1)~~ [(1)] A former licensee [Each individual] desiring reinstatement of an expired or [~~a~~] properly retired dental license in Kentucky shall:

~~(a)(1)~~ [(a)] Submit a completed, signed, and notarized Application to Reinstatae [~~a~~] Dental or Dental Hygiene Licensure [License] with an attached applicant photo taken within the past six (6) months;

~~(b)(2)~~ [(b)] Pay the fee required by 201 KAR 8:520;

~~(c)(3)~~ [(c)] Hold an active [~~Show proof of having current~~] certification in CPR or a more comprehensive program that meets or exceeds the American Heart Association Guidelines for CPR and ECC;

~~(d)(4)~~ [(d)] Provide verification [~~within three (3) months of the date the application is received at the office of the board~~] of any license to practice dentistry obtained [~~held previously or currently~~] in any state or other licensing jurisdiction since the applicant was first licensed in Kentucky;

~~(e)(5)~~ [(e)] Submit to a nationwide state and federal criminal background check by fingerprint through the Department of Kentucky State Police; and

~~(f)(6)~~ [(f)] Provide a written explanation for any positive returns on a query of the National Practitioner Data Bank.

~~(2)(7)~~ [(2)] An [~~If an individual applies to reinstate a license within two (2) years of when the license was last active, the individual shall provide proof of having met the continuing education requirements as outlined in Section 9 of this administrative regulation within those two (2) years.~~]

~~(3)~~ [(3)] [~~If the~~] applicant who has not actively practiced dentistry in the two (2) [~~consecutive~~] years [~~immediately~~] preceding the filing of the reinstatement application [~~, the applicant~~] shall complete [~~and pass~~] a continuing education plan [~~refresher course~~] approved by the board prior to resuming the active practice of dentistry.

~~(3)(8)~~ A former licensee who applies to reinstate an expired license that was not properly retired shall be subject to:

(a) The expired license reinstatement penalties in 201 KAR 8:520 if applying less than two (2) years from when the license was last active; or

(b) The same reinstatement fees as a properly retired license if applying more than two (2) years from when the license was last active.

~~(4)~~ [(4)] [~~If a license is reinstated in the first year of the biennial license period, the licensee shall complete all of the continuing education requirements as outlined in Section 9 of this administrative regulation prior to the renewal of the license.~~]

~~(5)~~ [(5)] [~~If a license is reinstated in the second year of the biennial license period, the licensee shall complete one-half (1/2) of the hours as outlined in Section 9 of this administrative regulation prior to the renewal of the license.~~]

Section 13. [Requirements for] Verification of Licensure. An [Each] individual desiring an official verification of a dental license held currently or previously in Kentucky shall:

(1) Submit a signed and completed Verification of Licensure or Registration Form; and

(2) Pay the fee required by 201 KAR 8:520.

Section 14. [Requesting a Duplicate License. Each individual desiring a duplicate dental license shall:]

(1) Submit a signed and completed Duplicate License or Registration Request Form; and

(2) Pay the fee required by 201 KAR 8:520.]

[~~Section 15.~~] Issuance of Initial Licensure. Upon an applicant's completion of all [~~If an applicant has completed all of the~~] requirements for dental licensure within six (6) months of the date the application was received [~~at the office of the board~~], the board shall:

(1) Issue a license in sequential numerical order; or

(2) Deny licensure due to a violation of KRS Chapter 313 or 201 KAR Chapter 8.

Section 15. [~~Section 16.~~] Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Charitable [~~Dental~~] Limited Licensure", January 2024 [~~May 2023~~];

(b) "Application for Dental Licensure", January 2024 [~~May 2023~~];

(c) "Application for Renewal of Dental Licensure", January 2024 [~~May 2023~~];

(d) "Application for Specialty Dental Licensure", January 2024 [~~February 2023~~];

(e) "Application to Reinstatae [~~a~~] Dental or Dental Hygiene Licensure [License]", January 2024 [~~May 2023~~];

(f) [~~"Duplicate License or Registration Request Form"~~], January 2024 [~~December 2022~~];

(g) "Retirement of License Form", January 2024 [~~February 2023~~];

(h) "Statement Regarding Faculty Licensure Limitations", January 2024 [~~May 2023~~];

(h)(4) "Statement Regarding Student Licensure Limitations", January 2024[May 2023];

(i)(4) "Verification of Licensure or Registration Form", January 2024[February 2023]; and

(j)(4) "2020 American Heart Association Guidelines for CPR and ECC", 2020.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Dentistry, 312 Whittington Parkway, Suite 101, Louisville, Kentucky 40222, Monday through Friday, 8 a.m. through 4:30 p.m. This material is also available on the board's Web site at <http://dentistry.ky.gov>.

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TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amended at ARRS Committee)

301 KAR 2:132. Elk hunting seasons, permits, zones, and requirements.

RELATES TO: KRS 150.010, 150.170(4), 150.180, 150.990
STATUTORY AUTHORITY: KRS 150.025(1), 150.177, 150.178, 150.390(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.177 authorizes the department to issue special commission permits for game species to nonprofit wildlife conservation organizations. KRS 150.178 authorizes the department to issue cooperator permits to landowners who enroll property for public hunting access. KRS 150.390(3) requires the department to promulgate administrative regulations establishing the conditions under which depredation permits for elk may be issued. This administrative regulation establishes the requirements for the elk permit drawing and quota hunts, the conditions under which special commission and landowner cooperator permits may be used, procedures for elk damage abatement, and any postseason hunt held after the quota hunts.

Section 1. Definitions.

(1) "Antlered elk" means an elk having visible polished antler protruding above the hairline.

(2) "Antlerless elk" means an elk without visible polished antler protruding above the hairline.

(3) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.

(4) "Bait":

(a) Means a substance composed of grains, minerals, salt, fruits, vegetables, hay, or any other food materials, whether natural or manufactured, that could lure, entice, or attract wildlife; and

(b) Does not mean the establishment and maintenance of plantings for wildlife, foods found scattered solely as the result of normal agricultural planning or harvesting practices, foods available to wildlife through normal agricultural practices of livestock feeding if the areas are occupied by livestock actively consuming the feed on a daily basis, or standing farm crops under normal agricultural practices.

(5) "Crossbow" means a bow designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.

(6) "Electronic decoy" means a motorized decoy powered by electricity, regardless of source.

(7) "Elk" means *Cervus canadensis nelsoni*.

(8) "Elk Restoration Permit" or "ERP" means an elk permit given to a landowner or lessee who allows the department to capture elk

on the landowner or lessee's property for restoration or restocking purposes.

(9) "Firearm" means a breech or muzzle-loading rifle, shotgun, or handgun.

(10) "Landowner cooperator" means a landowner or lessee who owns or leases at least 5,000 acres of land in the restoration zone and enters into an agreement with the department to allow public access and hunting for at least five (5) years.

(11) "Loyalty Redraw" means a secondary drawing to award any unpurchased elk quota hunt permits, remaining after the purchase deadline for those individuals initially drawn for the elk quota hunt, to those applicants with the highest number of cumulative application years[members of the longest-applying year cohort of resident elk hunt drawing applicants].

(12) "Muzzleloader" means a rifle, shotgun, or handgun that is loaded from the discharging end of the barrel or discharging end of the cylinder.

(13) "Out-of-zone" means all counties not included in the restoration zone.

(14) "Restoration zone" means the Kentucky counties: Bell, Breathitt, Clay, Floyd, Harlan, Johnson, Knott, Knox, Leslie, Letcher, Magoffin, Martin, McCreary, Perry, Pike, and Whitley.

(15) "Shed" means an antler that has naturally been cast off the skull as a part of the annual growth and replacement process.

(16) "Unit" means a designated area in the restoration zone with specific management restrictions.

(17) "Voucher cooperator" means a landowner or lessee who owns or leases at least 100 acres of land in the restoration zone and enters into an agreement with the department to allow elk hunting access.

(18) "Youth" means a person under the age of sixteen (16) by the first date of the hunt.

Section 2. Elk Damage Control. The department may authorize the removal or destruction of elk that are causing property damage. A person authorized to destroy an elk shall:

(1) Attach a department-issued destruction tag to an elk prior to moving the carcass; and

(2) Not remove the destruction tag until the carcass is processed.

Section 3. Elk Quota Hunts.

(1) The elk quota hunt application period shall be August 1 of the year preceding a given calendar year's elk hunt season to April 30 of the year of that season.

(2) An applicant shall:

(a) Complete the elk quota hunt application process on the department's Web site at fw.ky.gov; and

(b) Pay a nonrefundable application fee of ten (10) dollars.

(3) The commissioner shall extend the application deadline if technical difficulties with the application system prevent applications from being accepted for one (1) or more days during the application period.

(4) There shall be a random electronic drawing from each applicant pool.

(5) Youths may enter a separate drawing pool for either-sex elk permits that shall be valid for use during all elk seasons, pursuant to Section 9 of this administrative regulation.

(6) A youth shall not apply for the youth-only elk quota hunt more than once per application period.

(7) An applicant for the youth-only elk quota hunt may also apply for a regular quota hunt, as established in subsection (12) of this section.

(8) A youth drawn for the youth-only elk quota hunt shall not be drawn in any other elk quota hunt held during the same calendar year.

(9) A youth drawn for the youth-only elk quota hunt shall be ineligible to be drawn in the youth-only elk quota hunt in subsequent years.

(10) Nonresidents shall not comprise more than ten (10) percent of all drawn applicants in each quota hunt pool, except that the Loyalty Redraw shall exclude nonresidents.

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(11) A quota hunt permit awarded from any department-administered drawing shall not be transferable.

(12) In addition to the youth-only quota hunt, there shall be three

(3) separate regular elk quota hunts consisting of:

- (a) Antlered firearms;
- (b) Antlerless firearms; and
- (c) Either-sex archery and crossbow.

(13) An applicant shall:

- (a) Apply only once for an individual elk quota hunt;
- (b) Not be eligible to be drawn in more than one (1) of the three

(3) quota hunt pools;

(c) Only be selected by a random electronic drawing;

(d) Pay a nonrefundable application fee of ten (10) dollars for each entry; and

(e) If selected, be eligible to purchase a quota elk hunt permit for the applicable season and hunt type until midnight (eastern) on June 15 of the hunt year.

(14) A person who is drawn for an elk quota hunt, including Loyalty Redraw applicants who purchase elk quota hunt permits offered to them through the Loyalty Redraw secondary drawing, shall be ineligible to be drawn for any elk quota hunt for the following three (3) years.

(15) A person who does not have access to the department's Web site to apply for any quota hunt may contact the department toll free at (800)858-1549 for assistance in applying.

Section 4. Loyalty Redraw.

(1) Annually, if there are unpurchased elk hunt permits remaining after the purchase deadline for those initially drawn for the elk quota hunt, a Loyalty Redraw shall be held.

(2) The Loyalty Redraw shall consist of a secondary random electronic drawing to award elk quota hunt permits not purchased before midnight (eastern) on June 15 of the hunt year, and shall be conducted before the Elk Hunting Unit drawing.

(3) The Loyalty Redraw shall be limited to resident applicants from the three (3) elk quota hunt pools, plus the youth-only quota hunt pool who have applied for at least one (1) elk quota hunt permit for the most cumulative~~consecutive~~ years, including the current year, without ever being drawn for at least one (1) elk quota hunt permit.

(4) Resident applicants who are eligible for the Loyalty Redraw shall be automatically entered into the secondary drawing elk quota hunt pools for which they applied in the current hunt year.

(5) This secondary drawing procedure shall mirror the primary electronic random drawing for quota elk hunt permits, except that nonresident applicants shall be excluded.

(6) A Loyalty Redraw applicant who is drawn for an available leftover permit may purchase the appropriate quota elk hunt permit until midnight (eastern) on June 30.

(7) A Loyalty Redraw permit holder who does not apply for the Elk Hunting Unit drawing by midnight (eastern) on June 30 of the hunt year shall be automatically entered into the unit drawing for random assignment to an Elk Hunting Unit.

(8) An applicant who is eligible for the Loyalty Redraw in a given year and is drawn for quota elk hunt permit in the secondary drawing, and who does not purchase the elk quota hunt permit for which he or she is drawn in that year, shall ~~be~~:

(a) Have their number of cumulative years of application reset to zero and be ineligible~~Ineligible~~ for the Loyalty Redraw until he or she accumulates the required number of cumulative~~consecutive~~ years of applications necessary to again qualify for the Loyalty Redraw; and

(b) Be eligible~~Eligible~~ to apply for the next year's elk quota hunts without waiting three (3) years.

Section 5. Landowner Cooperator Permits.

(1) With the approval of the commission, the commissioner shall issue to a landowner cooperator:

(a) One (1) either-sex permit annually per 5,000 acres of land enrolled with the department in a hunting access agreement for the duration of the agreement;

(b) Two (2) antlerless-only permits annually per 5,000 acres of land enrolled with the department in a hunting access agreement for the duration of the agreement; or

(c) One (1) antlerless-only permit annually per 5,000 acres of land enrolled with the department in an elk hunting access agreement for the duration of the agreement.

(2) A recipient of a landowner cooperator permit shall comply with the season, bag limit, and hunter requirements in Sections 8 and 9 of this administrative regulation.

(3) A landowner cooperator permit shall only be used on the land that is established in the agreement, except that it may be used on adjacent property if:

(a) The adjacent property is owned by a different landowner; and
(b) The adjacent landowner has granted permission to the permit holder.

(4) A landowner cooperator permit may be transferred to any person eligible to hunt in Kentucky, but prior to hunting, the landowner cooperator or person who has received the transferred permit shall provide the department with the hunter's:

- (a) Name;
- (b) Fish and Wildlife customer identification number;
- (c) Address; and
- (d) Telephone number.

(5) The landowner cooperator permit shall not be transferable if it was already used for the harvest of an elk.

(6) Public access agreements with the department shall be recorded in writing.

Section 6. Voucher Cooperator Permits.

(1) A voucher cooperator shall accrue one (1) voucher point for each legally harvested elk.

(2) A voucher cooperator who accrues ten (10) total points from the voucher cooperator permit program alone, or in combination with points accumulated from the elk restoration permit program, on land enrolled pursuant to Section 1(17) of this administrative regulation shall receive one (1) either-sex elk permit from the department.

(3) A recipient of a voucher cooperator elk permit shall comply with all the requirements established in Sections 8 and 9 of this administrative regulation.

(4) A voucher cooperator elk permit shall only be used on:

- (a) The property enrolled with the department per agreement; or
- (b) Other property that the landowner or lessee owns or leases.

(5) A voucher cooperator permit may be transferable to any person eligible to hunt in Kentucky.

(6) If a voucher cooperator permit is to be transferred, then the landowner, lessee, or person who has received the transferred permit shall provide to the department by August 15 the hunter's:

- (a) Name;
- (b) Fish and Wildlife customer identification number;
- (c) Address; and
- (d) Telephone number.

(7) A permit shall not be transferable after being used for the harvest of an elk.

Section 7. Elk Restoration Permits.

(1) A landowner or lessee who allows the department to capture elk on the landowner or lessee's property shall accrue one (1) point for each captured elk.

(2) A landowner or lessee who accrues ten (10) total points from the elk restoration permit program alone, or in combination with points accumulated from the voucher cooperator permit program shall receive one (1) either-sex elk permit from the department that shall only be used the following hunting season.

(3) A recipient of an ERP shall comply with all the requirements established in Sections 8 and 9 of this administrative regulation.

(4) An ERP shall only be used on property that the ERP recipient owns or leases.

(5) An ERP recipient may transfer the permit to any person eligible to hunt in Kentucky.

(6) If an ERP recipient transfers an ERP to another hunter, then the ERP recipient shall provide to the department by August 15 the hunter's:

- (a) Name;

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- (b) Address;
 - (c) Telephone number; and
 - (d) Fish and Wildlife customer identification number.
- (7) An ERP shall be invalid if it has already been used to harvest an elk.

Section 8. Hunter Requirements.

(1) A person shall carry proof of purchase of a valid Kentucky hunting license and valid elk permit while hunting, unless exempted by KRS 150.170.

(2) The statewide bag limit shall be one (1) elk per hunter per license year.

(3) If a legal elk hunter kills any elk:

(a) The person shall immediately cease hunting elk for the remainder of the elk season; and

(b) The elk permit held by that individual shall immediately become invalid.

(4) A drawn applicant may apply to hunt in up to five (5) units. The drawn applicant shall complete the application process on the department's Web site at fw.ky.gov.

(a) Up to three (3) drawn applicants may apply for their unit choices as a party.

(b) If the party is drawn for a unit, then all hunters in the party shall be assigned to that same unit.

(c) If the number of slots remaining in the quota is less than the number of hunters in the next party selected, the entire party shall be assigned to the party's next choice ranking or be assigned to a unit by the department.

(5) A drawn applicant who does not apply for a unit shall be assigned to a unit by the department.

(6) An applicant drawn for a unit may hunt only in the assigned unit, except that a person who is drawn for any elk quota hunt may hunt on his or her land within the restoration zone.

(7) An elk hunter or any person accompanying an elk hunter shall comply with hunter orange requirements established in 301 KAR 2:172.

(8) An elk hunter shall not:

(a) Take elk except during daylight hours;

(b) Use dogs, except to recover wounded elk using leashed tracking dogs;

(c) Hunt over bait inside the elk restoration zone;

(d) Drive elk from outside the assigned area;

(e) Take an elk while it is swimming;

(f) Use electronic calls or electronic decoys; or

(g) Take an elk if the hunter is in a vehicle, boat, or on horseback, except that a disabled hunter who has a hunting method exemption permit issued pursuant to 301 KAR 3:027 may use a stationary vehicle as a hunting platform.

(9) A person shall:

(a) Obtain a vehicle tag from the department prior to hunting elk in the restoration zone; and

(b) Display the vehicle tag in the windshield of the vehicle while hunting elk.

(10) A youth shall be accompanied by an adult who shall remain in a position to take immediate control of the youth's firearm.

(11) An adult accompanying a youth shall not be required to possess a hunting license or elk permit if the adult is not hunting.

(12) A person shall only use the equipment and ammunition established in paragraphs (a) through (e) of this subsection to take an elk:

(a) A crossbow or archery equipment loaded with a broadhead of seven-eighths (7/8) inch or wider, either fixed or upon expansion;

(b) A firearm:

1. With an action that fires a single round of ammunition upon each manipulation of the trigger;

2. Of .270 caliber or larger; and

3. Loaded with centerfire, single projectile ammunition designed to expand upon impact;

(c) A muzzleloader of .50 caliber or larger;

(d) A shotgun of twenty (20) gauge or larger loaded with a shell containing one (1) projectile; or

(e) A handgun loaded with:

1. Centerfire cartridges;

2. Bullets of .270 caliber or larger designed to expand upon impact; and

3. Cartridges with a case length of 1.285 inches or larger.

(13) A crossbow shall contain a working safety device.

(14) An elk hunter shall not use a magazine capable of holding more than ten (10) rounds.

(15) A quota elk hunter shall only take an elk of the type and sex determined by the permit drawn.

(16) A hunter drawn for a firearms elk permit shall hunt elk pursuant to that permit only during the five (5) day period assigned during the initial drawing.

(17) An individual who receives or is transferred a landowner cooperater permit, a voucher cooperater permit, an elk restoration permit, or a special commission permit may hunt in all of the quota hunts and shall hunt in accordance with the seasons, limits, and equipment established in Section 8 of this administrative regulation.

(18)

(a) A person who is drawn for an elk quota hunt permit or was issued a landowner cooperater permit, a special commission permit, an elk restoration permit, or voucher cooperater permit shall complete and submit a post-season elk hunting survey on the department's Web site at fw.ky.gov no later than the last day of February.

(b) A person who fails to comply with the requirements established in paragraph (a) of this subsection shall be ineligible to apply for any quota hunt or no-hunt option the following year.

Section 9. Elk Quota Hunt Seasons and Limits.

(1) A person drawn for an either-sex archery and crossbow permit shall use archery or crossbow equipment to take either-sex elk from the:

(a) Second Saturday in September through the fourth Friday in September; and

(b) First Saturday in December through the second Friday in December.

(2) A person drawn for an antlered firearms permit shall use any legal equipment as established in Section 8(12) of this administrative regulation to take an antlered elk during one (1) of two (2) five (5) day periods randomly assigned by the department from the:

(a) Last Saturday in September for five (5) consecutive days; and

(b) First Saturday in October for five (5) consecutive days.

(3) A person drawn for an antlerless firearms permit shall use any legal equipment as established in Section 8(12) of this administrative regulation to take an antlerless elk during one (1) of two (2) five (5) day periods randomly assigned by the department from the:

(a) Last Saturday in November for five (5) consecutive days; or

(b) Last Saturday in December for five (5) consecutive days.

Section 10. Unit Boundaries and Elk Viewing Areas.

(1) Hunting unit boundaries and the boundaries of the Appalachian Wildlife Center Viewing Area are incorporated by reference.

(2) Elk viewing areas shall be closed to all elk hunting.

Section 11. Tagging and Checking Requirements.

(1) Immediately after taking an elk, a hunter shall record on a hunter's log:

(a) The species harvested;

(b) The sex of the animal;

(c) Date of harvest; and

(d) County of harvest.

(2) A hunter shall check a harvested elk before midnight on the day the elk is recovered by:

(a) Calling (800) 245-4263 and providing the requested information; or

(b) Completing the online check-in process at fw.ky.gov.

(3) A hunter who has checked in an elk shall record the confirmation number on a hunter's log.

(4) If the hide or head is removed from the carcass before the elk is checked in, then the hunter shall be required to demonstrate proof of the sex of the elk.

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(a) For antlered elk the hunter shall retain the:

1. Head with antlers; or
2. Testicles, scrotum, or penis attached to the carcass; or

(b) For antlerless elk the hunter shall retain the:

1. Head;
2. Udder or vulva attached to the carcass; or
3. Testicles, scrotum, or penis attached to the carcass.

(5) If a harvested elk leaves the possession of the hunter, the hunter shall attach to the carcass a hand-made tag that contains the hunter's:

(a) Confirmation number;

(b) Name; and

(c) Telephone number.

(6) A person shall not provide false information in:

(a) Completing the hunter's log;

(b) Checking an elk; or

(c) Creating a carcass tag.

Section 12. Elk Hunting on Public Land.

(1) A person drawn for an elk quota hunt or the recipient of a special commission permit may hunt on the areas listed in paragraphs (a) through (f) of this subsection within the restoration zone pursuant to the conditions of the permit received:

(a) Wildlife Management Areas;

(b) Hunter Access Areas;

(c) State forests;

(d) Big South Fork National River and Recreation Area;

(e) Daniel Boone National Forest; or

(f) Jefferson National Forest.

(2) Portions of Paintsville Lake WMA that lie out of the restoration zone shall be subject to the requirements established in Section 14 of this administrative regulation.

(3) Elk hunting shall not be allowed on public areas during quota deer hunts listed in 301 KAR 2:178.

(4) Paul Van Booven WMA and Fishtrap Lake WMA shall be designated as an elk viewing area and shall be closed to all elk hunting.

(5) A person shall not mimic the sound of an elk on public land open to elk hunting from September 1 until the opening of the elk archery season.

Section 13. Out-of-zone Elk Hunting.

(1) The methods for taking deer and the deer seasons established in 301 KAR 2:172 shall apply to a person taking elk outside of the restoration zone, except that a hunter shall comply with the equipment and ammunition requirements established in Section 8 of this administrative regulation.

(2) Unless exempted by KRS 150.170, a person who is hunting out-of-zone elk shall possess:

(a) A valid Kentucky hunting license; and

(b) An out-of-zone elk permit.

(3) A person may take an elk of either sex, which shall not count toward the person's deer bag limit.

(4) Any elk harvested out-of-zone shall be telechecked pursuant to Section 11 of this administrative regulation.

Section 14. Elk Antlers.

(1) A person who takes possession of any elk antler that has the skull or skull plate attached to it shall contact the department's Law Enforcement Division within twenty-four (24) hours.

(2) An elk shed shall be legal to possess.

Section 15. Elk Permit Deferral. A person who is the holder of a valid elk quota hunt permit, landowner cooperater permit, voucher cooperater permit, an ERP, or special commission permit may defer use of the permit to the following year if:

(1)

(a) There is a death of the permit holder's:

1. Spouse;

2. Child; or

3. Legal guardian, if the permit holder is under eighteen (18) years old; and

(b) The permit holder provides to the department a death certificate and one (1) of the following documents prior to May 1 of the year following the hunting season:

1. A marriage certificate;

2. A birth certificate; or

3. An affidavit of paternity or maternity;

(2) The permit holder shall be a member of one (1) of the service branches of the U.S. Armed Forces in either an active duty, reserve component, or National Guard status as of April 30 of the hunt year:

(a) Is deployed or assigned to military duty outside the continental United States or assigned to military duty to another location or duty station so that his or her assignment makes impracticable participation in the hunt for which the permit was drawn; and

(b) The permit holder submits to the department electronically by via email or fax or by mail, postmarked or received before midnight of the day immediately prior to the opening day of the applicable hunting season, a copy of military orders, or if unavailable, a letter from a commanding officer, documenting the permit holder's overseas deployment, overseas duty assignment, or assignment outside of Kentucky, showing that the effective date or dates of the assignment include one (1) or more of the hunt dates for which the hunter holds a permit; or

(3) A permit holder that meets criteria in subsection (2) of this section (3) above may also automatically defer his or her permit for a second year if the military assignment or assignments make impracticable participation in his or her assigned hunt during the year following his or her obtaining the permit, but in either case shall provide to the elk program by May 1 of his or her actual hunt year, a copy of applicable military orders (or official letter) that made use of the permit impracticable for the first, or first and second, elk seasons after first obtaining the elk permit.

Section 16. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Elk Hunting Units" map, 2019 edition; and

(b) "Appalachian Wildlife Center Viewing Area" map, 2019 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m., Eastern Time.

FILED WITH LRC: May 14, 2024

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

TOURISM, ARTS AND HERITAGE CABINET Department of Fish and Wildlife Resources (Amended at ARRS Committee)

301 KAR 3:030. Year-round season for wildlife.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.320, 150.360, 150.370, 150.990[-]

STATUTORY AUTHORITY: KRS 150.025(1), 150.175, 150.360(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes Kentucky Department of Fish and Wildlife Resources ~~the department~~ to establish seasons and other administrative regulations necessary to carry out the purpose of KRS Chapter 150. KRS 150.175 authorizes the types of licenses, permits, and tags set by the department. This administrative regulation establishes hunting requirements for species that may be taken year-round and specifies species that are unprotected.

Section 1. Definition. "Exotic wildlife" means living terrestrial wildlife species that have never naturally existed in the wild in Kentucky, including species introduced by man that have become

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naturalized [starlings (Sturnus vulgaris), English sparrows (Passer domesticus), and Eurasian collared doves (Streptopelia decaocto).]

Section 2. Year-Round [Year-Round] Seasons.

(1) A person may take coyotes[, wild hogs and woodchucks] year-round [year-round] pursuant to 301 KAR 2:251.

(2) A person may take groundhogs year-round.

(3) A person taking coyotes[, wild hogs,] or groundhogs [woodchucks], unless exempted by KRS 150.170, shall possess a hunting or trapping license as required for the method of take.[:]

[(a)] [A hunting license, and]

[(b)] [A hog permit issued by the National Park Service if he is hunting on the Big South Fork National River and Recreational Area.]

(4) A person may take pheasants year-round except as otherwise prohibited by 301 KAR 2:049 for department sponsored pheasant quota hunts.

Section 3. Unprotected Species.

(1) A person may take the following wildlife species year-round:

(a) Moles (Scalopus aquaticus, Parascalops breweri, Condalyra cristata);

(b) Mice (Mus musculus);

(c) Rats (Rattus rattus, R. norvegicus);

(d) Terrestrial invertebrates; and

(e) Exotic wildlife, except for pheasants, as restricted in Section 2(4) of this administrative regulation, and the species listed in Section 4 of this administrative regulation. [Except for rare, threatened or endangered species protected by federal laws, a person may take year-round:]

[(a)] [Exotic wildlife, except pheasants released during department administered quota hunts pursuant to 301 KAR 2:249;]

[(b)] [Moles (Scalopus aquaticus, Parascalops breweri, Condalyra cristata);]

[(c)] [Mice (Mus musculus);]

[(d)] [Rats (Rattus rattus, R. norvegicus); and]

[(e)] [Terrestrial invertebrates.]

(2) A person may take the species listed in subsection (1) of this section without a hunting or trapping license, except that take of English sparrow and starlings requires a hunting license.

Section 4. Species with Restricted Take. A person shall not take the following species:

(1) Members of the Family Suidae (pigs or hogs), except if landowners are incurring damage, they may be taken pursuant to KRS 150.170, Section 7;

(2) Federally protected migratory birds; or

(3) Federally threatened or endangered species.

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CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amended at ARRS Committee)

301 KAR 3:130. Public use of conservation camp properties.

RELATES TO: KRS [~~13B,~~] 150.025, 150.0241, 150.170, 28 C.F.R. 35, 36, 43 C.F.R. 17

STATUTORY AUTHORITY: KRS 150.025(1), 150.179(2), 150.620[, ~~150.0241~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations necessary to carry out the purposes of KRS Chapter 150. KRS 150.179(2) authorizes the department to approve certain

special events that provide education or appreciation of the recreational activity. KRS 150.0241 authorizes the department to impose and enforce special administrative regulations on lands managed for public hunting, fishing, and related recreational uses [43 C.F.R. Part 17 and 28 C.F.R. parts 35 and 36 mandate that state government agencies comply with the Americans with Disabilities Act]. This administrative regulation establishes procedures to allow individuals meeting defined criteria for mentored events to boat, fish, hunt, shoot, or trap as part of a department-approved activity or program. [~~KRS 150.0241 authorizes the department to impose and enforce special administrative regulations on lands managed for public hunting, fishing, and related recreational uses.~~] This administrative regulation establishes prohibitions for [prohibits] certain actions inconsistent with the intended purpose of conservation camp properties and [,] establishes requirements for other uses of [, and stipulates the procedure for obtaining group use permits on] these areas.

Section 1. Definitions.

(1) "Adult" means a person who is at least eighteen (18) years of age.

(2) "Bait":

(a) Means[:]

[(a)] a substance composed of grains, minerals, salt, fruits, vegetables, hay, or any other food materials, whether natural or manufactured, that could lure, entice, or attract wildlife; and

(b) Does not mean the establishment and maintenance of plantings for wildlife, foods found scattered solely as the result of normal agricultural planting or harvesting practices, foods available to wildlife through normal agricultural practices of livestock feeding if the areas are occupied by livestock actively consuming the feed on a daily basis, or standing farm crops under normal agricultural practices.

(3) "Conservation camp" means a tract of land:

(a) Controlled by the department through ownership, lease, license, or cooperative agreement; and

(b) That is utilized to host [~~summer~~] conservation camps [for Kentucky children].

(4) "Event" means a boating, fishing, hunting, shooting, or trapping activity, conducted by the department.

(5) [~~"Experienced" means a person who has often participated in a particular activity in the past and is well versed in the techniques, equipment, and safety concerns for the activity.~~]

[(6)] [~~"Injurious substance" means a substance which may be injurious to aquatic life, wildlife, or wildlife habitat.~~]

[(7)] "Mentee" means an individual who [a youth or novice adult hunter, trapper or angler that] is participating or going to participate in a mentored event to receive guidance and instruction from a mentor to learn the lawfully compliant methods and techniques for engaging in the activity being performed in the mentored event.

[(8)] [(9)] "Mentor" means an adult who:

(a) Has previously participated in a particular activity;

(b) Is well versed in the techniques, equipment, and safety concerns related to the [, experienced in the type of] activity that is to occur at an event; and

(c) Passes [, who must submit to and pass] a background check prior to accompanying a mentee during a mentored event.

[(7)] [(9)] "Mentored event" means an event during a statewide season in which mentors accompany mentees.

[(8)] [(10)] "Mobility-impaired" means an individual who meets the requirements of 301 KAR 3:026, Section 2(1).

[(9)] [(11)] "Novice" means a person who has not:

(a) Held the applicable license for an event activity for more than two (2) license years in total; [~~has not~~]

(b) Held the applicable license for an event activity within the past three [(3)] [~~five~~] years; [~~has not~~]

(c) Successfully harvested the targeted species for an event within the past three [(3)] [~~five~~] years; [:] or

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~~(d)~~ For shooting and boating activities, ~~[has not]~~ participated in the activity more than five (5) times within the past ~~three (3)~~ ~~five (5)~~ years.

~~(10)~~ ~~(12)~~ "Participant" means an individual who engages in boating, fishing, hunting, shooting, or trapping, as part of an event.

~~(13)~~ ~~["Youth" means a person fifteen (15) years old or younger on the date of their license purchase.]~~

Section 2. General Requirements.

(1) Unless established in this administrative regulation, statewide requirements shall apply.

(2) A person shall only hunt or trap in the area assigned to them by department staff.

(3) While upon a conservation camp property, a person shall not:

(a) Enter a portion of a conservation camp property designated by signage as closed to public access; ~~[-]~~

(b) Camp, except in a designated area; ~~[-]~~

(c) Place or distribute bait or otherwise participate in baiting wildlife on a conservation camp property; ~~[-]~~

(d) Hunt over bait; ~~or~~ ~~[-]~~

(e) Possess or be under the influence of alcohol or "illicit substances", as ~~defined by established in~~ KRS 351.010 ~~(1)(l)~~, at any time while on conservation camp property.

(4) Only individuals who possess valid hunter education certification may participate in a hunting or trapping event.

(5) To participate in an event as a mentee, an individual shall be under eighteen (18) years of age or a novice in the activity.

Section 3. Mentored Events.

(1) Unless license exempt, as established in KRS 150.170, the mentee shall abide by any license requirements and daily harvest and possession limits.

(2) A mentor shall:

(a) Accompany a mentee;

(b) Remain in a position at all times to take immediate control of a mentee's bow, crossbow, firearm, or any equipment used to legally hunt, trap, or fish; ~~and~~

(c) Not be required to possess a hunting license or related permits ~~for the mentor to:~~

1. Track and dispatch a wounded animal;

2. Retrieve an animal; or

3. Render other assistance in accordance with KRS Chapter 150 and 301 KAR Chapters 2 and 3, if only assisting the mentee.

(3) A mentee shall:

(a) Accompany a mentor;

(b) Remain in a position at all times so that the mentor may take immediate control of the mentee's bow, crossbow, firearm, or any equipment used to legally hunt, trap, or fish; and

(c) Possess all required licenses and permits.

Section 4. Mobility-impaired Individuals.

(1) Individuals who are participating in an event, possess a Mobility-impaired Access Permit, as established in 301 KAR 3:026, and carry the permit on their person during the event, ~~may~~ ~~shall be allowed~~, if otherwise qualified to do so at the event, ~~to do the following acts~~:

(a) Discharge ~~of~~ a firearm or other legal hunting device from a motor vehicle if the vehicle is motionless and has its engine turned off. The motor vehicle shall be used as a place to wait or watch for game and shall not be used to chase, pursue, or drive game; ~~and~~ ~~[-]~~

(b) ~~May~~ Operate electric wheelchairs, ATV's, and other passenger vehicles on or off gated, ungated, or open-gated roads otherwise closed to vehicular traffic, but the individual shall do so only on designated portions of camp property.

(2) ATV users shall adhere to manufacturer recommendations while utilizing ATVs on camp property.

~~(3)~~ ~~[A mentee or mentor accompanying a mobility-impaired individual during an event shall be permitted to:]~~

~~(a)~~ ~~[Track and dispatch a wounded animal;]~~

~~(b)~~ ~~[Retrieve an animal; or]~~

~~(c)~~ ~~[Render other assistance in accordance with KRS Chapter 150 and 301 KAR Chapters 2 and 3.]~~

~~(4)~~ ~~[A mentee or mentor accompanying a mobility-impaired individual during an event shall not:]~~

~~(a)~~ ~~[Operate his or her own ATV; or]~~

~~(b)~~ ~~[Hunt or shoot from an ATV.]~~

Section 5. General Requirements on Federally Owned Areas.

(1) Unless established in this administrative regulation, statewide requirements shall apply.

(2) A person shall:

(a) Not hunt except on assigned dates and in assigned areas; and

(b) Comply with all requirements established by the agency controlling the area.

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**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(Amended at ARRS Committee)**

922 KAR 1:140. Permanency~~[Foster care and adoption permanency]~~ services.

RELATES TO: KRS 2.015, 194A.005(1), 199.011(3), (4), (9), 199.462, ~~[199.467]~~ 199.555, 199.557, 199.801, 387.025, 527.100, 527.110, 600.020, 610.110, 610.125, 610.127, 620.020(1), (11), 620.060, 620.090, 620.140, ~~[620.180]~~ 625.040, 625.090, 45 C.F.R. 1355 -1357, 25 U.S.C. 1901-1963, 42 U.S.C. 621-629m, 670-679c, 1996, 1996b

STATUTORY AUTHORITY: KRS 194A.050(1), 199.467, 620.180

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the ~~secretary~~ [Secretary] of the Cabinet for Health and Family Services to promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.467 requires the ~~secretary~~ [Secretary] of the Cabinet for Health and Family Services to promulgate administrative regulations establishing specific goals for the cabinet, for each fiscal year, regarding the maximum number of children who will remain in foster care longer than twenty-four (24) months, and describing the steps to be taken to achieve the goals. KRS 620.180(2) requires the cabinet to promulgate administrative regulations for status review, ongoing case work, and supportive services to children in placement. This administrative regulation establishes the maximum number of children remaining in foster care longer than twenty-four (24) months, and establishes permanency services available to children in placement.

Section 1. Definitions.

(1) "Absent parent search" means cabinet-initiated efforts to locate a biological or legal parent, or a relative.

~~(2)~~ ~~["Age or developmentally appropriate" is defined by KRS 600.020(2).]~~

~~(3)~~ "Cabinet" is defined by KRS 194A.005(1), 199.011(3), and 600.020(7).

~~(3)~~ ~~(4)~~ "Case permanency plan" is defined by KRS 620.020(1).

~~(4)~~ ~~(5)~~ "Child" means:

(a) A child defined by KRS 199.011(4) and 600.020(9);

(b) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(e); or

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(c) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015.

~~(5)(6)~~ "Concurrent planning" means the cabinet simultaneously plans for:

(a) The return of a child in the custody of the cabinet to the child's parent; and

(b) Another permanency goal for the child if return to parent is not achieved within fifteen (15) of the last ~~twenty-two~~ twenty-two (22) months, in accordance with 42 U.S.C. 675(5)(E).

~~(6)(7)~~ "Fictive kin" is defined by KRS 199.011(9) and 600.020(28).

~~(7)(8)~~ "Parent" is defined by 42 U.S.C. 675(2).

~~(8)(9)~~ "Reasonable efforts" is defined by KRS 620.020(13)(14).

~~(9)(10)~~ "Relative" means an individual related to a child by blood, marriage, or adoption.

~~(10)(11)~~ "Subsidized permanent custody" means the guardianship assistance program authorized by 42 U.S.C. 673 and funded with Title IV-E and state general funds, established in 922 KAR 1:145. "~~Sufficient progress~~" means compliance with case permanency plan objectives that support the safe return of the child to the child's parent.

Section 2. Children in Care. Unless the secretary of the cabinet or designee approves an exception based on overall trends in the foster care population, the maximum number of children who receive foster care in excess of twenty-four (24) months shall be 3,000 during a state fiscal year.

Section 3. Permanency Planning.

(1) In a court permanency hearing held pursuant to KRS 610.125, the cabinet shall demonstrate that reasonable efforts to return the child to the child's parent:

(a) Have been unsuccessful; or

(b) Are not required under the provisions of KRS 610.127.

(2) In the provision of permanency services, the cabinet shall meet the requirements of the:

(a) Indian Child Welfare Act in accordance with 25 U.S.C. 1901-1963, 42 U.S.C. 671(a)(32), and 42 U.S.C. 1996; or

(b) Multiethnic Placement Act as amended by the Interethnic Adoption Provisions of 1996 in accordance with 42 U.S.C. 622(b)(7), 671(a)(18), and 1996b.

(3) If a child entering the custody of the cabinet has an absent parent, an absent parent search shall:

(a) Be conducted within thirty (30) days of a child entering the custody of the cabinet;

(b) Be conducted to gather as much information as possible related to the person and the person's location, which may include:

1. Date of birth;

2. Social Security number;

3. Present or previous employers;

4. Present or most recent address; and

(c) Include a written record of all search attempts, written correspondence, and telephone contacts with any person to assist in locating a parent or relative.

(4) The cabinet shall not be obligated to search for or seek fictive kin as a placement for a child.

(5) When a case conference is held in compliance with KRS 620.180(2)(a)1 for a child placed in the custody of the cabinet, the cabinet shall develop and document a case permanency plan [~~using the DPP-1281, Family Case Plan~~].

(6) The case permanency plan shall identify the permanency goal described in Section 4(2) of this administrative regulation.

(7) Concurrent planning shall be considered:

(a) During development of the case permanency plan; and

(b) At the six (6) month case review.

Section 4. Permanency Goals.

(1) A permanency goal for a child who has been removed from the child's home of origin by a court shall be established according to the particular needs and best interest of the child.

(2) A permanency goal shall include one (1) of the following:

(a) Return to parent;

(b) Adoption;

(c) Permanent relative placement;

(d) Legal guardianship; [or]

(e) Subsidized permanent custody;

(f) Transitioning to adulthood; or

(g) Another planned permanent living arrangement.

Section 5. Return to Parent.

(1) The cabinet shall recommend to the court that a child who has been removed from the child's home of origin by the court is returned to the parent if the cabinet determines:

(a) A family has successfully mitigated the danger to the child associated with the removal or has a plan supported by the cabinet to provide safety for the child while making progress towards completing the case plan [~~made sufficient progress toward completing the case permanency plan~~]; and

(b) Return to the parent is in the best interest of the child.

(2) If the cabinet determines that a family has not successfully mitigated the danger to the child associated with the removal or does not have [~~has~~] a plan supported by the cabinet to provide safety for the child while making progress toward completing the case plan [~~made sufficient progress towards achieving the objectives specified in the case permanency plan~~], the cabinet shall seek a court order for:

(a) A change in the permanency goal;

(b) Termination of parental rights; or

(c) A civil action in support of the child's permanency goal.

(3) If the court determines that a circumstance occurs that negates the requirement to make reasonable efforts to reunify the child and family, as described in KRS 610.127, the cabinet shall select a permanency goal other than return to parent.

Section 6. Adoption.

(1) The permanency goal for a child in the custody of the cabinet shall be adoption if:

(a) The parent pursues voluntary termination of parental rights pursuant to KRS 625.040; or

(b) The cabinet pursues involuntary termination of parental rights:

1. Pursuant to KRS 620.180(2)(c)3 or 625.090; or

2. If the child has been in foster care for fifteen (15) of the most recent twenty-two (22) months pursuant to 42 U.S.C. 675(5)(E).

(2) The cabinet shall request an exception for proceeding with involuntary termination of parental rights pursuant to subsection (1)(b) of this section, if:

(a) A relative or fictive kin placement has been secured;

(b) Termination is not in the best interest of the child, for a compelling reason:

1. Documented in the case permanency plan; and

2. Monitored on a continual basis; or

(c) A service necessary for return to parent has not been provided within the time period specified in the case permanency plan.

(3) Cabinet staff shall consider involuntary termination of parental rights at each permanency hearing held pursuant to KRS 610.125(1) or a case review in accordance with KRS 620.180(2)(c)1 and 2.

Section 7. Permanent Relative Placement. The permanency goal for a child who has been removed from the child's home of origin by a court shall be permanent custody if:

(1) Return to the parent is not in the child's best interest; and

(2) The cabinet determines that a relative or fictive kin who does not pursue adoption, [or] legal guardianship, or subsidized permanent custody is able to provide a permanent home for the child.

Section 8. Legal Guardianship.

(1) The permanency goal for a child who has been removed from the child's home of origin by a court shall be legal guardianship if the cabinet determines that:

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(a) Return to the parent, ~~or~~ adoption, or subsidized permanent custody is not in the child's best interest;

(b) There is an identified adult, including fictive kin, willing to seek legal guardianship of the child; and

(c) Legal guardianship by the adult identified in paragraph (b) of this subsection is in the child's best interest.

(2) Legal guardianship shall be requested pursuant to KRS 387.025.

Section 9. Subsidized permanent custody. The permanency goal for a child who has been removed from the child's home of origin by a court shall be subsidized permanent custody if the cabinet determines that:

(1) Reunification, adoption, legal guardianship, and permanent relative custody is not in the child's best interest; and

(2) The child is eligible pursuant to Section 2 of 922 KAR 1:145.

Section 10. Transitioning to Adulthood. The permanency goal for a child who is ~~or~~ [eighteen (18) years of age or older and has extended commitment to the cabinet or seventeen (17) years of age shall be transitioning to adulthood if:

(1) Other permanency goal options have been exhausted and are no longer appropriate due to the specific circumstances of the child;

(2) The cabinet has reviewed documentation and determined that a goal of transitioning to adulthood is in the best interest of the child;

(3) The court has determined that transitioning to adulthood is in the best interest of the child; and

(4) For children aged seventeen (17), approval is obtained from the commissioner or designee prior to the court determination required by subsection (3) of this section and the establishment of transitioning to adulthood as a permanency goal for children aged seventeen (17).

Section 11. [Section 9.] Another Planned Permanent Living Arrangement.

(1) The permanency goal for a child in the custody of the cabinet who is sixteen (16) years of age or older shall be another planned permanent living arrangement if:

(a) An unsuccessful effort has been made to place the child for adoption or with a relative or fictive kin, and the child has been placed on a national adoption register;

(b) Other permanency goal options have been exhausted and are no longer appropriate due to the specific circumstances of the child;

(c) The cabinet has reviewed documentation that a goal of another planned permanent living arrangement is in the best interest of the child;

(d) The court has determined that another planned permanent living arrangement is in the best interest of the child to be placed; and

(e) The child has formed psychological ties with those with whom the child lives, and adoption and guardianship have been discussed with the care provider and are not viable alternatives.

(2) Approval shall be obtained from the commissioner or designee prior to the establishment of another planned permanent living arrangement as a permanency goal for a child placed with a private child-caring agency.

Section 12. [Section 10.] Permanency Services.

(1) The cabinet shall provide services for a child who has been removed from the child's home of origin by a court so that permanency is achieved.

(2) Permanency services may include:

(a) Ongoing case work and monitoring of the family to:

1. Maintain the child safely in the child's home; and

2. Ensure safe return of the child if the goal is return to the parent;

(b) Independent living services and programming for the child in accordance with 42 U.S.C. 677;

(c) Adoption assistance pursuant to 922 KAR 1:050 or 922 KAR 1:060;

(d) Post-finalization adoption assistance if adoption assistance has not been previously approved pursuant to KRS 199.555 and 199.557;

(e) Post-adoption placement stabilization services as established ~~described~~ in 922 KAR 1:530; ~~or~~

(f) Subsidized permanent custody payments as established in 922 KAR 1:145; or

(g) Referral to other cabinet and community resources necessary for the achievement or maintenance of the child's permanency goal.

(3) Cabinet resources for a prospective or existing permanent relative or fictive kin placement shall be established in 922 KAR 1:565.

Section 13. [Section 11.] Funerals and Burials.

(1) The biological or legal parent of a child deceased while in temporary custody or committed to the cabinet, shall be responsible for funeral arrangements, unless the:

(a) Parental rights have been terminated;

(b) Parent cannot be located; or

(c) Parent is unable to make funeral arrangements.

(2) Personal and family resources, including the deceased child's trust fund and insurance in the deceased child's name, shall be exhausted prior to the approval of cabinet funds for funeral and burial expenses.

[Section 12.] [Incorporation by Reference.]

[(1)] ["DPP-1281, Family Case Plan", 11/16, is incorporated by reference.]

[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.]

FILED WITH LRC: May 14, 2024

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

CABINET FOR HEALTH AND FAMILY SERVICES Department for Community Based Services Division of Protection and Permanency (Amended at ARRS Committee)

922 KAR 1:145. Subsidized permanent custody.

RELATES TO: KRS 2.015, 199.011, 403.270-403.355, 600.020, 605.100, 605.130, 610.110(6), 610.125, 620.090, 620.140, 620.170, 45 C.F.R. 1355.34(b), 42 U.S.C. 673

STATUTORY AUTHORITY: KRS 194A.050(1), 199.472, 605.100(1), 605.130(7), 605.150, 620.180(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires ~~authorizes~~ the cabinet to promulgate, administer, and enforce those administrative regulations necessary to qualify for the receipt of federal funds. To maintain eligibility for full funding pursuant to Titles IV-E and IV-B of the Social Security Act, under 45 C.F.R. 1355.34(b) and (c), the cabinet shall design services to help children achieve permanency. KRS 605.150 authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605, including KRS 605.130(7), which requires the cabinet to perform other services necessary for the protection of children, and KRS 605.100(1), which requires the cabinet to arrange for a program of care, treatment, and rehabilitation of the children committed to it. KRS 620.180(2) requires the cabinet to promulgate administrative regulations for status review, ongoing case work, and supportive services to children in placement. This administrative regulation establishes cabinet requirements and procedures to process requests for

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subsidized permanent custody pursuant to the federal Title IV-E guardianship assistance program and state guardianship assistance program, as authorized by 42 U.S.C. 673.

Section 1. Definitions.

(1) "Cabinet" is defined by KRS 199.011(3).

(2) [~~"Case permanency plan" is defined by KRS 620.020(1);~~]

[~~3~~] "Child" means:

(a) "Child" as defined by KRS 199.011(4) and 600.020(9);

(b) An eighteen (18) year old enrolled with regular full-time attendance in high school, vocational school, or technical school;

(c) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with KRS 610.110(6) or 620.140(1)(d); or

(d) A person under age twenty-one (21) who meets the exceptions to the age of majority in accordance with KRS 2.015.

[~~3~~][~~4~~] "Fictive kin" is defined by KRS 199.011(9) and 600.020(28).

[~~4~~][~~5~~] "Parent" is defined by 42 U.S.C. 675(2).

[~~5~~][~~6~~] "Relative" means an individual related to a child by blood, marriage, or adoption.

[~~6~~][~~7~~] "Subsidized permanent custody" means the guardianship assistance program authorized by 42 U.S.C. 673 and funded with Title IV-E and state general funds.

[~~7~~][~~8~~] "Successor caregiver" is defined as an individual named in the subsidized permanent custody agreement, or most recent amendment to the agreement, to serve as the caregiver in the event the original caregiver named in the subsidized permanent custody agreement dies or is incapacitated.

Section 2. Eligibility of Child. [~~In order~~]To qualify for assistance, a child or youth shall:

(1) Be placed in the permanent custody of a relative or fictive kin caregiver by order of a court entered pursuant to KRS 403.270-403.355, 610.125, 620.027, or 620.140 if the order states that reunification or adoption are not in the child's best interest;

(2) Demonstrate a strong attachment to the relative or fictive kin caregiver;

(3) Have been placed in an approved relative or fictive kin foster home that received foster care maintenance payments for at least six (6) consecutive months, except for:

(a) A child whose sibling has met this requirement; or

(b) A child being placed with a successor caregiver pursuant to Section 8 of this administrative regulation;

(4) Be residing with a caregiver who meets the eligibility requirements established in Section 3 of this administrative regulation;

(5) Have been approved for subsidized permanent custody at age sixteen (16) or older [~~in order~~]to continue receiving payment after age eighteen (18) up to age twenty-one (21), except for a child or youth who meets the exception to the age of majority, if the child or youth is:

(a) Completing secondary education or a program leading to an equivalent credential;

(b) Enrolled in an institution that provides post-secondary or vocational education;

(c) Participating in a program or activity designed to promote or remove barriers to employment; or

(d) Employed for at least eighty (80) hours per month; and

(6) Meet any additional eligibility requirements required for receipt of federal funding, as specified in 42 U.S.C. 673(d)(3).

Section 3. Eligibility of Caregiver.

(1) [~~In order~~]To qualify for assistance, a caregiver shall:

(a) Be a nonparental relative or fictive kin of a child who is eligible for assistance pursuant to Section 2 of this administrative regulation;

(b) Meet the requirements of a foster home established in 922 KAR 1:310 or 922 KAR 1:350;

(c) Have completed training required by 922 KAR 1:495 for a relative or fictive kin caregiver; and

(d) Have a strong commitment to permanently caring for the child.

(2) Prior to cabinet approval and the issuance of a new subsidized permanent custody agreement:

(a) Each caregiver and adult member of the caregiver's household shall have completed a background check pursuant to 922 KAR 1:490; and

(b) Each member of the caregiver's household who is age twelve (12) through age seventeen (17) shall have completed a DPP-157, submitted to a child abuse or neglect check, and been approved by the cabinet pursuant to 922 KAR 1:490.

Section 4. Subsidized Permanent Custody Agreement.

(1) Prior to approval of subsidized permanent custody, the eligible child shall consent in writing to the placement with the selected caregiver, if the child is:

(a) At least fourteen (14) years of age; and

(b) Competent, as determined by the cabinet, to provide informed consent to the placement and terms of the agreement.

(2) The cabinet shall confirm that all requirements established in this administrative regulation have been met and shall require the caregiver to complete the subsidized permanent custody agreement [~~in order~~]to receive payment pursuant to Section 5 of this administrative regulation.

Section 5. Payments and Benefits.

(1) If funding is available and the subsidized permanent custody agreement is completed and agreed to by the cabinet and the caregiver prior to the finalization of the permanent custody, taking into consideration the circumstances of the caregiver and the needs of the child, the payments shall:

(a) Be for an amount that is more than zero dollars [~~(\$0)~~], but does not exceed the foster care maintenance payment rate that would have been paid on behalf of the child in foster care; and

(b) Begin, effective as of the date [~~that~~]the order granting permanent custody is signed into court record.

(2) A child who is approved for subsidized permanent custody shall continue to be eligible for Medicaid coverage after the order granting permanent custody and subsidized permanent custody agreement are signed and finalized in accordance with applicable provisions of 907 KAR 20:005.

(3) A child or caregiver who is approved for subsidized permanent custody shall also be eligible to receive applicable assistance provided pursuant to 922 KAR 1:565.

(4) A child who is approved for subsidized permanent custody at age sixteen (16) or older shall be eligible for:

(a) Independent living services established in 922 KAR 1:340; and

(b) An educational and training voucher pursuant to 922 KAR 1:500.

(5) A request for payment of nonrecurring subsidized permanent custody expenses of \$2,000 or less shall be submitted to the cabinet for reasonable and necessary fees, court costs, and other expenses that were actually incurred and directly related to the placement of a child no later than twelve (12) months after the order granting permanent custody is entered into court record.

Section 6. Annual Contact.

(1) The cabinet shall make annual contact with the caregiver by mail, email, phone, home visit, or other cabinet method of contact to ensure that the:

(a) Child remains in the caregiver's home;

(b) Caregiver continues to provide care and support for the child; and

(c) Cabinet payments continue to meet the needs of the child.

(2) The cabinet may conduct a home or office visit after annual contact if:

(a) The caregiver requests a home or office visit;

(b) The needs of the child have changed;

(c) Attempts to update information by mail, email, or phone contact have failed; or

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(d) The cabinet receives information that is contrary to the information provided by the caregiver or child during the annual contact.

Section 7. Suspension or Termination of Agreement and Payment.

(1) The cabinet may suspend payments pursuant to a subsidized permanent custody agreement if multiple attempts by the cabinet to make annual contact as established in Section 6 of this administrative regulation have failed due to lack of response from the caregiver or child.

(2) A caregiver shall notify the cabinet within thirty (30) calendar days of any changes in circumstances that would change the payment amount or make the caregiver ineligible for payments pursuant to Sections 2 or 3 of this administrative regulation.

(3) The cabinet may alter the payment amount based on information provided to the cabinet if the amount is agreed upon by the cabinet and caregiver.^[,]

(4) The cabinet shall temporarily suspend subsidized permanent custody payments during the period of time the:

(a) Child reenters the custody of the cabinet, if applicable; or

(b) Caregiver fails to provide documentation demonstrating financial responsibility and support after the cabinet has [repeatedly] requested the documentation [regarding financial responsibility] from the caregiver at least three (3) times.

(5) The cabinet shall resume payments suspended pursuant to this section ~~[of the administrative regulation]~~ if modifications to the agreement are agreed to by the cabinet and the caregiver or if the caregiver resumes financial support of the child and provides to the cabinet documentation demonstrating financial responsibility and support.

(6) The cabinet shall terminate a subsidized permanent custody agreement if the:

(a) Cabinet determines that the:

1. Child is no longer receiving financial support from the caregiver;

2. Caregiver's legal responsibility to the child has ended;

3. Custody is reassigned to a successor caregiver; or

4. Appropriated funds are no longer available to support continuation of this program pursuant to Section 5 of this administrative regulation;

(b) Caregiver:

1. Requests termination; or

2. Becomes deceased; or

(c) Child:

1. Becomes deceased;

2. Marries;

3. Is inducted into military services;

4. Except for a child for whom commitment to the cabinet was extended or who meets the exception to the age of majority:

a. Obtains age eighteen (18); or

b. If still enrolled in high school, obtains:

(i) Age nineteen (19); or

(ii) High school graduation before age nineteen (19).

(7) Cabinet staff shall provide written notice of intended action for a reduction, suspension, or termination of payments:

(a) Ten (10) calendar days in advance;

(b) In accordance with 922 KAR 1:320, Section 6; and

(c) To the caregiver at the caregiver's current or last known address.

(8) The written notice of intended action shall include a statement of the reason or reasons for the reduction, suspension, or termination as determined by the cabinet.

(9) The effective date of the reduction, suspension, or termination shall be the date documented on the notice of intended action.

(10) If the caregiver has received a payment attributable to a time after the effective date of the reduction, suspension, or termination, the caregiver shall be obligated to repay the amount of that payment to the cabinet.

Section 8. Subsidized Permanent Custody Successor. In the event of the death or incapacity of a subsidized permanent custody

caregiver, a new subsidized permanent custody agreement may be completed and agreed to by the cabinet and a successor caregiver if the successor caregiver:

(1) Is named in the subsidized permanent custody agreement or amendment that was effective before the date of death or determination of incapacity of the caregiver;

(2) Has been appointed by the court in a custody proceeding as the child's caregiver;

(3) And each member of the caregiver's household has completed the background checks required by Section 3(2) of this administrative regulation prior to cabinet approval and the issuance of a new subsidized permanent custody agreement; and

(4) Complies with the duties and responsibilities of the caregiver established in:

(a) This administrative regulation;

(b) A new subsidized permanent custody agreement, signed by the cabinet and the successor caregiver; and

(c) A subsidized permanent custody court order.

Section 9. Out-of-State Requests. The cabinet shall review out-of-state requests for subsidized permanent custody of a child in the custody of the cabinet considering the:

(1) Best interest of the child;

(2) Consent of the parent or parents, if applicable; and

(3) Extent of funds available.

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CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(Amended at ARRS Committee)

922 KAR 5:120. Vulnerable adult maltreatment [Caregiver misconduct] registry and appeals.

RELATES TO: KRS [~~Chapter 13B,~~]194A.060, [~~205.140,~~]Chapter 209, 42 U.S.C. 1320d-1320d-9, [~~42 U.S.C.,~~]1397-1397e, 1397m-1

STATUTORY AUTHORITY: KRS 194A.050(1), 209.032(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to adopt all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 209.032(5) requires the cabinet to promulgate administrative regulations necessary to implement a central registry of substantiated findings. This administrative regulation establishes the vulnerable adult maltreatment [caregiver misconduct] registry, due process prior to the addition of an individual to the registry, and error resolution for correction of the cabinet's records.

Section 1. Definitions.

(1) "Abuse" is defined by KRS 209.020(8).

(2) "Adult" is defined by KRS 209.020(4).

(3) "Cabinet" means the Cabinet for Health and Family Services.

(4) "Department" is defined by KRS 209.020(3).

(5)[(4)] "Employee" is defined by KRS 209.032(1)(a).

(6)[(5)] "Exploitation" is defined by KRS 209.020(9).

(7)[(6)] "Good cause" means justification for failure to carry forward with a legal obligation related to an appeal, including:

(a) An appellant's inability to comprehend the cabinet's written statement describing appeal rights; or

(b) A cabinet-sanctioned determination that the appellant or the appellant's legal representative is not at fault for failure to:

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1. Submit a written request for appeal; or
2. Participate in a proceeding related to an administrative hearing.

(8)[(7)] "Investigation" is defined by KRS 209.020(10).

(9)[(8)] "Near fatality" means an injury or condition, as certified by a physician, that places an adult in serious or critical condition.

(10)[(9)] "Neglect" is defined by KRS 209.020(16).

(11)[(10)] "Records" is defined by KRS 209.020(15).

(12)[(11)] "Secure methodology" means the deployment of technology to protect the application's authenticity and to keep user communications, browsing, and identity private in accordance with KRS 209.032.

(13)[(12)] "Validated substantiated finding of adult abuse, neglect, or exploitation" is defined by KRS 209.032(1)(b).

(14)[(13)] "Vulnerable adult services provider" is defined by KRS 209.032(1)(c).

Section 2. Vulnerable Adult Maltreatment~~Caregiver misconduct~~ Registry.

(1) The cabinet shall establish a vulnerable adult maltreatment~~caregiver misconduct~~ registry that contains an individual:

(a) Who was an employee or a person acting with the expectation of compensation;

(b) Who was the perpetrator of adult abuse, neglect, or exploitation:

1. Pursuant to 922 KAR 5:070; and
2. Substantiated on or after July 15, 2014; and

(c) With a validated substantiated finding of adult abuse, neglect, or exploitation.

(2) An individual with a validated substantiated finding of adult abuse, neglect, or exploitation shall:

(a) Remain on the vulnerable adult maltreatment~~caregiver misconduct~~ registry for a period of at least seven (7) years; and

(b) Be removed from the vulnerable adult maltreatment~~caregiver misconduct~~ registry:

1. In accordance with the error resolution process established described in Section 6 of this administrative regulation if an error is confirmed; or

2. After a period of seven (7) years if:

a. No additional validated substantiated finding of adult abuse, neglect, or exploitation has occurred since the last finding for which the individual's name was placed on the vulnerable adult maltreatment~~caregiver misconduct~~ registry; and

b. Cabinet records indicate that the incident for which the individual's name was placed on the vulnerable adult maltreatment~~caregiver misconduct~~ registry did not relate to an adult fatality or near fatality related to adult abuse or neglect.

(3) The vulnerable adult maltreatment~~caregiver misconduct~~ registry shall be available for a web-based query using a secure methodology by:

(a) A vulnerable adult services provider in accordance with KRS 209.032(2); ~~and~~

(b) An individual in accordance with KRS 209.032(3); ~~and~~

(c) An employee of the cabinet with a legitimate interest in the case.

(4) The vulnerable adult maltreatment~~caregiver misconduct~~ registry shall be accessible through:

(a) The department's main webpage; or

(b) Another cabinet system, such as the Kentucky Applicant Registry and Employment Screening (KARES) Program established in accordance with 906 KAR 1:190.

(5) If an individual or a vulnerable adult services~~service~~ provider established described in KRS 209.032(1)(c)11 does not have access to the internet, the individual or provider shall submit a signed and completed DPP-246, Vulnerable Adult Maltreatment~~Caregiver misconduct~~ Registry Self-Query, to conduct a self-query in accordance with KRS 209.032(2) or (3).

Section 3. Notification of Finding.

(1) If the cabinet finds that an employee or a person acting with the expectation of compensation has committed adult abuse, neglect, or exploitation in accordance with 922 KAR 5:070, the

cabinet shall send notice of the finding to the perpetrator by certified mail to the perpetrator's last known address.

(2) The cabinet's notice of a finding of adult abuse, neglect, or exploitation to an employee or a person acting with the expectation of compensation shall include:

(a) The factual basis for the finding of adult abuse, neglect, or exploitation;

(b) The results of the investigation;

(c) The perpetrator's right to appeal the substantiated finding in accordance with KRS 209.032 and this administrative regulation;

(d) A statement that a finding shall become a validated substantiated finding of adult abuse, neglect, or exploitation in accordance with KRS 209.032 and Section 5 of this administrative regulation; and

(e) A statement that a perpetrator of a validated substantiated finding of adult abuse, neglect, or exploitation shall be added to the vulnerable adult maltreatment~~caregiver misconduct~~ registry.

(3)

(a) The cabinet shall reserve the right, in its sole discretion, to amend, modify, or reverse its investigative finding of adult abuse, neglect, or exploitation at any time if the finding appears to be improper based upon:

1. A review of the cabinet's records; or
2. Subsequent discovery of additional information.

(b) If amendment, modification, or reversal of an investigative finding results in a substantiated finding of abuse or neglect of an adult, the cabinet shall act in accordance with Section 3(1) and (2) of this administrative regulation.

Section 4. Request for Appeal.

(1) In accordance with KRS 209.032, if the cabinet makes a finding that an employee or a person acting with the expectation of compensation has committed adult abuse, neglect, or exploitation, the individual shall have the right to appeal the substantiated finding through an administrative hearing.

(2) A request for appeal shall:

(a) Be submitted:

1. In writing by the appellant, with the assistance of the cabinet if the appellant is unable to comply without assistance; and

2. To the cabinet no later than thirty (30) calendar days from the individual's receipt of the notice in accordance with Section 3(1) of this administrative regulation;

(b) State Describe the nature of the investigative finding;

(c) State Specify the reason the individual disputes the cabinet's substantiated finding; and

(d) Include a copy of the notice of a substantiated finding in accordance with Section 3 of this administrative regulation, if available.

(3) The cabinet shall not dismiss a request for appeal as untimely if an appellant demonstrates good cause.

(4) A final administrative decision made by the cabinet or cabinet's designee as a result of a previous appeal on the same issue or an unsubstantiated finding of adult abuse, neglect, or exploitation shall not be reviewed~~subject to review~~ through an administrative hearing.

Section 5. Administrative Hearing.

(1) An administrative hearing conducted by the cabinet or its designee shall be in accordance with KRS Chapter 13B and 209.032.

(2) The cabinet's investigative finding shall become a validated substantiated finding of adult abuse, neglect, or exploitation if the:

(a) Perpetrator does not request an administrative hearing in accordance with Section 4 of this administrative regulation;

(b) Perpetrator fails to:

1. Participate in any stage of the proceedings after requesting an appeal in accordance with Section 4 of this administrative regulation; and

2. Demonstrate good cause; or

(c) Cabinet's substantiated finding is upheld through the administrative hearing process.

(3) The secretary or designee shall issue the final order in accordance with KRS 13B.120 and 209.032.

(4) A party aggrieved by the secretary's decision shall have the right to pursue judicial review in accordance with KRS 13B.140, 13B.150, and 209.032(1)(b).

(5) The proceedings of the administrative hearing shall be disclosed only in accordance with KRS 194A.060, [~~205-140~~], 42 U.S.C. 1320d-1320d-9, [~~42 U.S.C.~~]1397-1397e, 1397m-1, 920 KAR 1:060, and 922 KAR 1:510.

(6) If the matter is not subject to the requirements of this section, the cabinet shall inform the person that the matter may be pursued through:

(a) A service complaint process ~~established~~~~described~~ in [~~920 KAR 1:030 or~~]922 KAR 1:320; or

(b) The error resolution process in accordance with Section 6 of this administrative regulation.

Section 6. Error Resolution.

(1) In accordance with KRS 209.032(5)(a), an individual seeking error resolution shall:

(a) Submit a written request for record correction to the Commissioner of the Department for Community Based Services, 275 East Main Street (3W-A), Frankfort, Kentucky 40621;

(b) ~~State Specify~~ the:

1. Date of the vulnerable adult maltreatment~~[caregiver misconduct]~~ registry query which resulted in the error being identified; and

2. Error contained in the vulnerable adult maltreatment~~[caregiver misconduct]~~ registry query results; and

(c) Provide documentation that verifies the error, if available.

(2) Within thirty (30) days of receipt of a request in accordance with subsection (1) of this section, the commissioner or designee shall:

(a) Determine ~~if whether~~ an error exists; and

(b)

1. If the cabinet confirms an error:

a. Correct the records; and

b. Notify the requesting individual that the records have been corrected; or

2. If the cabinet cannot confirm an error:

a. Notify the individual that an error cannot be confirmed based upon the information and documentation submitted with the request; and

b. ~~Include Outline~~ information or documentation ~~to that may~~ verify an error pursuant to the individual's request, if any.

Section 7. Incorporation by Reference.

(1) The "DPP-246, Vulnerable Adult Maltreatment~~[Caregiver Misconduct]~~ Registry Self-Query", 12/23~~[11/14]~~, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621; Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the department's Web site at <https://chfs.ky.gov/agencies/dcbs/Pages/default.aspx>.

FILED WITH LRC: May 14, 2024

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

EDUCATION AND LABOR CABINET
Education Professional Standards Board
(Amended After Comments)

16 KAR 2:120. Emergency teaching certification and out-of-field teaching.

RELATES TO: KRS 157.390, 161.020, 161.028, 161.030, 161.100, ~~161.102,~~ 161.1211, 161.1221, 334A.030, 334A.033, 334A.035, 334A.050, 334A.060, 34 C.F.R. 300.156

STATUTORY AUTHORITY: KRS 161.028(1)(a), 161.030(1), 161.100, 161.1221(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.100 authorizes the Education Professional Standards Board (EPSB) to establish qualifications for granting emergency certificates if qualified teachers are not available for specific positions. KRS 161.1221(1) requires the ~~EPSB~~[Education Professional Standards Board] to establish a definition for out-of-field teaching. This administrative regulation establishes the qualifications and procedures for emergency teacher and establishes the definition for out-of-field teaching.

Section 1. Definition. "Qualified teacher" means a teacher who holds the appropriate certification for the position unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.

Section 2.

(1)

~~[(a) [Until December 31, 2014, a superintendent of a local school district shall apply to the Education Professional Standards Board for an emergency teaching certificate on behalf of an applicant by completing the Form TC-4F.]~~

~~[(b) [Beginning January 1, 2015, a superintendent of a local school district shall apply to the Education Professional Standards Board for an emergency teaching certificate on behalf of an applicant by completing the Form CA-4F.]~~

~~[(2) In accordance with KRS 161.100, prior to applying on behalf of an applicant for an emergency teaching certificate, the superintendent and board of education of a local school district shall document the following:~~

~~(a) Qualified teachers have not applied for the vacant position and qualified teachers are not available for the position;~~

~~(b) Diligent efforts have been made to recruit a qualified teacher for the vacant position, and furthermore, this vacancy has been made known locally by appropriate means;~~

~~(c) The local school district has been unsuccessful in recruiting qualified teachers for the vacant position from the listings of teachers supplied by the placement services of the teacher education institutions;~~

~~(d) The position shall be filled by the most suitable applicant available, giving preference to the factors of academic preparation, prior teaching experience or related educational work, and personal attributes compatible with the demands of the teaching profession; and~~

~~(e) The local school district has conducted a criminal records check as required by KRS 160.380 for each applicant prior to applying for the emergency certificate.~~

(2) The emergency certificate shall be valid for one (1) school year.

(3) The emergency teaching certificate shall be limited to two (2) issuances. A candidate may qualify for an additional issuance if an emergency certificate was issued under the following conditions:

(a) The emergency certificate was issued after February 15 of a school year; or

(b) The emergency certificate was issued for less than fifty (50) percent of the person's class schedule.

~~(4) The EPSB shall not issue an emergency certificate for teaching exceptional children or interdisciplinary early childhood education.~~

~~[(3)]~~

~~[(a) [The Education Professional Standards Board, depending upon the assessment of need for the position and the availability or anticipated availability of qualified teachers, shall approve or disapprove a request for the employment of emergency teachers.]~~

~~[1.] [The term of validity of an emergency certificate may be limited to a period less than the full school year.]~~

~~[2.] [The beginning date shall be no earlier than the date the request form is received by the Education Professional Standards Board.]~~

~~[3.] [In accordance with the licensure requirements of KRS 334A.030, 334A.033, 334A.035, 334A.050, and 334A.060, the Education Professional Standards Board shall not issue an emergency certificate for teaching exceptional children with communication disorders.]~~

~~[(b)] [An emergency certificate shall not be issued to the same person in any subsequent year unless the original emergency certificate was issued under the following conditions:]~~

~~[1.] [The emergency certificate was issued after February 15 of a school year; or]~~

~~[2.] [The emergency certificate was issued for less than fifty (50) percent of the person's class schedule.]~~

~~[(c)] [If an emergency certificate is issued to a person pursuant to paragraph (b) of this subsection, there shall be no more than one (1) subsequent issuance of an emergency certificate to the same person.]~~

~~[(4)]~~

~~[(a)] [Emergency certification for an assignment as teacher of exceptional children shall be issued with the condition that the applicant shall receive intensive training on special education topics, including IEP, assessment, evaluation, individualized instruction, methods, and management. This training shall be accomplished as follows:]~~

~~[1.] [The applicant shall complete twelve (12) clock hours of training as required by the Office of Special Instructional Services of the Kentucky Department of Education;]~~

~~[2.]~~

~~[a.] [The applicant shall complete an additional six (6) clock hours of training during the fall conference conducted by the Division of Exceptional Children Services of the Kentucky Department of Education. Teachers employed after the fall conference shall complete these six (6) clock hours of training during the spring conference of the Council for Exceptional Children; or]~~

~~[b.] [If the applicant is unable to attend either the fall conference or the spring conference, the applicant shall complete an additional six (6) clock hours of training offered through one (1) of the state's eleven (11) special education cooperatives. The training shall be similar to the topics covered at the conferences; and]~~

~~[3.] [The applicant shall participate in at least one (1) day of flexible in-service training, relevant specifically to special education. The training shall be limited to visitation in a classroom of an exemplary special education teacher, special education training relevant to the identified needs of the teacher, or other training provided by the Office of Special Instructional Services.]~~

~~[(b)] [The Kentucky Department of Education shall report to the Education Professional Standards Board those emergency certified teachers of exceptional children who have not completed the training requirements established in this subsection by June 30 of each year for the preceding school year.]~~

~~(5) The superintendent of the local school district and the board of education may establish the need for emergency substitute teachers on the basis of anticipated shortages of regularly certified teachers and in accordance with district policies and procedures established for the selection and employment of substitute teachers.~~

~~(6) The EPSB[Education Professional Standards Board] shall periodically review the numbers of emergency certificates issued for~~

full-time, part-time, and substitute teaching by school district, by position, and by academic preparation.

Section 3. Emergency Teaching Certificate.

(1) Issuance of an emergency teaching certificate shall require a minimum of a bachelor's degree from a regionally or nationally accredited college or university with one of the following:

(a) a cumulative minimum grade point average of 2.5 on a 4.0 scale; or

(b) a grade point average of 2.75 on a 4.0 scale on the last thirty hours of credit completed, including undergraduate and graduate coursework.

(2) A candidate meeting the requirements of Subsection (1) of this section shall be eligible for issuance of the emergency teaching certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and submission of the following documentation:

(a) Official transcripts showing all college or university credits necessary for the requested certificate;

(b) An offer of employment in a Kentucky school district in the area in which emergency certification is being sought; and

(c) Compliance with Section 2(1) of this administrative regulation.

(3) An emergency teaching certificate shall not be issued to individuals who have been judged to be unsatisfactory in the beginning teacher internship established in 16 KAR 7:010

Section 4. Emergency Substitute Certificate.

(1) Issuance of an emergency substitute certificate shall require a minimum of sixty-four (64) semester hours of credit from a regionally or nationally accredited college or university with one of the following:

(a) a cumulative minimum grade point average of 2.5 on a 4.0 scale; or

(b) a grade point average of 2.75 on a 4.0 scale on the last thirty hours of credit completed, including undergraduate and graduate coursework.

(2) A candidate with a bachelor's degree from a regionally or nationally accredited college or university is exempt from the grade point average requirements in Subsection (1) of this section.

(3) A local school district shall review the qualifications and transcripts for each applicant for an emergency substitute certificate pursuant to the requirements of this administrative regulation.

(4) A candidate meeting the requirements of Subsection (1) of this section shall be eligible for issuance of the emergency substitute certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and submission of the following documentation:

(a) An offer of employment in a Kentucky school district; and

(b) Compliance with Section 2(5) of this administrative regulation.

Section 5. Emergency Occupation-Based Career and Technical Education Substitute Certificate.

(1) Issuance of an emergency occupation-based career and technical education substitute certificate shall require a minimum of four (4) years of occupational experience in the area to be taught and a high school diploma or its equivalent as determined by evidence of a passing score on the General Education Development Test.

(2) A local school district shall review the qualifications and transcripts for each applicant for an emergency substitute certificate pursuant to the requirements of this administrative regulation.

(3) A candidate meeting the requirements of Subsection (1) of this section shall be eligible for issuance of the certificate upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and submission of the following documentation:

(a) An offer of employment in a Kentucky school district; and

(b) Certification of all educational attainment and work experience earned by the prospective emergency teacher.

~~[(7)]~~

~~[(a)]~~

~~[1.] [An emergency certificate for full-time or part-time employment shall be issued only to individuals who:]~~

~~[a.] [Have completed a minimum of a bachelor's degree from a regionally accredited college; and]~~

~~[b.]~~

~~[(i)] [Have a cumulative minimum grade point average of 2.5 on a 4.0 scale; or]~~

~~[(ii)] [Have a minimum grade point average of 3.0 on a 4.0 scale on the last sixty (60) hours of credit completed, including undergraduate and graduate coursework.]~~

~~[2.] [An emergency certificate for full-time or part-time employment shall not be issued to individuals who have been judged to be unsatisfactory in the beginning teacher internship established in 16 KAR 7:010.]~~

~~[(b)] [An emergency certificate for substitute teaching shall be issued to individuals who:]~~

~~[1.] [Have completed a minimum of sixty-four (64) semester hours of credit from a regionally accredited institution; and]~~

~~[2.]~~

~~[a.] [Have a cumulative minimum grade point average of 2.5 on a 4.0 scale; or]~~

~~[b.] [Have a minimum grade point average of 3.0 on a 4.0 scale on the last thirty-six (36) hours of credit completed, including undergraduate and graduate coursework.]~~

~~[(c)] [An emergency certificate for substitute teaching in any career and technical education or occupation-based position may be issued to persons who have a minimum of four (4) years of occupational experience in the area to be taught and a high school diploma or its equivalent as determined by evidence of a passing score on the General Education Development Test.]~~

~~[(8)]~~

~~[(a)]~~

~~[1.] [Until December 31, 2014, a Form TC-4F signed by the local school superintendent and approved by the local board of education shall be submitted for each anticipated emergency position for full-time or part-time employment. The application shall be accompanied by official transcripts of all college credits earned by the prospective emergency teacher.]~~

~~[2.] [Beginning January 1, 2015, a Form CA-4F signed by the local school superintendent and approved by the local board of education shall be submitted for each anticipated emergency position for full-time or part-time employment. The application shall be accompanied by official transcripts of all college credits earned by the prospective emergency teacher.]~~

~~[(b)]~~

~~[1.] [Until December 31, 2014, a TC-4VE signed by the local school superintendent and approved by the local board of education shall be submitted for each anticipated career and technical or occupation-based emergency position for full-time or part-time employment. The application shall be accompanied by official transcripts and certification of all educational attainment and work experience earned by the prospective emergency teacher.]~~

~~[2.] [Beginning January 1, 2015, a CA-4VE signed by the local school superintendent and approved by the local board of education shall be submitted for each anticipated career and technical or occupation-based emergency position for full-time or part-time employment. The application shall be accompanied by official transcripts and certification of all educational attainment and work experience earned by the prospective emergency teacher.]~~

~~[(e)] [A local school district shall review the qualifications and transcripts for each applicant for an emergency certificate for substitute teaching pursuant to the requirements of this administrative regulation and other pertinent Kentucky statutes and administrative regulations regarding school personnel.]~~

~~[1.]~~

~~[a.]~~

~~[(f)] [Until December 31, 2014, a local school district shall initiate the online application process for candidates for an emergency certificate for substitute teaching using the EPSB On-line TC-4~~

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Application System in accordance with the On-line TC-4 Implementation Guide for Kentucky School Districts.]

[(iii)] [Until December 31, 2014, a candidate for an emergency certificate for substitute teaching shall complete the Form TC-4 by using the EPSB On-line TC-4 Application System in accordance with the On-line TC-4 Implementation Guide for Kentucky School Districts.]

[b-]

[(i)] [Beginning January 1, 2015, a local school district shall initiate the online application process for candidates for an emergency certificate for substitute teaching using the EPSB On-line Emergency Substitute Application System in accordance with the On-line Emergency Substitute Application System Implementation Guide for Kentucky School Districts.]

[(ii)] [Beginning January 1, 2015, a candidate for an emergency certificate for substitute teaching shall complete the Form CA-4 by using the EPSB On-line Emergency Substitute Application System in accordance with the On-line Emergency Substitute Application System Implementation Guide for Kentucky School Districts.]

[2.] [A local school district shall require candidates for an emergency certificate for substitute teaching for career and technical education or occupation-based emergency positions to complete a Form TC-4VE or Form CA-4VE.]

[3.] [A local school district shall submit any TC-4VE or Form CA-4VE application on which the candidate has provided an affirmative answer to any question in the application's Section IV, Character and Fitness, to the Education Professional Standards Board for approval prior to employing the candidate in a substitute teaching position.]

Section 4.[Section 6.] [Section 3-] Rank and Salary Provisions.

[(1)] The EPSB[Education Professional Standards Board] shall issue the emergency teaching certificate [for full-time or part-time employment—]established in Section 2 of this administrative regulation with a rank designation based upon the criteria established in this subsection.

[(1)(a)] A teacher holding a valid Kentucky teaching certificate shall be issued an emergency certificate for full-time or part-time employment at the rank designated on the teacher's regular certificate.

[(b)]

[1-] [A new teacher holding a valid one (1) year provisional certificate issued upon enrollment in the Kentucky Teacher Internship Program established in 16 KAR 7:010 shall be issued an emergency certificate for part-time employment at the rank designated on the teacher's one (1) year provisional certificate.]

[2.] [The teacher shall maintain a half-time enrollment in the internship as defined in 16 KAR 7:010 to remain eligible for the higher rank established in this paragraph.]

[3-] [If the teacher terminates or otherwise fails to continue enrollment in the internship prior to its successful completion, the teacher shall be reclassified at Rank IV until the teacher is properly reenrolled in the internship program.]

[(c)] [A new teacher holding a valid Kentucky Statement of Eligibility shall be issued an emergency certificate for full-time or part-time employment at Rank IV until the teacher:]

[1-] [Is properly enrolled in the Kentucky Teacher Internship Program on at least a half-time basis as established in 16 KAR 7:010; and]

[2.] [Possesses the one (1) year provisional certificate referenced in paragraph (b)1 of this subsection.]

[(2)(d)] An applicant for the emergency certificate for full-time or part-time employment who does not hold a valid Kentucky teaching certificate shall be issued the emergency certificate at Rank IV.

[(2)] [Local school districts requesting][issuing][the emergency certificate for substitute teaching established in Section 2 of this administrative regulation shall adhere to the rank classifications established in KRS 161.1211.]

Section 5.[Section 7.] [Section 4-] Out-of-field Teaching.

(1) Pursuant to KRS 161.1221(1), out-of-field teaching shall be classified in the following four (4) categories:

(a) The number of emergency certificates issued by grade range, subject field, and district;

(b) The number of probationary certificates issued by grade range, subject field, and district;

(c) The number of temporary provisional certificates issued by grade range, subject field, and district; and

(d) The number of teachers who do not possess a certificate of legal qualifications for the professional position they hold in the public schools, including a breakout of:

1. The number of teachers who hold no certificate;

2. The number of teachers who hold an expired certificate;

3. The number of certified teachers who are teaching outside of the subject field or fields indicated on their certificate who do not hold a credential listed in paragraph (a), (b), or (c) of this subsection; and

4. The number of certified teachers who are teaching outside the grade range indicated on their certificate who do not hold a credential listed in paragraph (a), (b), or (c) of this subsection.

(2) If data is available, reports on out-of-field teaching in the four categories established in subsection (1) of this section shall differentiate between teachers who possess the equivalent of a college major, minor, or area of concentration in the subject area they are teaching.

[Section 5-] [Beginning January 1, 2015, an applicant for any certificate described in this administrative regulation who is not currently certified as an educator in Kentucky shall submit a national and state criminal background check performed in accordance with KRS 160.380(5)(c) within twelve (12) months prior to the date of application.]

[Section 6-] [Incorporation by Reference-]

[(1)] [The following material is incorporated by reference:]

[(a)] ["Form CA-4", 08/2014;]

[(b)] ["Form CA-4F", 08/2014;]

[(c)] ["Form CA-4VE", 08/2014;]

[(d)] ["Form TC-4", 10/2009;]

[(e)] ["Form TC-4F", revised 10/2009;]

[(f)] [Form TC-4VE", 10/2009;]

[(g)] ["On-line Emergency Substitute Application Implementation Guide for Kentucky School Districts", August 2014; and]

[(h)] ["On-line TC-4 Implementation Guide for Kentucky School Districts", May 2012-]

[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]

JUSTIN MITCHELL, Board Chair

APPROVED BY AGENCY: May 15, 2024

FILED WITH LRC: May 15, 2024 at 11:30 a.m.

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Todd Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the qualifications and procedures for emergency teaching certifications and establishes the definition for out-of-field teaching.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set the certification

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requirements for emergency teaching certificates and the definition for out-of-field teaching.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.020 requires a certificate of legal qualifications for any public-school position for which a certificate is issued. KRS 161.028 requires the EPSB to establish standards and requirements for obtaining and maintaining a teaching certificate. KRS 161.100 authorizes the EPSB to establish qualifications for granting emergency certificates if qualified teachers are not available for specific positions.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the requirements for emergency teaching certificates.

(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 prohibits the issuance of emergency certificates for special education teachers to comply with federal regulation on the Individuals with Disabilities Education Act. The proposed amendment also removes outdated application forms and updates the grade point average requirement for emergency teaching and allows for an additional issuance of an emergency teaching certificate. The amendment strikes reference to emergency substitute certificates and the Kentucky Teacher Internship Program.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to comply with federal regulation on the Individuals with Disabilities Education Act, remove outdated application forms, update the grade point average requirement, and allow for an additional issuance of an emergency teaching certificate. The amendment is also necessary to comply

(c) How the amendment conforms to the content of the authorizing statutes: The amendment sets the requirements for emergency teaching certifications.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will set the standards for issuance of emergency certificates when qualified applicants are not available for a position and will ensure compliance with federal regulation on the individuals with disabilities education act.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 171 Kentucky school districts and individuals seeking emergency certificates.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amendment will not allow issuance of emergency certificates for special education. For all other areas of certification, the amendments will not require additional action by the entities but will allow for an additional issuance of an emergency certificate.

(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 fee established by the Education Professional Standards Board in this regulation. With the prohibition on issuance of emergency certificates for special education, districts will have to pursue other options to have applicants certified; however, the Education Professional Standards Board issues other one-year certificates that meet the requirements of the federal regulation and do not have a certification fee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance will ensure compliance with federal regulation on the Individuals with Disabilities Education Act. For all other certification areas, compliance will ensure issuance of an emergency certificate when a qualified candidate is not available.

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

(a) Initially: There are no costs expected to implement this amendment.

(b) On a continuing basis: There are no expected continuing costs with this amendment.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased by this regulation.

(9) TIERING: Is tiering applied? Tiering is not applicable to the requirements of this regulation because the standards apply to all districts and individuals seeking emergency certificates.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.020, KRS 161.028, KRS 161.030, 34 C.F.R. § 300.156.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Education Professional Standards Board.

(a) Estimate the following for the first year:

Expenditures: No additional expenditures are expected to be needed since the systems and staff are already in place for processing applications and issuing probationary certificates.

Revenues: The amendment to this administrative regulation is not expected to generate any revenue during the first year as this regulation does not create fees and there are no fees associated with emergency certificates.

Cost Savings: No cost savings are expected with this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues and cost savings are not expected to differ in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Public-school districts.

(a) Estimate the following for the first year:

Expenditures: There are no expected expenditures for districts as there are no costs associated with the emergency certificates.

Revenues: This regulation sets the standards for the emergency teaching certificates. It will not generate revenue for districts.

Cost Savings: There are no cost savings expected as there has never been a fee associated with emergency teaching certificates.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures, revenues and cost savings are not expected to differ in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Individuals seeking emergency teaching certificates.

(a) Estimate the following for the first year:

Expenditures: There are no expected expenditures for applicants as there is no fee for an emergency certificate.

Revenues: This regulation does not generate revenue for applicants for certification.

Cost Savings: There are no cost savings expected as there has never been a fee associated with emergency teaching certificates.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures, revenues and cost savings are not expected to differ in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no fiscal impact as a result of the proposed amendments to this regulation. There is no financial cost to districts or applicants for emergency teaching certificates. While processing applications and issuing emergency teaching certificates does require staff time and resources from the Education Professional Standards Board, the amendments can be carried out by the existing staff and systems.

(b) Methodology and resources used to determine the fiscal impact: The methodology and resources used to determine that there is no fiscal impact, is looking to current systems and processes to see if additional expenditures or resources are needed to carryout the

amendments. Since no additional expenditures or resources are needed to carry out the amendments, and there are no fees created for districts or applicants, it was determined there is no fiscal impact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) There is not an expected major economic impact from this regulation as it does not create additional costs for the Education Professional Standards Board or the regulated entities.

(b) The methodology and resources used to reach this conclusion: The methodology and resources used to determine this is looking to current systems and processes to see if additional expenditures or resources are needed to carry out the amendments. Since no additional expenditures or resources are needed to carry out the amendments, and there are no fees created for districts or applicants, it was determined there is no major economic impact.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 34 C.F.R. § 300.156 (c) sets personnel qualifications for special education teachers and requires that each person employed as a special education teacher in the state has obtained full state certification as a special education teacher. 34 C.F.R. § 300.156 (c)(1)(ii) prohibits emergency certificates for special education teachers.

(2) State compliance standards. To comply with the requirements contained in 34 C.F.R. § 300.156 (c) this administrative regulation prohibits the issuance of emergency certificates to teachers of exceptional children and interdisciplinary early childhood education.

(3) Minimum or uniform standards contained in the federal mandate. 34 C.F.R. § 300.156 (c) requires that each person employed as a public-school special education teacher in the state obtain full certification. Participation in an altera route program that requires teachers to receive high-quality professional development, participate in a program of intensive supervision that consists of structured guidance and regular ongoing support, assume functions as a teacher only for a specified period not to exceed three years, and demonstrate satisfactory progress toward full certification will meet the qualifications of the federal regulation under 34 C.F.R. § 300.156 (c)(2). 34 C.F.R. § 300.156 (c) prohibits emergency certification for special education teachers.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This regulation will not impose stricter requirements, or additional or different responsibilities or requirements. The administrative prohibition will only prohibit issuance of emergency certificates to teachers of exceptional children and interdisciplinary early childhood education as required by the federal law. Emergency certificates may be issued for all other certification areas.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary
(Amended After Comments)

915 KAR 1:001. Definitions for 915 KAR Chapter 1.

RELATES TO: KRS Chapter 218B

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations to administer the medicinal cannabis program in the Commonwealth. This administrative regulation establishes definitions of terms used by the cabinet in administrative regulations pertaining to cannabis businesses and the medicinal cannabis program.

Section 1. Definitions.

(1) "Accreditation Body" means an impartial non-profit organization that operates in conformance with the International Organization for Standardization (ISO) and International Electrotechnical Commission (IEC) standard 17011 and is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA) for Testing.

(2) "Advertising" means the publication, dissemination, solicitation, or circulation, for a fee, that is visual, oral, written, or electronic to induce directly or indirectly an individual to patronize a cannabis business or to purchase medicinal cannabis.

(3) "Advertising device" means any billboard, sign, notice, poster, display, or other device, including the structure erected or used in connection with the display or device and all lighting or other attachments used in connection with the display or device, that is:

(a) Operated or owned by a person or entity who is earning compensation directly or indirectly from a third party or parties for the placement of a message on the device; and

(b) Intended to attract the attention of operators of motor vehicles on the highways.

(4) "**Agent**" means a person who acts on behalf of another person or group.

(5) "Applicant" means a person or entity, including any parent entity, who applies for a cannabis business license to operate as a cultivator, processor, producer, dispensary, or safety compliance facility in the Commonwealth.

(6)(5) "Appropriate signs" means exterior signage that accurately reflects a cannabis business's legal name, business name, "doing business as" name, or trade name and contact information on record with the cabinet.

(7)(6) "Cabinet" means the Cabinet for Health and Family Services.

(8)(7) "Cannabis business" is defined by KRS 218B.010(3).

(9)(8) "Cannabis business activities" means growing, cultivating, processing, producing, packaging, labeling, transporting, dispensing, or testing medicinal cannabis.

(10)(9) "Cannabis business agent" is defined by KRS 218B.010(4).

(11)(10) "Cannabis business category" means one (1) of the following: Tier I cultivator, Tier II cultivator, Tier III cultivator, Tier IV cultivator, processor, producer, dispensary, or safety compliance facility.

(12)(11) "Canopy" means the total surface area within a cultivation area that is dedicated to live plant production.

(13)(12) "Cardholder" is defined by KRS 218B.010(5).

(14)(13) "Certificate of accreditation" means a document issued by an accreditation body evidencing that a safety compliance facility is in compliance with International Organization for Standardization Standard ISO and IEC 17025 and other requirements relevant to the operation of laboratories conducting tests on medicinal cannabis and other items used in the growing, processing, or dispensing of medicinal cannabis.

(15)(14) "Certificate of analysis" means a document that confirms that the test performed by a safety compliance facility on a harvest batch or production batch meets the testing requirements set forth by the cabinet.

(16)(15) "Chain of custody" means the process used by employees or agents of a cannabis business or authorized agents of the cabinet to record the possession and transfer of medicinal cannabis samples or test samples from the time the samples are collected until testing is completed and the samples are destroyed.

(17) "**Controlled incineration**" means the controlled burning of medicinal cannabis in an enclosed, secured limited access area capable of capturing and neutralizing any exhaust, fumes, or fugitive odors and is capable of protecting the operator and surrounding individuals from intoxication.

(18)(16) "Cultivation activities" means the activities involved with growing, cultivating, and selling medicinal cannabis, including planting, raising, harvesting, trimming, testing, packaging, labeling, transferring, transporting, and storing medicinal cannabis.

(19)(17) "Cultivator" is defined by KRS 218B.010(6).

(20)(18) "Daycare center" means "child-care center" as defined by KRS 199.894(3), "**family child-care home**" as defined by KRS

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199.894(5), and registered childcare providers in the Child Care Assistance Program as regulated by 922 KAR 2:180].

(21)(19) "Designated caregiver" is defined by KRS 218B.010(8).

(22)(20) "Dispensary" is defined by KRS 218B.010(9).

(23)(21) "Disqualifying felony offense" is defined by KRS 218B.010(11).

(24)(22) "Enclosed, locked facility" is defined by KRS 218B.010(12).

(25)(23) "Food grade" means a non-toxic material that is safe for direct contact with food.

(26)(24) "Harvest batch" means a group of packages created from harvested medicinal cannabis plants of the same strain which were harvested at the same time. Packages of raw plant material are created from a harvest batch.

(27)(25) "Licensee" means the recipient of a license from the cabinet authorizing a cannabis business to operate in Kentucky for the term of the license.

(28)(26) "Limited access area" means:

(a) An area on a cultivator or producer's site or within its facility where seedlings or medicinal cannabis plants are growing; seedlings, medicinal cannabis plants, or medicinal cannabis are being loaded into or out of transport vehicles; medicinal cannabis is being packaged for sale or stored; medicinal cannabis waste is processed, stored, or destroyed; and security alarm and surveillance system devices are stored or maintained;

(b) An area on a processor or producer's site or within its facility where medicinal cannabis is being processed; medicinal cannabis is being loaded into or out of transport vehicles; medicinal cannabis is being packaged for sale or stored; medicinal cannabis waste is processed, stored, or destroyed; and security alarm and surveillance system devices are stored or maintained;

(c) An area on a safety compliance facility's site or within its facility where medicinal cannabis is being loaded into or out of transport vehicles, stored, tested, or destroyed and where security alarm and surveillance system devices are stored or maintained; or

(d) An area on a dispensary's site or within its building where medicinal cannabis is being loaded into or out of transport vehicles, stored, or destroyed and where security alarm and surveillance system devices are stored or maintained.

(29)(27) "Local government" means a city, county, urban-county government, consolidated local government, charter county government, or unified local government.

(30)(28) "Medicinal cannabis" is defined by KRS 218B.010(15).

(31)(29) "Medicinal cannabis accessories" is defined by KRS 218BH.010(16).

(32)(30) "Medicinal cannabis practitioner" is defined by KRS 218B.010(17).

(33)(31) "Medicinal cannabis product" is defined by KRS 218B.010(18).

(34)(32) "Medicinal cannabis waste" means:

(a) Solid, liquid, semi-solid, or contained gaseous materials that are generated by a cultivator, processor, producer, or safety compliance facility;

(b) Unused, surplus, returned, recalled, contaminated, or expired medicinal cannabis;

(c) Medicinal cannabis plant material that is not used in the growing, harvesting, processing, or testing of medicinal cannabis, including flowers, stems, trim, leaves, seeds, dead medicinal cannabis plants, dead seedlings, unused medicinal cannabis plant parts, unused seedling parts, or roots;

(d) Medicinal cannabis that exceeds any maximum allowable testing limit or fails to meet any other standards or requirements set forth in 915 KAR 001:110;

(e) Spent hydroponic nutrient solution;

(f) Containers used for:

1. Growing seedlings or medicinal cannabis plants or for use in the growing of medicinal cannabis; and

2. Processing of medicinal cannabis.

(g) Used or unused fertilizers and pesticides;

(h) Used or unused solvents, chemicals, or excipients;

(i) Samples that have been tested;

(j) Excess samples that will not be tested; and

(k) Wastewater.

(35)(33) "Minor" is defined by KRS 218B.010(19).

(36)(34) "Pesticide" means:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, attract, or mitigate any pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant;

(c) Any herbicide used to manipulate or control undesirable vegetation;

(d) Any fungicide used to kill or prevent the growth of fungi and their spores; and

(e) Any substance or mixture of substances intended to be used as a spray adjuvant, once they have been mixed with an EPA-registered product.

(37) "Principal officer" means a person who has ultimate responsibility for implementing the decisions of the cannabis business's governing body, or for supervising the management, administration, or operation of the cannabis business.

(38)(35) "Processing activities" means the activities involved with processing raw plant material and medicinal cannabis into medicinal cannabis products, including acquiring, purchasing, possessing, processing, preparing, manufacturing, manipulating, blending, packaging, labeling, transferring, transporting, supplying, or selling medicinal cannabis or medicinal cannabis products to other cannabis businesses in the Commonwealth.

(39)(36) "Processor" is defined by KRS 218B.010(21).

(40)(37) "Producer" is defined by KRS 218B.010(23).

(41)(38) "Product example" means a limited amount of medicinal cannabis or medicinal cannabis product that has been designated by a dispensary for display on its premises for the sole purpose of product education for cardholders.

(42)(39) "Production batch" means a group of packages created from a production run of medicinal cannabis and indicates the medicinal cannabis in the packages has changed forms chemically or physically, which severs previous test results from those packages and requires new testing to be completed.

(43)(40) "Qualifying medical condition" is defined by KRS 218B.010(26).

(44)(41) "Raw plant material" is defined by KRS 218B.010(27).

(45)(42) "Registered qualified patient" is defined by KRS 218B.010(28).

(46)(43) "Registry identification card" is defined by KRS 218B.010(29).

(47)(44) "Safety compliance facility" is defined by KRS 218B.010(30).

(48)(45) "Sample" means medicinal cannabis randomly selected from a harvest batch or production batch and collected by an employee or agent of a cannabis business or an authorized agent of the cabinet for testing by a safety compliance facility. "Sample" includes both a primary sample and a reserve sample.

(49)(46) "Sampler" means an employee or agent of a cultivator, processor, producer, safety compliance facility, or dispensary that is authorized by his or her employer to collect samples or test samples in accordance with the contracted safety compliance facility's standard operating procedures and 915 KAR 1:060.

(50) "School" means a public elementary or secondary school of the state and non-public schools certified by the Kentucky Department of Education.

(51)(47) "Seedling" is defined by KRS 218B.010(32).

(52)(48) "Serious violation" is defined by KRS 218B.010(33).

(53)(49) "Smoking" is defined by KRS 218B.010(34).

(54)(50) "Test sample" means an amount of medicinal cannabis or medicinal cannabis products, or amount of soil, growing medium, water, or solvents used to grow or process medicinal cannabis, dust, or other particles obtained from the swab of a counter or equipment used in the growing or processing of medicinal cannabis, or other item used in the growing or processing of medicinal cannabis in a facility taken by an employee or agent of a cannabis business or an authorized agent of the cabinet and provided to a safety compliance facility for testing.

(55)(51) "Transport vehicle" means a vehicle that is used to transport seeds, seedlings, medicinal cannabis plants, medicinal

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cannabis, and medicinal cannabis products between cannabis businesses or between a dispensary and registered qualified patients or designated caregivers.

~~(56)~~(52) "Visiting qualified patient" is defined by KRS 218B.010(38).

SAM FLYNN, Executive Director
ERIC FRIEDLANDER, Secretary

APPROVED BY AGENCY: May 14, 2024

FILED WITH LRC: May 15, 2024 at 11:15 a.m.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Oran S. McFarlan, III

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes definitions of terms used by the Cabinet for Health and Family Services in administrative regulations pertaining to cannabis businesses and the medicinal cannabis program. The Amended After Comments version of the administrative regulation includes four (4) additional definitions and amends the definition of "daycare center" in response to comments received by the cabinet.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations for the medicinal cannabis program. This administrative regulation sets out definitions of terms used in administrative regulations pertaining to cannabis businesses and the medicinal cannabis program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the definitions of terms used in administrative regulations pertaining to cannabis businesses and the medicinal cannabis program.

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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: This administrative regulation affects cannabis businesses and the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Not applicable.

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

(a) Initially: This administrative regulation establishes definitions for terms used by the cabinet in administrative regulations pertaining to cannabis businesses and the medicinal cannabis program. There is no anticipated cost to implement this administrative regulation.

(b) On a continuing basis: This administrative regulation establishes definitions for terms used by the cabinet in administrative regulations pertaining to cannabis businesses and the medicinal cannabis program. There is no anticipated cost 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 provided by the commonwealth

(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: Not applicable.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All cannabis businesses will be treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.140.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation establishes definitions for terms used by the cabinet in administrative regulations pertaining to cannabis businesses and the medicinal cannabis program. There are no anticipated expenditures to implement this administrative regulation.

Revenues: This administrative regulation is not expected to generate revenue in the first year.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This administrative regulation establishes definitions for terms used by the cabinet in administrative regulations pertaining to cannabis businesses and the medicinal cannabis program. There are no anticipated expenditures to implement this administrative regulation in subsequent years. This administrative regulation is not expected to generate revenue in subsequent years. The cabinet does not anticipate any cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): If its application is approved, a proposed cannabis business will locate within a city or county in the commonwealth.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation establishes definitions for terms used by the cabinet in administrative regulations pertaining to cannabis businesses and the medicinal cannabis program. There are no anticipated expenditures to implement this administrative regulation.

Revenues: This administrative regulation is not expected to generate revenue in the first year.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This administrative regulation establishes definitions for terms used by the cabinet in administrative regulations pertaining to cannabis businesses and the medicinal cannabis program. There are no anticipated expenditures to implement this administrative regulation in subsequent years. This administrative

regulation is not expected to generate revenue in subsequent years. The cabinet does not anticipate any cost savings in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Proposed and licensed cannabis businesses.

(a) Estimate the following for the first year:

Expenditures: There are no anticipated expenditures to implement this administrative regulation.

Revenues: This administrative regulation is not expected to generate revenue in the first year.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? This administrative regulation establishes definitions for terms used by the cabinet in administrative regulations pertaining to cannabis businesses and the medicinal cannabis program. There are no anticipated expenditures to implement this administrative regulation in subsequent years. This administrative regulation is not expected to generate revenue in subsequent years. The cabinet does not anticipate any cost savings in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation establishes definitions for terms used by the cabinet in administrative regulations pertaining to cannabis businesses and the medicinal cannabis program. There is no anticipated fiscal impact of this administrative regulation.

(b) Methodology and resources used to determine the fiscal impact: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) . It is not anticipated that this administrative regulation will have an overall negative or adverse economic impact of \$500,000 or more on the Cabinet for Health and Family Services.

(b) The methodology and resources used to reach this conclusion: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.

**CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary
(Amended After Comments)**

915 KAR 1:030. Cultivator.

RELATES TO: KRS Chapter 218B

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing requirements and procedures for medicinal cannabis cultivator operations in the Commonwealth. This administrative regulation establishes those requirements and procedures.

Section 1. General Requirements.

(1) No person or entity shall engage in the business of planting, growing, cultivating, raising, harvesting, trimming, storing, testing, packaging, labeling, transferring, transporting, selling, or offering to sell medicinal cannabis seeds, seedlings, **tissue cultures, clones not taller than eight (8) inches**, medicinal cannabis plants, medicinal cannabis, or medicinal cannabis products to a cannabis

business without first being issued a license by the cabinet. A cultivator shall not sell or transfer, or allow the sale or transfer, of medicinal cannabis seeds, seedlings, **tissue cultures, clones not taller than eight (8) inches**, medicinal cannabis plants, medicinal cannabis, or medicinal cannabis products to any person or entity in the Commonwealth who does not hold a cannabis business license issued by the cabinet.

(2) A cultivator shall:

(a) Conduct cultivation activities in an enclosed, locked facility in accordance with KRS 218B.095(5);

(b) Conduct a criminal background check into the criminal history of each person seeking to become a principal officer, board member, agent, volunteer, or employee before that person begins work and shall retain records of these background checks for five (5) years and provide same to the cabinet during subsequent inspections or upon request; and

(c) Comply with all applicable requirements of KRS Chapter 218B, specifically KRS 218B.095 and 218B.105, and 915 KAR Chapter 1.

(3) A cultivator shall not:

(a) Employ, take on as a volunteer, or have as a board member, principal officer, or agent any person who was convicted of a disqualifying felony offense or is younger than twenty-one (21) years of age; or

(b) Sell or transfer, or allow the sale or transfer, of medicinal cannabis seeds, seedlings, medicinal cannabis plants, medicinal cannabis, or medicinal cannabis products to any person or entity in the Commonwealth who does not hold a cannabis business license issued by the cabinet.

(4) The qualifications that a cultivator shall meet to receive a license are continuing qualifications to maintain the license throughout the licensure period.

Section 2. Plans of Operation.

(1) Prior to its first day of cultivation activities in the Commonwealth, a cultivator shall establish standard operating procedures for the following:

(a) Employment policies and procedures;

(b) Security including:

1. Staff identification measures, including use of employee identification badges;

2. Monitoring of attendance of staff and visitors;

3. Alarm systems;

4. Video surveillance;

5. Monitoring and tracking inventory, including use of the Commonwealth's electronic monitoring system and seed to sale tracking system established pursuant to KRS 218B.140;

6. Personnel security;

7. Transportation of medicinal cannabis **and how to properly secure medicinal cannabis in the event of a traffic collision or transport vehicle malfunction**;

8. Cash management and anti-fraud procedures;

9. Measures to prevent loitering, which shall include signage; and

10. Storage of seeds, seedlings, **tissue cultures, clones not taller than eight (8) inches**, medicinal cannabis plants, medicinal cannabis, or medicinal cannabis products;

(c) The process for receiving, growing, cultivating, harvesting, handling, packaging, labeling, storing, transporting, and disposing of seeds, seedlings, **tissue cultures, clones not taller than eight (8) inches**, medicinal cannabis plants, medicinal cannabis, or medicinal cannabis products and a process for handling, tracking, transporting, storing, and disposing of medicinal cannabis waste;

(d) Workplace safety, including conducting safety checks;

(e) Contamination;

(f) Maintenance, cleaning, and sanitation of equipment used to grow and cultivate medicinal cannabis;

(g) Maintenance and sanitation of the cultivator's facility;

(h) Application of pesticides, fertilizers, and herbicides to medicinal cannabis at any point during the growing, cultivating, and harvesting processes;

(i) Proper handling and storage of any chemical or substance used in growing medicinal cannabis;

(j) Logging the use of all pesticides and chemical applications applied to medicinal cannabis and medicinal cannabis products;

(k) Quality control, including strict regulation of the amount of delta-9 tetrahydrocannabinol content in each medicinal cannabis harvest batch, proper labeling, and minimization of medicinal cannabis contamination;

(l) Recordkeeping and inventory control;

(m) Investigation of complaints and potential adverse events received from other cannabis businesses, cardholders, or medicinal cannabis practitioners regarding the cultivator's operations;

(n) Preventing unlawful diversion of medicinal cannabis;

(o) Recall plan; and

(p) Any other standard operating procedures required for all cannabis businesses in KRS Chapter 218B and 915 KAR Chapter 1;

(2) A cultivator shall make its standard operation procedures available to the cabinet upon request and during any inspection of the cultivator's site and facility.

Section 3. Cultivator Facilities.

(1) A cultivator shall only plant, grow, cultivate, and harvest medicinal cannabis in an enclosed, locked facility on the specific site licensed by the cabinet and identified on its license issued by the cabinet. **A cultivator shall not grow medicinal cannabis directly in the ground.**

(2) All cultivation activities, excluding disposal, destruction, or transport of medicinal cannabis, shall take place within a building or secure structure that meets all applicable state and local building codes and specifications in addition to the following:

(a) Has **a foundation, slab, or equivalent base with a complete roof enclosure supported by connecting walls, constructed of solid materials extending from the ground to the roof;**

(b) Is secure against unauthorized entry;

(c) Has commercial grade door locks on all external doors that are locked at all times;

(d) Restricts access to only authorized personnel to limited access areas identified with signage and daily records of entry and exit;

(e) Contains adequate plumbing to carry sufficient quantities of water to locations throughout the facility and convey any sewage and waste from the facility without cross contamination of potable water and waste;

(f) Stores toxic cleaning compounds, sanitizing agents, pesticides, fertilizers, and herbicides in a manner that is in accordance with applicable local, state, and federal laws and regulations;

(g) Maintains proper ventilation;

(h) Maintains pest control;

(i) Maintains adequate indoor and exterior lighting to facilitate video surveillance at all times; and

(j) Maintains adequate on-site parking for employees, agents, visitors, transporters of medicinal cannabis, or cabinet staff.

(3) A cultivator shall clearly mark all limited access areas on its premises with proper signage. All areas of ingress and egress to a limited access area shall be clearly identified by the posting of a sign which shall be not less than twelve (12) inches wide and twelve (12) inches long, composed of letters not less than one-half inch in height, which shall state: "Do Not Enter. Limited Access Area. Access Limited to Authorized Personnel and Escorted Visitors."

(4) A cultivator shall have a secure area for the loading and unloading of medicinal cannabis seeds, seedlings, medicinal cannabis plants, and medicinal cannabis into and from a transport vehicle.

(5) If a cultivator intends to conduct medicinal cannabis cultivation and hemp cultivation at the same licensed location, the cultivator shall, prior to its first day of medicinal cannabis cultivation activities, provide the cabinet with:

(a) Proof that the cultivator is permitted to operate a hemp business by the appropriate permitting authority and is in good standing;

(b) A written plan for keeping strictly separated all medicinal cannabis cultivation activities from hemp cultivation activities; and

(c) A site map or blueprint showing which portions of the facility are designated for medicinal cannabis cultivation activities and which portions are designated for hemp cultivation activities.

(6) Pursuant to KRS 218B.100(1), a cannabis business that co-locates with a hemp business shall be subject to reasonable inspection by the cabinet and the cabinet may inspect the entire facility as part of an inspection.

Section 4. Inventory.

(1) A cultivator shall, within twenty-four (24) hours of receipt, record in the Commonwealth's designated electronic monitoring system and seed to sale tracking system each medicinal cannabis seed, seedling, **tissue culture, clone,** or plant that it acquires.

(2) A cultivator shall only grow medicinal cannabis plants from seeds, **tissue cultures, clones not taller than eight (8) inches,** and seedlings located physically in its facility.

(3) Canopy. A cultivator shall not exceed the indoor growth area specified in KRS 218B.105(3) for its respective cultivator tier. The surface area of the plant canopy shall be calculated in square feet. Measurement shall include all of the area within the boundaries where the cultivation of medicinal cannabis plants occurs. If a tiered or shelving system is used in the cultivation area, the surface of each tier or shelf shall be included in the calculation. Calculation of the area of the plant canopy shall not include square footage within a cultivator's enclosed, locked facility used for the storage of **seeds, seedlings, tissue cultures, or clones not taller than eight (8) inches,** supplies, pesticides, fertilizers, or other products as well as square footage used for quarantine, office space, or other non-cultivation activities.

Section 5. Employees Records and Identification.

(1) A cultivator shall keep an individual employment record for all employees, including:

(a) Full legal name;

(b) Detailed job description;

(c) Documentation of completed criminal background check;

(d) Record of all training received or acquired by the employee;

(e) Dates of employment;

(f) Records of days and hours worked; and

(g) Any disciplinary actions taken by the cultivator.

(2) Employment records shall be maintained, either electronically or in hard copy, for at least five (5) years after the employee's last date of employment with the cultivator.

(3) A cultivator shall create an identification badge for each employee, agent, or volunteer. The badge shall be conspicuously worn by employees, agents, or volunteers at all times that they are on the licensed premises or during transport of medicinal cannabis. The badge shall contain:

(a) The individual's name, photo, **[and]** employee identification number, **and the license number of the cultivator;**

(b) A phone number and email address for the cultivator; and

(c) A phone number and email address for the Kentucky Medical Cannabis Program.

Section 6. Visitors to Cultivator Facilities.

(1) A cultivator site and facility shall not be open to the general public.

(2) A cultivator shall complete the following steps when admitting a visitor to its site and facility:

(a) Require the visitor to sign a visitor log upon entering and leaving the facility;

(b) Check the visitor's government-issued identification to verify **the visitor's age and** that the name on the identification provided matches the name in the visitor log;

(c) Issue a visitor identification badge with the visitor's name and company, if applicable, and a badge number;

(d) Escort the visitor while the visitor remains on the site or in the facility [**keeping a record of the areas of the site and the facility visited**]; and

(e) Ensure that the visitor does not touch any medicinal cannabis plant or medicinal cannabis located in a limited access area.

(3) No one under the age of eighteen (18) shall be permitted to enter a cultivator's site or facility. A person who is at least eighteen (18) years of age may enter and remain on the cultivator's premises if that person is present to perform contract work, including electrical, plumbing, or security maintenance, that does not involve handling medicinal cannabis or is a government employee and is at the cannabis business in the course of his or her official duties.

(4) A cultivator shall post a sign in a conspicuous location at each entrance of its site and facility that states "THESE PREMISES ARE UNDER CONSTANT VIDEO SURVEILLANCE. NO ONE UNDER THE AGE OF 18 IS PERMITTED TO ENTER." **The letters on the signs shall be at minimum one-half inch in height.**

(5) The cultivator shall maintain the visitor log required under this section for five (5) years and make the visitor log available to the cabinet, law enforcement, and other federal or state government officials upon request to perform the government officials' functions and duties. The visitor log shall include the date, the full name of each visitor, the visitor identification badge number, the time of arrival, the time of departure, and the purpose of the visit, **including the areas of the site and the facility visited.**

(6) This section does not limit the right of the cabinet or its authorized agents, or other federal, state, or local government officials from entering any area of a cultivator's site and facility if necessary to perform the governmental officials' functions and duties.

(7) A principal officer, board member, agent, financial backer, employee, or volunteer of a cultivator shall not receive any type of consideration or compensation for allowing a visitor to enter a limited access area.

Section 7. Security and Surveillance.

(1) A cultivator shall have security and surveillance systems, utilizing commercial-grade equipment, to prevent unauthorized entry and to prevent and detect an adverse loss. The security and surveillance systems shall include the following:

(a) A professionally monitored security alarm system that includes:

1. Coverage of all facility entrances and exits; rooms with exterior windows, exterior walls, roof hatches or skylights; storage rooms, including those that contain medicinal cannabis and safes; and the perimeter of the facility;

2. An audible security alarm system signal, known as a panic alarm, generated by the manual activation of a device intended to signal a life-threatening or emergency situation requiring law enforcement response;

3. A silent alarm signal, known as a holdup alarm, generated by the manual activation of a device intended to signal a robbery in progress;

4. A failure notification system that provides an audible, text, or visual notification of any failure in the systems. The failure notification system shall provide by telephone, e-mail, or text message an alert to a designated security person within the facility within five (5) minutes after the failure;

5. Smoke and fire alarms;

6. Auxiliary power sufficient to maintain operation for at least twenty-four (24) hours following a power outage;

7. The ability to ensure all access doors are not solely controlled by an electronic access panel to prevent locks from becoming released during a power outage; and

8. Motion detectors for exterior lighting.

(b) A professionally monitored security surveillance system that is operational twenty-four (24) hours a day, seven (7) days a week, and records all activity in images capable of clearly revealing facial detail. The security and surveillance system shall include:

1. Fixed camera placement that allows for a clear image of all individuals and activities in and around the following:

a. All limited access areas;

b. A room or area containing a security alarm and surveillance system storage device or equipment;

c. Entrances to and exits from the facility. Entrances and exits shall be recorded from both indoor and outdoor vantage points;

d. Rooms with exterior windows, exterior walls, roof hatches, or skylights and storage rooms, including those that may contain medicinal cannabis and safes and excluding restrooms; and

e. Twenty (20) feet from the exterior of the perimeter of the facility.

2. Auxiliary power sufficient to maintain operation for at least twenty-four (24) hours following a power outage;

3. Ability to operate under the normal lighting conditions of each area under surveillance;

4. Ability to immediately produce a clear, color, still photograph in a digital format that is easily accessible;

5. Ability to clearly and accurately display the date and time. The date and time shall be synchronized and set correctly and may not significantly obscure the picture;

6. Ability to record all images captured by each surveillance camera in a format that may be easily accessed for a minimum of **sixty (60)[thirty (30)]** days, unless otherwise required for investigative or litigation purposes. The recordings shall be kept:

a. At the cultivator's facility:

(i) In a locked cabinet, closet or other secure place to protect it from tampering or theft; and

(ii) In a limited access area or other room to which access is limited to authorized individuals; or

b. At a secure location other than the location of the cultivator's facility if approved by the cabinet; **and**[-]

7. Ability to easily export video recordings and still photographs requested by the cabinet, law enforcement, and other federal or state government officials and provide same in a standard file format that is easily accessible.

(2) Regarding inspection, servicing, alteration of, and any upgrade to, the security alarm and surveillance systems:

(a) The systems shall be inspected and all devices tested once every year by a qualified alarm system vendor and a qualified surveillance system vendor;

(b) A cultivator shall conduct maintenance inspections once every month to ensure that any repairs, alterations, or upgrades to the security alarm and surveillance systems are made for the proper operation of the systems. **No more than thirty (30) calendar days shall lapse between the inspections required under this provision.**

(c) A cultivator shall retain at the facility, for at least five (5) years, records of all inspections, servicing, alterations, and upgrades performed on the security alarm and surveillance systems and shall make the records available to the cabinet and its authorized agents within two (2) business days following a request; and

(d) In the event of a mechanical malfunction of the security alarm or surveillance system that a cultivator anticipates shall exceed an eight (8) hour period, the cultivator shall notify the cabinet immediately via electronic mail to kymedcanreporting@ky.gov and, with cabinet approval, provide alternative security measures that may include closure of the facility.

(3) Regarding records retention, a cultivator shall:

(a) Have a secure electronic back-up system for all electronic records;

(b) Within three (3) business days following a request for records under this paragraph, provide up to four (4) screen captures of an unaltered copy of a video surveillance recording to the cabinet or its authorized agents, law enforcement, or other federal, state, or local government officials if necessary to perform the governmental officials' functions and duties; and

(c) If a cultivator has been notified in writing by the cabinet or its authorized agents, law enforcement, or other federal, state, or local government officials of a pending criminal or administrative investigation for which a recording may contain relevant information, retain an unaltered copy of the recording for two (2) years or until the investigation or proceeding is closed or the entity conducting the investigation or proceeding notifies the cultivator that it is not necessary to retain the recording, whichever is later.

(4) During all non-working hours, all entrances to and exits from the cultivator's facility shall be securely locked.

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(5) A cultivator shall install lighting to ensure proper surveillance inside and outside of the facility.

(6) A cultivator shall limit access to a room containing the equipment operating the security alarm and surveillance monitoring systems to:

- (a) Persons who are essential to maintaining security and surveillance operations;
- (b) Federal, state, and local law enforcement;
- (c) Security alarm and surveillance system service employees;
- (d) The cabinet or its authorized agents; and
- (e) Other persons with the prior written approval of the cabinet.

(7) A cultivator shall make available to the cabinet or its authorized agents, upon request, a current list of authorized employees and service employees or contractors who have access to areas containing the equipment operating the security alarm and surveillance monitoring systems **and place a copy of this list on or next to the doors that access those areas**; and

(8) A cultivator shall keep rooms housing the equipment operating the security alarm and surveillance monitoring systems locked at all times and shall not use these rooms for any other purpose or function.

Section 8. Requirements for Cultivating and Growing Medicinal Cannabis.

(1) A cultivator who uses a pesticide on medicinal cannabis shall be certified to apply pesticides by the Kentucky Department of Agriculture pursuant to KRS Chapter 217B and:

(a) A cultivator who is certified to apply pesticides by the Kentucky Department of Agriculture shall not use, or be eligible to use, a Category 10 license to apply pesticides to medicinal cannabis in violation of the product label;

(b) A cultivator shall not use any pesticide in violation of the product label;

(c) A cultivator who uses a pesticide on growth medium used for multiple medicinal cannabis cultivation cycles shall comply with the longest of any planting restriction interval on the product label prior to reusing the growth medium;

(d) The cabinet may perform pesticide testing on a random basis or if its authorized agents have reason to believe that a pesticide may have been applied to medicinal cannabis in violation of the product label; and

(e) Medicinal cannabis seeds, seedlings, **tissue cultures, clones,** plants, and materials bearing pesticide residue in violation of the label or testing standards established by the cabinet shall be subject to forfeiture or destruction without compensation.

(2) The cabinet shall publish a list of approved pesticides and any other chemical applications for use in growing and cultivating medicinal cannabis on the Web site for the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>. This list shall be reviewed and updated annually by the cabinet.

(3) A cultivator shall maintain a log of the use of all pesticides and any other chemical applications applied to medicinal cannabis and medicinal cannabis products for a minimum of five (5) years, including:

- (a) The date of application;
- (b) The name of the individual making the application;
- (c) The product that was applied;
- (d) The section, including the square footage, that received the application;
- (e) The amount of product that was applied; and,
- (f) A copy of the label of the product that was applied.

(4) A cultivator shall:

- (a) Use appropriate nutrient practices;
- (b) Use a fertilizer or hydroponic solution of a type, formulation, and at a rate to support healthy growth of plants; and
- (c) Maintain a log of the type and amounts of fertilizer and any growth additives used.

(5) A cultivator shall perform visual inspections of growing medicinal cannabis plants and harvested medicinal cannabis plant material to ensure there are no visible insects, mold, mildew, pests, rot, grey or black plant material, or inorganic material, including plastic, glass, and metal shavings.

(6) A cultivator shall have a separate and secure area for temporary storage of medicinal cannabis that is awaiting disposal by the cultivator.

(7) A cultivator shall **establish procedures**~~[install a system]~~ to monitor, record, and regulate:

- (a) Temperature;
- (b) Humidity;
- (c) Ventilation;
- (d) Lighting; and
- (e) Water supply.

Section 9. Electronic Monitoring System and Seed to Sale Tracking System.

(1) A cultivator shall use the electronic monitoring system and seed to sale tracking system prescribed by the cabinet containing the requirements in KRS Chapter 218B, specifically KRS 218B.140, and in accordance with written instructions provided by the cabinet.

A cultivator shall ensure its inventory recorded in the electronic monitoring system and seed to sale tracking system is accurate in real-time.

(2) A cultivator shall establish inventory controls and procedures to conduct inventory reviews at its facility.

(a) A cultivator shall prepare **monthly**~~[quarterly]~~ physical inventory reports that includes any necessary adjustments and the reason(s) for an adjustment and that demonstrates the physical inventory reconciles with the inventory recorded in the Commonwealth's designated electronic monitoring system and seed to sale tracking system, including any medicinal cannabis that has been or is in the process of being destroyed. **No more than thirty (30) calendar days shall lapse between the preparation of a report required under this provision;** and

(b) A written or electronic record shall be created and maintained of each inventory conducted under this section that includes the date of the inventory, a summary of the inventory findings, and the employee identification numbers and titles or positions of the individuals who conducted the inventory.

Section 10. Equipment, operation, and maintenance.

(1) A cultivator shall have a written process in place to maintain the sanitation and operation of equipment that comes into contact with medicinal cannabis to prevent contamination. The cultivator shall provide a copy of the written process to the cabinet upon request.

(2) As part of the written process required under this section, a cultivator shall:

- (a) Routinely calibrate, check, and inspect automatic, mechanical, or electronic equipment as well as any scales, balances, or other measurement devices used in the cultivator's operations to ensure accuracy; and
- (b) Maintain an accurate log recording the:
 1. Maintenance of equipment;
 2. Cleaning of equipment; and
 3. Calibration of equipment.

Section 11. Sanitation and Safety in a Cultivator Facility.

(1) A cultivator shall maintain its site and facility in a sanitary condition to limit the potential for contamination of the medicinal cannabis grown in the facility, including:

(a) Equipment and surfaces, including floors, counters, walls, and ceilings, shall be cleaned and sanitized as frequently as necessary to protect against contamination, using a sanitizing agent registered by the United States Environmental Protection Agency, in accordance with the instructions printed on the label. All equipment and utensils used by a cultivator shall be capable of being adequately cleaned;

(b) Trash shall be properly and routinely removed to prevent pest infestation;

(c) Floors, walls, and ceilings shall be kept in good repair;

(d) Equipment, counters, and surfaces used for packaging and labeling of medicinal cannabis shall be food grade quality;

(e) Adequate protection against pests shall be provided through the use of integrated pest management practices and techniques that identify and manage plant pathogens and pest problems; and

(f) Toxic cleaning compounds, sanitizing agents, pesticides, herbicides, and other chemicals shall be labeled and stored in a manner that prevents contamination of seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, and medicinal cannabis.

(2) All employees and volunteers shall conform to sanitary practices while on duty, including:

(a) Maintaining adequate personal cleanliness;

(b) Washing hands thoroughly in an adequate hand-washing area before starting work and at any other time when hands may have become soiled or contaminated;

(c) Wearing proper clothing, including gloves, hair nets, headbands, caps, beard covers, or other effective hair restraints where appropriate;

(d) Removing all unsecured jewelry and other objects that might fall into medicinal cannabis, equipment, or containers, and removing hand jewelry that cannot be adequately sanitized during periods in which medicinal cannabis is manipulated by hand. If such hand jewelry cannot be removed, it may be covered by material which can be maintained in an intact, clean, and sanitary condition and which effectively protects the medicinal cannabis from contamination by these objects;

(e) Storing clothing or other personal belongings in areas other than where medicinal cannabis is exposed or where equipment is cleaned;

(f) Confining the following to areas other than where medicinal cannabis may be exposed or where equipment is cleaned: eating food, chewing gum, drinking beverages, or using tobacco; and

(g) Taking any other necessary precautions to protect against contamination of medicinal cannabis with microorganisms or foreign substances including perspiration, hair, cosmetics, tobacco, chemicals, and medicines applied to the skin.

(3) A cultivator shall:

(a) Provide its employees, volunteers, and visitors with adequate and convenient hand-washing facilities furnished with running water at a temperature suitable for sanitizing hands. Effective nontoxic sanitizing cleansers and sanitary towel service or suitable drying devices shall also be provided;

(b) Provide its employees, volunteers, and visitors with adequate, readily accessible restrooms that are maintained in a sanitary condition and in good repair;

(c) Ensure that its facility is provided with a water supply sufficient for its operations, which shall be derived from a source that is a public water system, or a nonpublic system that is capable of providing a safe, potable, and adequate supply of water to meet the operational needs of the facility; and

(d) Comply with all other applicable federal, state, and local building code requirements and occupational safety and health requirements.

Section 12. Storage Requirements.

(1) A cultivator shall have separate locked limited access areas for storage of seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, and medicinal cannabis that are expired, damaged, deteriorated, mislabeled, contaminated, recalled, or whose containers or packaging have been opened or breached until the seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, and medicinal cannabis are destroyed or otherwise disposed of as required under Section 15 of this administrative regulation.

(2) A cultivator shall maintain all storage areas in a clean and orderly condition and free from infestation by insects, rodents, birds, and pests.

Section 13. Management and Disposal of Medicinal Cannabis Waste.

(1) A cultivator shall dispose of undesired, excess, unauthorized, obsolete, adulterated, misbranded, or deteriorated medicinal cannabis in such a manner as to render the medicinal cannabis unusable. A cultivator shall record medicinal cannabis

waste as required in the Commonwealth's designated electronic monitoring system and seed to sale tracking system.

(2) Medicinal cannabis that is rendered unusable shall be discarded into a ~~locked~~-dumpster with commercial grade locks or other approved, locked container for removal from the facility by a waste removal company selected by the cultivator, except for ashes resulting from the controlled incineration of medicinal cannabis may be placed in an unlocked dumpster, or may be composted in a secured area at the cultivation site for future use at the facility. Medicinal cannabis shall be rendered unusable by:

(a) Controlled incineration; or

(b) Grinding and incorporating the medicinal cannabis with one (1) or more of the non-consumable, solid wastes listed below, such that the resulting mixture is majority non-cannabis waste:

1. Paper waste;

2. Cardboard waste;

3. Food waste;

4. Yard or garden waste;

5. Grease or other compostable oil waste; or

6. Soil or other used growth media.

(3) The disposal of medicinal cannabis shall be performed under video surveillance from the time the destruction begins to when it is placed in a locked dumpster or other approved, locked container and removed from the cultivator's site and facility.

(4) A minimum of two (2) employees shall oversee~~The employee overseeing~~ the disposal of medicinal cannabis shall maintain and make available a separate record of every disposal indicating:

(a) The date and time of disposal;

(b) The manner of disposal;

(c) Any~~The~~ unique identification codes associated with the medicinal cannabis scheduled for destruction;

(d) The reasoning for and description of the disposal;

(e) The names~~name~~, employee identification numbers~~number~~, and signatures~~signature~~ of the employees~~employee~~ overseeing the disposal of the medicinal cannabis; and

(f) If the ~~medicinal cannabis waste for~~ disposal contains medicinal cannabis~~plant material~~ that was prepared for sale to a dispensary or processor, the harvest batch number, strain, volume, ~~and~~ weight, and number of units if applicable of the medicinal cannabis~~plant material~~ being disposed of.

(5) The disposal of other waste from the cultivator that does not include medicinal cannabis, including hazardous waste and liquid waste, shall be performed in a manner consistent with applicable federal, state, and local requirements.

Section 14. Requirements for Cultivators to Deliver Raw Plant Material to Dispensaries for Sale.

(1) A cultivator that delivers medicinal cannabis to licensed dispensaries for sale to cardholders shall comply with the requirements of KRS Chapter 218B and 915 KAR Chapter 1, including 915 KAR 1:080, 915 KAR 1:100, and 915 KAR 1:110.

(2) A cultivator that delivers medicinal cannabis to a licensed dispensary for sale to cardholders shall not:

(a) Deliver, transfer, or sell raw plant material to a dispensary for more than fair market value;

(b) Supply a dispensary with more than the amount of raw plant material reasonably required by a dispensary to maintain an inventory sufficient for normal retail operations; and

(c) Deliver, transfer, or sell raw plant material to a dispensary with a delta-9 tetrahydrocannabinol content of more than thirty-five (35) percent~~(35%)~~.

(3) Any raw plant material to be sold as a medicinal cannabis product by a cultivator to a dispensary shall:

(a) Be free of seeds and extraneous stems;

(b) Be free of dirt, sand, debris, or other foreign matter; and

(c) Not contain a level of pesticides, herbicides, poisons, toxins, mold, mildew, insects, bacteria, or any other chemical substance higher than the levels established in the standards for testing within 915 KAR 1:110.

(4) A cultivator shall prepare raw plant material for sale to dispensaries in a safe and sanitary manner, including:

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(a) Raw plant material shall be handled on food grade stainless steel benches or tables;

(b) Proper sanitation shall be maintained;

(c) Proper rodent, bird, and pest exclusion practices shall be employed; and

(d) Prior to packaging, the raw plant material shall have passed all required safety compliance facility tests established in 915 KAR 1:110.

(5) In addition to other packaging and labeling requirements established in 915 KAR 1:100, all raw plant material packaged and sold by a cultivator in the Commonwealth shall be marked or labeled as "NOT INTENDED FOR CONSUMPTION BY SMOKING."

(6) Except for transfer of samples to a safety compliance facility for testing, no medicinal cannabis shall be sold or transferred to another cannabis business until all required testing is complete and the representative sample passed inspection. Cultivators shall not sell medicinal cannabis directly to cardholders.

Section 15. Complaints About or Recall of ~~[Medical-]~~Medicinal Cannabis Products.

(1) A cannabis business shall immediately notify the cabinet via electronic mail to kymedcanreporting@ky.gov as well as the cultivator from which it obtained any medicinal cannabis in question upon becoming aware of any defects or quality issues with the medicinal cannabis or any complaint made to the cannabis business by another cannabis business, a cardholder, or medicinal cannabis practitioner who reports an adverse event from using medicinal cannabis purchased by the cannabis business from the cultivator. A cultivator shall investigate the report as follows:

(a) A cultivator shall immediately investigate a complaint to determine if a voluntary or mandatory recall of seeds, seedlings, medicinal cannabis plants, postharvest plant material, or medicinal cannabis is necessary or if any further action is required;

(b) If a cultivator determines that further action is not required, the cultivator shall notify the cabinet of its decision and, within twenty-four (24) hours, submit a written report to the cabinet stating its rationale for not taking further action. The cabinet shall review the written report and consult with the cultivator as needed. If the cabinet disagrees with the cultivator's decision, the cabinet shall take all necessary steps allowable under KRS Chapter 218B and 915 KAR Chapter 1 to ensure public health and safety, including but not limited to issuing a cease-and-desist order to pause the sale and distribution of the medicinal cannabis at issue until resolution of the matter; and

(c) If a cultivator determines that further action is required, the cultivator shall initiate a voluntary or mandatory recall in accordance with the requirements of this section.

(2) Voluntary recalls. If a cultivator voluntarily initiates a recall, the cultivator shall recall seeds, seedlings, medicinal cannabis plants, postharvest plant material, or medicinal cannabis from the market at its discretion for reasons that do not pose a risk to public health and safety and shall notify the cabinet at the time the cultivator begins the recall via electronic mail to kymedcanreporting@ky.gov.

(3) Mandatory recalls. If a cultivator discovers that a condition relating to the seeds, seedlings, medicinal cannabis plants, postharvest plant material, or medicinal cannabis grown at its facility poses a risk to public health and safety, the cultivator shall:

(a) Immediately notify the cabinet by phone and electronic mail to kymedcanreporting@ky.gov; and

(b) Secure, isolate, and prevent the distribution of the seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, postharvest plant material, or medicinal cannabis that may have been affected by the condition and remains in its possession. The cultivator shall not dispose of affected seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, postharvest plant material, or medicinal cannabis prior to notifying the cabinet and coordinating the disposal with the cabinet.

(4) If a cultivator fails to cooperate with the cabinet in a recall, or fails to immediately notify the cabinet of a need for a recall under this section, the cabinet may seek a cease and desist order and the cultivator may be subject to any other penalties or sanctions provided for in KRS Chapter 218B and 915 KAR Chapter 1:020.

(5) A cultivator's recall plan as required under this administrative regulation shall include:

(a) Designation of one or more employees to serve as the recall coordinator(s). A recall coordinator shall be responsible for, among other duties, accepting the recalled seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, postharvest plant material, or medicinal cannabis;

(b) Procedures for identifying and isolating the affected seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, postharvest plant material, or medicinal cannabis to prevent or minimize its distribution to cardholders and other cannabis businesses;

(c) Procedures to retrieve and dispose of the affected seeds, seedlings, medicinal cannabis plants, postharvest plant material, or medicinal cannabis;

(d) A communications plan to notify those affected by the recall, including:

1. The manner in which the cultivator shall notify other cannabis businesses in possession of seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, postharvest plant material, or medicinal cannabis subject to the recall; and

2. The use of press releases and other appropriate notifications to ensure that cardholders are notified of the recall if affected medicinal cannabis was dispensed to cardholders.

(e) Procedures for notifying the cabinet; and

(f) Procedures for entering information relating to the recall into the Commonwealth's designated electronic monitoring system and seed to sale tracking system.

(6) A cultivator shall follow the procedures outlined in its recall plan unless the cultivator obtains prior written approval of the cabinet, or the cabinet notifies the cultivator in writing to perform other procedures. A cultivator shall conduct recall procedures in a manner that maximizes the recall of affected seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, postharvest plant material, and medicinal cannabis and minimizes risks to public health and safety.

(7) A cultivator shall coordinate the disposal of recalled seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, postharvest plant material, and medicinal cannabis with the cabinet. The cabinet or its authorized agents may oversee the disposal to ensure that the recalled seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, postharvest plant material, and medicinal cannabis are disposed of in a manner that shall not pose a risk to public health and safety.

(8) The cultivator shall enter information relevant to the recall into the Commonwealth's designated electronic monitoring system and seed to sale tracking system as part of the inventory, which may include the following:

(a) The total amount of recalled seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, postharvest plant material, and medicinal cannabis, including types and harvest batches, if applicable;

(b) The total amount of recalled seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, postharvest plant material, or medicinal cannabis returned to the cultivator, including types, forms, and harvest batches, if applicable;

(c) The names of the recall coordinators;

(d) From whom the recalled seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, postharvest plant material, or medicinal cannabis were received;

(e) The means of transport of the recalled seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, postharvest plant material, medicinal cannabis, or medicinal cannabis products;

(f) The reason for the recall;

(g) The number of recalled samples, types, forms, and harvest batches, if applicable, sent to safety compliance facilities, the names and addresses of the safety compliance facilities, the dates of testing, and the results by sample; and

(h) The manner of disposal of the recalled seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, postharvest plant material, and medicinal cannabis, including:

1. The names[name] of the individuals[individual] overseeing the disposal of the recalled seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, postharvest plant material, or medicinal cannabis;

2. The name of the disposal company, if applicable;

3. The method of disposal;

4. The date of disposal; and

5. The amount disposed of by types, forms, and harvest batches, if applicable.

(9) The cabinet may initiate a mandatory recall upon receipt of information that a condition relating to the seeds, seedlings, tissue cultures, clones, medicinal cannabis plants, postharvest plant material, or medicinal cannabis grown or sold by a cultivator poses a risk to public health and safety.

Section 16. Increase of Canopy Limits.

(1) Pursuant to KRS 218B.140(3), if a need for additional medicinal cannabis cultivation in the Commonwealth is demonstrated by cannabis businesses or the cabinet's own analysis, the cabinet may through the promulgation of administrative regulations increase the canopy size limits for cultivators by up to three (3) times the limits established in KRS 218B.105. Any increase in the canopy size limits adopted by the cabinet shall not result in an increase in licensure application or renewal fees established by the cabinet.

(2) In making its determination whether to increase canopy limits for cultivators, the cabinet may consider factors including the population of the Commonwealth, the number of active cardholders, changes to the list of qualifying medical conditions for medicinal cannabis, market supply and demand, the amount of medicinal cannabis being sold by dispensaries, the amount of allowable canopy space being utilized by cultivators, workforce development opportunities, and any other factors that the cabinet deems relevant to its analysis.

Section 17. Duty to Report.

(1) At the time a cultivator submits a license renewal application to the cabinet, a cultivator shall report to the cabinet via electronic mail to kymedcanreporting@ky.gov the following:

(a) The average amount of allowable canopy space being utilized by the cultivator during the current licensure period. If a cultivator is not utilizing the full amount of allowable canopy space during the current licensure period, the cultivator shall provide a written explanation to the cabinet of the reasons for not utilizing all available canopy space;

(b) The total amount of medicinal cannabis grown during the current licensure period, the total amount of medicinal cannabis[raw plant material] sold during the current licensure period and the average price per pound, and total amount of medicinal cannabis sold as finished goods to a dispensary as opposed to sold in bulk to other cannabis businesses for processing; and

(c) The number of current employees, respective job titles, and hourly wage; and

(2) A cultivator shall participate in market surveys distributed by the cabinet throughout a licensure period and provide full and complete responses.

SAM FLYNN, Executive Director

ERIC FRIEDLANDER, Secretary

APPROVED BY AGENCY: May 14, 2024

FILED WITH LRC: May 15, 2024 at 11:15 a.m.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

Contact Person: Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements and procedures for medicinal cannabis cultivators to operate in the commonwealth. In response to comments received by the cabinet, the Amended After Comments version of the administrative regulation will be amended to clarify and address security, facility, and recordkeeping requirements.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations establishing requirements and procedures for cultivators to operate in the commonwealth. This administrative regulation sets out those requirements and procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the requirements and procedures for cultivators to operate in the commonwealth.

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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: This administrative regulation affects cultivators that have applied for and subsequently received licenses to conduct medicinal cannabis cultivation activities in the commonwealth.

(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 requirements to operate as a cultivator and remain in good standing throughout the licensure period are provided in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Cultivators will have to pay an initial application fee, and if approved for a license, an initial license fee and a renewal license fee if it desires to continue operating as a cannabis business following the expiration of its initial license.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Cultivators that receive a license from the Cabinet for Health and Family Services are authorized to conduct medicinal cannabis cultivation activities in the commonwealth for the term of the license (i.e., 1 year from the date of license issuance). (5) Provide an estimate of how much it will cost to implement this administrative regulation:

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

(a) Initially: \$1,200,000

(b) On a continuing basis: \$1,200,000

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds provided by the commonwealth.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer and enforce licensure of cultivators.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All cultivators will be treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.010, 218B.080, 218B.085, 218B.090, 218B.095, 218B.100, 218B.105KRS 218B.140.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: The cabinet estimates that it will cost \$1,200,000 to license and regulate cultivators in the first year.

Revenues: The cabinet will receive initial application fees and initial license fees paid by cultivators during the first year.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The cabinet estimates that it will cost \$1,200,000 to regulate licensed cultivators in each subsequent year. The cabinet will receive annual renewal license fees from cultivators that desire to continue operating in the commonwealth following the expiration of their existing license. The cabinet may also receive additional initial application fees and initial license fees if additional licenses are made available in subsequent years. The cabinet does not anticipate any cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): If its application is approved, a proposed cultivator will locate within a city or county in the commonwealth.

(a) Estimate the following for the first year:

Expenditures: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Revenues: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

(4) Identify additional regulated entities not listed in questions (2) or (3): Licensed cultivators.

(a) Estimate the following for the first year:

Expenditures: The initial license fee varies by cultivator tier and ranges from \$12,000 to \$100,000 for each licensed location.

Revenues: Unknown at this time. This response will depend upon how much medicinal cannabis is cultivated and sold by a licensed cultivator within its respective cultivation tier, including the sale price.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The annual renewal license fee varies by cultivator tier and ranges from \$12,000 to \$100,000 for each licensed location. Revenues will continue to depend on how much medicinal cannabis is cultivated and sold by a licensed cultivator within its respective cultivation tier, including the sale price. Cost savings may occur in subsequent years as licensed cultivators gain experience and efficiency in their operations while still remaining fully compliant with the applicable administrative regulations.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. A portion of the estimated staffing costs will go toward regulating licensed cultivators.

(b) Methodology and resources used to determine the fiscal impact: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) . The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth, including cultivators, as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services.

(b) The methodology and resources used to reach this conclusion: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.

CABINET FOR HEALTH AND FAMILY SERVICES Office of the Secretary (Amended After Comments)

915 KAR 1:040. Processor.

RELATES TO: KRS Chapter 218B

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing requirements and procedures for medicinal cannabis processor operations in the Commonwealth. This administrative regulation sets out those requirements and procedures.

Section 1. General Requirements.

(1) No person or entity may engage in processing activities in the Commonwealth without first being issued a license by the cabinet. A processor shall not sell or transfer, or allow the sale or transfer, of medicinal cannabis or medicinal cannabis products to any person or entity in the Commonwealth who does not hold a cannabis business license issued by the cabinet.

(2) A processor shall:

(a) Only acquire or purchase raw plant material and medicinal cannabis from a cultivator, processor, or producer in the Commonwealth;

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(b) Conduct processing activities in a secure facility on the specific site licensed by the cabinet and identified on its license issued by the cabinet;

(c) Conduct a criminal background check into the criminal history of each person seeking to become a principal officer, board member, agent, volunteer, or employee before that person begins work and shall retain records of these background checks for five (5) years and provide same to the cabinet during subsequent inspections or upon request; and

(d) Comply with all applicable requirements of KRS Chapter 218B, specifically KRS 218B.095 and 218B.115, and 915 KAR Chapter 1.

(3) A processor shall not employ, take on as a volunteer, or have as a board member, principal officer, or agent any person who was convicted of a disqualifying felony offense or is younger than twenty-one (21) years of age.

(4) The qualifications that a processor shall meet to receive a license are continuing qualifications to maintain the license throughout the licensure period.

Section 2. Plans of Operation.

(1) Prior to its first day of processing activities in the Commonwealth, a processor shall establish standard operating procedures for the following:

(a) Employment policies and procedures;

(b) Security, including:

1. Staff identification measures and use of employee identification badges;

2. Monitoring of attendance of staff and visitors;

3. Alarm systems;

4. Video surveillance;

5. Monitoring and tracking inventory, including use of the Commonwealth's electronic monitoring system and seed to sale tracking system established pursuant to KRS 218B.140;

6. Personnel security;

7. Transportation of medicinal cannabis **and how to properly secure medicinal cannabis in the event of a traffic collision or transport vehicle malfunction;**

8. Cash management and anti-fraud procedures;

9. Measures to prevent loitering, which shall include signage; and

10. Storage of medicinal cannabis and medicinal cannabis products;

(c) The process for receiving, handling, processing, packaging, labeling, storing, transporting, and disposing of medicinal cannabis and medicinal cannabis products and a process for handling, tracking, transporting, storing, and disposing of medicinal cannabis waste;

(d) Workplace safety, including conducting safety checks;

(e) Contamination;

(f) Maintenance, cleaning, and sanitation of equipment used to process medicinal cannabis;

(g) Maintenance and sanitation of the processor's facility;

(h) Extraction method(s), including standards for processing of raw plant material, refining of medicinal cannabis extracts, and manufacturing of medicinal cannabis products, including safety protocols and equipment;

(i) Proper handling and storage of any solvent, gas, or other chemical or substance used in processing medicinal cannabis;

(j) Quality control, including strict regulation of the amount of delta-9 tetrahydrocannabinol content in each harvest or production batch in accordance with KRS 218B.115(2), proper labeling, and minimization of medicinal cannabis contamination;

(k) Recordkeeping and inventory control;

(l) Investigation of complaints and potential adverse events received from other cannabis businesses, cardholders, or medicinal cannabis practitioners regarding the processor's operations;

(m) Preventing unlawful diversion of medicinal cannabis;

(n) Recall plan; and

(o) Any other standard operating procedures required for all cannabis businesses in KRS Chapter 218B and 915 KAR Chapter

1.

(2) A processor shall make its standard operation procedures available to the cabinet upon request and during any inspection of the processor's site and facility.

Section 3. Processor Facilities.

(1) A processor shall only process medicinal cannabis within a building or secure structure on the specific site licensed by the cabinet and identified on its license issued by the cabinet. The building or secure structure shall meet all applicable state and local building codes and specifications as well as the following requirements:

(a) Has a complete roof enclosure supported by connecting permanent walls, constructed of solid materials extending from the ground to the roof;

(b) Is secure against unauthorized entry;

(c) Has a foundation, slab, or equivalent base to which the floor is securely attached;

(d) Has commercial grade door locks on all external doors that are locked at all times;

(e) Restricts access to only authorized personnel to locked and secure areas identified with signage and daily records of entry and exit;

(f) Contains adequate plumbing to carry sufficient quantities of water to locations throughout the facility and convey sewage and waste from the facility without cross contamination of potable water and waste;

(g) Stores toxic cleaning compounds, sanitizing agents, solvents, gas, or other chemicals or substances used in processing medicinal cannabis in a manner that is in accordance with applicable local, state, and federal laws and regulations;

(h) Maintains exhaust and ventilation systems to mitigate noxious gasses or other fumes used or created as part of processing activities;

(i) Maintains pest control;

(j) Maintains adequate indoor and exterior lighting to facilitate video surveillance at all times; and

(k) Maintains adequate on-site parking for employees, agents, visitors, transporters of medicinal cannabis, or cabinet staff.

(2) A processor shall clearly mark all limited access areas on its premises with proper signage. All areas of ingress and egress to a limited access area shall be clearly identified by the posting of a sign which shall be not less than twelve (12) inches wide and twelve (12) inches long, composed of letters not less than one-half inch in height, which shall state: "Do Not Enter. Limited Access Area. Access Limited to Authorized Personnel and Escorted Visitors."

(3) A processor shall have a secure area for the loading and unloading of medicinal cannabis into and from a transport vehicle.

(4) On all perimeter doors, a processor shall post signs which shall not be less than twelve (12) inches wide and twelve (12) inches long, composed of letters not less than one-half inch in height, that clearly state the type of extraction method or methods used within the facility.

(5) A processor shall enact reasonable measures to ensure medicinal cannabis and medicinal cannabis products are not visible from outside the facility.

(6) If a processor intends to conduct medicinal cannabis processing and hemp processing at the same licensed location, the processor shall, prior to its first day of medicinal cannabis processing activities, provide the cabinet with:

(a) Proof that the processor is permitted to operate a hemp business by the appropriate permitting authority and is in good standing;

(b) A written plan for keeping strictly separated all medicinal cannabis processing activities from hemp processing activities; and

(c) A site map or blueprint showing which portions of the facility are designated for medicinal cannabis processing activities, including storage of medicinal cannabis, and which portions are designated for hemp processing activities, including storage of hemp and hemp products.

(7) Pursuant to KRS 218B.100(1), a cannabis business that co-locates with a hemp business shall be subject to reasonable

inspection by the cabinet and the cabinet may inspect the entire facility as part of an inspection.

Section 4. Electronic Monitoring System and Seed to Sale Tracking System.

(1) Except as provided in this section, a processor shall not possess, process, produce, or manufacture:

(a) Raw plant material with a delta-9 tetrahydrocannabinol content of more than thirty-five (35) percent;

(b) Medicinal cannabis products intended for oral consumption as an edible, oil, or tincture with more than ten (10) milligrams of delta-9 tetrahydrocannabinol per serving;

(c) Any medicinal cannabis product not described in this section with a delta-9 tetrahydrocannabinol content of more than seventy (70) percent; or

(d) Any medicinal cannabis product that contains vitamin E acetate.

(2) A processor may possess unfinished medicinal cannabis products not ready for retail sale that exceed the delta-9 tetrahydrocannabinol limits in this section. However, all finished medicinal cannabis products intended for sale to cardholders shall comply with the delta-9 tetrahydrocannabinol limits in this section.

(3) A processor shall use the electronic monitoring system and seed to sale tracking system prescribed by the cabinet containing the requirements in KRS Chapter 218B, specifically KRS 218B.140. A processor shall use the electronic monitoring system and seed to sale tracking system in accordance with written instructions provided by the cabinet.

(4) A processor shall record in the Commonwealth's designated electronic monitoring system and seed to sale tracking system all medicinal cannabis received, sold, disposed, or otherwise transferred by the processor **and ensure the inventory is accurate in real-time.**

(5) A processor shall establish inventory controls and procedures to conduct inventory reviews and comprehensive inventories at its facility to include:

(a) A processor shall prepare **monthly[quarterly]** physical inventory reports that includes any necessary adjustments and the reason(s) for an adjustment and that demonstrates the physical inventory reconciles with the inventory recorded in the Commonwealth's designated electronic monitoring system and seed to sale tracking system, including any medicinal cannabis that has been or is in the process of being destroyed, **No more than thirty (30) calendar days shall lapse between the preparation of a report required under this provision;** and

(b) A written or electronic record shall be created and maintained of each inventory conducted under this section that includes the date of the inventory, a summary of the inventory findings, and the employee identification numbers and titles or positions of the individuals who conducted the inventory.

Section 5. Employees Records and Identification.

(1) A processor shall keep an individual employment record for all employees, including:

(a) Full legal name;

(b) Detailed job description;

(c) Documentation of completed criminal background check;

(d) Record of all training received or acquired by the employee;

(e) Dates of employment;

(f) Records of days and hours worked; and

(g) Any disciplinary actions taken by the processor.

(2) Employment records shall be maintained, either electronically or in hard copy, for at least five (5) years after the employee's last date of employment with the processor.

(3) A processor shall create an identification badge for each employee, agent, or volunteer. This badge shall be conspicuously worn by employees, agents, or volunteers at all times that they are on the licensed premises or during transport of medicinal cannabis or medicinal cannabis products. The badge shall contain:

(a) The individual's name, photo, ~~and~~ employee identification number, **and the license number of the processor;**

(b) A phone number and email address for the processor; and

(c) A phone number and email address for the Kentucky Medical Cannabis Program.

Section 6. Visitors to Processor Facilities.

(1) A processor site and facility shall not be open to the general public.

(2) A processor shall complete the following steps when admitting a visitor to its site and facility:

(a) Require the visitor to sign a visitor log upon entering and leaving the facility;

(b) Check the visitor's government-issued identification to verify **the visitor's age and** that the name on the identification provided matches the name in the visitor log;

(c) Issue a visitor identification badge with the visitor's name and company, if applicable, and a badge number;

(d) Escort the visitor while the visitor remains on the site or in the facility ~~keeping a record of the areas of the site and the facility visited~~; and

(e) Ensure that the visitor does not touch any medicinal cannabis or medicinal cannabis product located in a limited access area.

(3) No one under the age of eighteen (18) shall be permitted to enter a processor's site or facility. A person who is at least eighteen (18) years of age or older may enter and remain on the processor's premises if that person is present to perform contract work, including electrical, plumbing, or security maintenance, that does not involve handling medicinal cannabis or is a government employee and is at the cannabis business in the course of his or her official duties.

(4) A processor shall post a sign in a conspicuous location at each entrance of its site and facility that states "THESE PREMISES ARE UNDER CONSTANT VIDEO SURVEILLANCE. NO ONE UNDER THE AGE OF 18 IS PERMITTED TO ENTER." **The letters on the signs required by this provision shall be at minimum one-half inch in height.**

(5) The processor shall maintain the visitor log required under this section for five (5) years and make the visitor log available to the cabinet, law enforcement, and other federal or state government officials upon request to perform the government officials' functions and duties. The visitor log shall include the date, the full name of each visitor, the visitor identification badge number, the time of arrival, the time of departure, and the purpose of the visit ~~including the areas of the site and the facility visited~~.

(6) This section does not limit the right of the cabinet or its authorized agents, or other federal, state, or local government officials from entering any area of a processor's site and facility if necessary to perform the governmental officials' functions and duties.

(7) A principal officer, board member, agent, financial backer, employee, or volunteer of a processor may not receive any type of consideration or compensation for allowing a visitor to enter a limited access area.

Section 7. Security and Surveillance.

(1) A processor shall have security and surveillance systems, utilizing commercial-grade equipment, to prevent unauthorized entry and to prevent and detect an adverse loss. The security and surveillance systems shall include the following:

(a) A professionally monitored security alarm system that includes:

1. Coverage of all facility entrances and exits; rooms with exterior windows, exterior walls, roof hatches or skylights; storage rooms, including those that contain medicinal cannabis and safes; and the perimeter of the facility.

2. An audible security alarm system signal, known as a panic alarm, generated by the manual activation of a device intended to signal a life-threatening or emergency situation requiring law enforcement response;

3. A silent alarm signal, known as a holdup alarm, generated by the manual activation of a device intended to signal a robbery in progress;

4. A failure notification system that provides an audible, text, or visual notification of any failure in the systems. The failure notification system shall provide by telephone, e-mail, or text

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message an alert to a designated security person within the facility within five (5) minutes after the failure;

5. Smoke and fire alarms;

6. Auxiliary power sufficient to maintain operation for at least twenty-four (24) hours following a power outage;

7. The ability to ensure all access doors shall not be solely controlled by an electronic access panel to prevent locks from becoming released during a power outage; and

8. Motion detectors for exterior lighting.

(b) A professionally monitored security surveillance system that is operational twenty-four (24) hours a day, seven (7) days a week, and records all activity in images capable of clearly revealing facial detail. The security and surveillance system shall include:

1. Fixed camera placement that allows for a clear image of all individuals and activities in and around the following:

a. All limited access areas;

b. A room or area containing a security alarm and surveillance system storage device or equipment;

c. Entrances to and exits from the facility. Entrances and exits shall be recorded from both indoor and outdoor vantage points;

d. Rooms with exterior windows, exterior walls, roof hatches, or skylights and storage rooms, including those that may contain medicinal cannabis and safes and excluding restrooms; and

e. Twenty (20) feet from the exterior of the perimeter of the facility.

2. Auxiliary power sufficient to maintain operation for at least twenty-four (24) hours following a power outage;

3. Ability to operate under the normal lighting conditions of each area under surveillance;

4. Ability to immediately produce a clear, color, still photograph in a digital format that is easily accessible;

5. Ability to display the date and time clearly and accurately. The date and time shall be synchronized and set correctly and may not significantly obscure the picture;

6. Ability to record all images captured by each surveillance camera in a format that may be easily accessed for a minimum of sixty (60)~~thirty (30)~~ days, unless otherwise required for investigative or litigation purposes. The recordings shall be kept:

a. At the processor's facility:

(i) In a locked cabinet, closet, or other secure place to protect it from tampering or theft; and

(ii) In a limited access area or other room to which access is limited to authorized individuals; or

b. At a secure location other than the location of the processor's facility if approved by the cabinet; and[-]

7. Ability to easily export video recordings and still photographs requested by the cabinet, law enforcement, and other federal or state government officials and provide same in a standard file format that is easily accessible.

(2) Regarding inspection, servicing or alteration of, and any upgrade to, the site's and facility's security alarm and surveillance systems:

(a) The systems shall be inspected and all devices tested once every year by a qualified alarm system vendor and a qualified surveillance system vendor;

(b) A processor shall conduct maintenance inspections once every month to ensure that any repairs, alterations, or upgrades to the security alarm and surveillance systems are made for the proper operation of the systems. **No more than thirty (30) calendar days shall lapse between the inspections required under this provision:**

(c) A processor shall retain at the facility, for at least five (5) years, records of all inspections, servicing, alterations, and upgrades performed on the security alarm and surveillance systems and shall make the records available to the cabinet and its authorized agents within two (2) business days following a request; and

(d) In the event of a mechanical malfunction of the security alarm or surveillance system that a processor anticipates shall exceed an eight (8) hour period, the processor shall notify the cabinet immediately via electronic mail to kymedcanreporting@ky.gov and, with cabinet approval, provide alternative security measures that may include closure of the facility.

(3) Regarding records retention, a processor shall:

(a) Have a secure electronic back-up system for all electronic records;

(b) Within three (3) business days following a request for records under this paragraph, provide up to four (4) screen captures of an unaltered copy of a video surveillance recording to the cabinet or its authorized agents, law enforcement, or other federal, state, or local government officials if necessary to perform the governmental officials' functions and duties; and

(c) If a processor has been notified in writing by the cabinet or its authorized agents, law enforcement, or other federal, state, or local government officials of a pending criminal or administrative investigation for which a recording may contain relevant information, retain an unaltered copy of the recording for two (2) years or until the investigation or proceeding is closed or the entity conducting the investigation or proceeding notifies the processor that it is not necessary to retain the recording, whichever is later.

(4) During all non-working hours, all entrances to and exits from the processor's facility shall be securely locked.

(5) A processor shall install lighting to ensure proper surveillance inside and outside of the facility.

(6) A processor shall limit access to a room containing the equipment operating the security alarm and surveillance monitoring systems to:

(a) Persons who are essential to maintaining security and surveillance operations;

(b) Federal, state, and local law enforcement;

(c) Security alarm and surveillance system service employees;

(d) The cabinet or its authorized agents; and

(e) Other persons with the prior written approval of the cabinet.

(7) A processor shall make available to the cabinet or its authorized agents, upon request, a current list of authorized employees and service employees or contractors who have access to areas containing the equipment operating the security alarm and surveillance monitoring systems **and place a copy of this list on or next to the doors that access those areas.**

(8) A processor shall keep rooms housing the equipment operating the security alarm and surveillance monitoring systems locked at all times and may not use these rooms for any other purpose or function.

Section 8. Forms of Medicinal Cannabis.

(1) A processor may process medicinal cannabis for sale to a cannabis business in forms including:

(a) Edible;

(b) Oil;

(c) Topical forms, including gel, creams, ointments, and cosmetics;

(d) A form medically appropriate for administration by vaporization or nebulization;

(e) Tincture;

(f) Dermal patch;

(g) Suppositories;

(h) Beverages; ~~and~~

(i) Raw plant material; and[-]

(j) Capsules.

(2) In addition to other packaging and labeling requirements established in 915 KAR 1:100, all raw plant material packaged and sold by a processor in this Commonwealth shall be marked or labeled as "NOT INTENDED FOR CONSUMPTION BY SMOKING." Processors delivering raw plant material to dispensaries for sale shall comply with the requirements contained in 915 KAR 1:030, Section 14.

(3) Unless specifically authorized in writing by the cabinet, all hard medicinal cannabis products intended for oral consumption as an edible shall be stamped with the standardized symbol indicating a product contains medicinal cannabis provided in Appendix A to 915 KAR 1:100. If the medicinal cannabis product intended for oral consumption as an edible contains multiple servings, the processor shall ensure a cardholder can easily separate out a single serving from the whole.

(4) Except for transfer of samples to a safety compliance facility for testing, no medicinal cannabis shall be sold or transferred to another cannabis business until all required testing is complete and the representative sample passed inspection. Processors shall not sell medicinal cannabis directly to cardholders.

Section 9. Requirements for Processing Medicinal Cannabis.

(1) A processor may only use the methods, equipment, solvents, and gases set forth in this section in the processing and manufacture of medicinal cannabis and medicinal cannabis products.

(2) A processor may use hydrocarbon solvent-based extraction methods in a spark-free and properly ventilated environment, isolated from any open flame or ignition source, and may use the following solvents, at a minimum of ninety-nine per cent purity, in a professional grade, closed-loop extraction system designed to recover the solvents:

- (a) Propane;
- (b) N-butane;
- (c) Isobutane; and
- (d) Heptane.

(3) A processor may use carbon dioxide-based extraction methods using food grade carbon dioxide at a minimum of ninety-nine percent (99%) purity in a professional grade, closed-loop system in which each vessel is rated to a minimum pressure to accommodate the specific extraction protocol, including supercritical, liquid, and subcritical.

(4) A processor may use ethanol at a minimum of ninety-nine percent (99%) purity to produce extracts for use in the manufacture of medicinal cannabis products.

(5) A processor may use food grade glycerin and propylene glycol in the manufacture of medicinal cannabis products.

(6) A processor may use non-solvent extraction methods involving the mechanical separation of cannabinoids from plant material to produce medicinal cannabis extracts for use in the manufacture of medicinal cannabis products.

(7) A processor may use non-cannabis ingredients in the manufacture of medicinal cannabis products that meet the following conditions:

(a) The non-cannabis ingredients are nontoxic and safe for human consumption; and

(b) The non-cannabis ingredients were not prepared or stored in a private residence.

(8) A processor using hydrocarbon solvent-based or carbon dioxide extraction methods shall designate at least one (1) individual to train and supervise employees in the use of extraction equipment and associated solvents who has earned, at minimum, a Bachelor's Degree in engineering or physical sciences from an accredited university, or who has at least three (3) years of experience in the operation of the equipment being used in the facility or similar equipment.

(9) A processor shall maintain a log of the use of all extraction methods, equipment, solvents, and gases used in the processing and manufacture of medicinal cannabis products for a minimum of five (5) years.

(10) A processor may only process the parts of the medicinal cannabis plant that are free of dirt, sand, debris, or other foreign matter.

(11) Prior to processing, a processor shall perform visual inspections of the raw plant material to ensure there are no visible insects, mold, mildew, pests, rot, grey or black plant material, or inorganic material, including plastic, glass, and metal shavings.

(12) A processor shall have a separate and secure area for temporary storage of medicinal cannabis that is awaiting disposal by the processor.

(13) A processor shall process medicinal cannabis in a safe and sanitary manner, which includes:

(a) Medicinal cannabis, raw plant material, and other product used in the processing of medicinal cannabis shall be handled on food-grade stainless steel benches or tables;

(b) Proper sanitation shall be maintained;

(c) Proper rodent, bird and pest exclusion practices shall be employed;

(d) Prior to packaging, the medicinal cannabis shall have passed all required testing established within 915 KAR 1:110; and

(e) Any person making human-consumable products or substances that will be used to make human-consumable products, shall be Good Manufacturing Practices-compliant and permitted by the Department of Public Health within the cabinet.

(14) A processor shall **establish procedures**~~[install a system]~~ to monitor, record, and regulate:

- (a) Temperature;
- (b) Humidity;
- (c) Ventilation;
- (d) Lighting; and
- (e) Water supply.

Section 10. Equipment, Operation and Maintenance.

(1) A processor shall have a written process in place to maintain the sanitation and operation of equipment that comes into contact with medicinal cannabis to prevent contamination. The processor shall provide a copy of the written process to the cabinet upon request.

(2) As part of the written process required under this section, a processor shall:

(a) Routinely calibrate, check and inspect automatic, mechanical, or electronic equipment as well as any scales, balances, or other measurement devices used in the processor's operations to ensure accuracy; and

(b) Maintain an accurate log recording:

- 1. Maintenance of equipment;
- 2. Cleaning of equipment; and
- 3. Calibration of equipment.

Section 11. Sanitation and Safety in a Processor Facility.

(1) A processor shall maintain its site and facility in a sanitary condition to limit the potential for contamination of the medicinal cannabis processed in the facility, including:

(a) Equipment and surfaces, including floors, counters, walls, and ceilings, shall be cleaned and sanitized as frequently as necessary to protect against contamination, using a sanitizing agent registered by the United States Environmental Protection Agency, in accordance with the instructions printed on the label. All equipment and utensils used by a processor shall be capable of being adequately cleaned;

(b) Trash shall be properly and routinely removed to prevent pest infestation;

(c) Floors, walls, and ceilings shall be kept in good repair;

(d) Equipment, counters, and surfaces for processing shall be food grade quality and may not react adversely with any solvent being used;

(e) Adequate protection against pests shall be provided through the use of integrated pest management practices and techniques that identify and manage plant pathogens and pest problems; and

(f) Toxic cleaning compounds, sanitizing agents, solvents, and any other allowable chemicals used in the processing of medicinal cannabis shall be labeled and stored in a manner that prevents contamination of medicinal cannabis.

(2) All employees and volunteers shall conform to sanitary practices while on duty, including:

(a) Maintaining adequate personal cleanliness;

(b) Washing hands thoroughly in an adequate hand-washing area before starting work and at any other time when hands may have become soiled or contaminated;

(c) Wearing proper clothing, including gloves, hair nets, headbands, caps, beard covers, or other effective hair restraints where appropriate;

(d) Removing all unsecured jewelry and other objects that might fall into medicinal cannabis, equipment, or containers, and removing hand jewelry that cannot be adequately sanitized during periods in which medicinal cannabis is manipulated by hand. If such hand jewelry cannot be removed, it may be covered by material which can be maintained in an intact, clean, and sanitary condition and which effectively protects the medicinal cannabis from contamination by these objects;

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(e) Storing clothing or other personal belongings in areas other than where medicinal cannabis is exposed or where equipment is cleaned;

(f) Confining the following to areas other than where medicinal cannabis may be exposed or where equipment is cleaned: eating food, chewing gum, drinking beverages, or using tobacco; and

(g) Taking any other necessary precautions to protect against contamination of medicinal cannabis with microorganisms or foreign substances including perspiration, hair, cosmetics, tobacco, chemicals, and medicines applied to the skin.

(3) A processor shall:

(a) Provide its employees, volunteers, and visitors with adequate and convenient hand-washing facilities furnished with running water at a temperature suitable for sanitizing hands. Effective nontoxic sanitizing cleansers and sanitary towel service or suitable drying devices shall also be provided;

(b) Provide its employees, volunteers, and visitors with adequate, readily accessible restrooms that are maintained in a sanitary condition and in good repair;

(c) Ensure that its facility is provided with a water supply sufficient for its operations, which shall be derived from a source that is a public water system, or a nonpublic system that is capable of providing a safe, potable, and adequate supply of water to meet the operational needs of the facility; and

(d) Comply with all other applicable federal, state, and local building code requirements and occupational safety and health requirements.

Section 12. Storage Requirements.

(1) A processor shall have separate locked limited access areas for storage of medicinal cannabis that is expired, damaged, deteriorated, mislabeled, contaminated, recalled, or whose containers or packaging have been opened or breached until the medicinal cannabis is destroyed or otherwise disposed of as required under Section 13 of this administrative regulation.

(2) A processor shall maintain all storage areas in a clean and orderly condition and free from infestation by insects, rodents, birds and pests.

Section 13. Management and Disposal of Medicinal Cannabis Waste.

(1) A processor shall dispose of undesired, excess, unauthorized, obsolete, adulterated, misbranded, or deteriorated medicinal cannabis in such a manner as to render the medicinal cannabis unusable. A processor shall record medicinal cannabis waste as required in the Commonwealth's designated electronic monitoring system and seed to sale tracking system.

(2) Medicinal cannabis that is rendered unusable shall be discarded into a ~~locked~~ dumpster with commercial grade locks or other approved, locked container for removal from the facility by a waste removal company selected by the processor, except that ashes resulting from the controlled incineration of medicinal cannabis may be placed in an unlocked dumpster. Medicinal cannabis shall be rendered unusable by:

(a) Controlled incineration; or

(b) Grinding and incorporating the medicinal cannabis with one (1) or more of the non-consumable, solid wastes listed below, such that the resulting mixture is majority non-cannabis waste:

1. Paper waste;
2. Cardboard waste;
3. Food waste;
4. Yard or garden waste;
5. Grease or other compostable oil waste; or
6. Soil or other used growth media.

(3) The disposal of medicinal cannabis shall be performed under video surveillance from the time the destruction begins to when it is placed in a locked dumpster or other approved, locked container and removed from the processor's site and facility.

(4) A minimum of two (2) employees shall oversee~~The employee overseeing~~ the disposal of medicinal cannabis and shall maintain and make available a separate record of every disposal indicating the following:

(a) The date and time of disposal;

(b) The manner of disposal;

(c) ~~Any~~The unique identification codes associated with the medicinal cannabis scheduled for destruction;

(d) The reasoning for and description of the disposal;

(e) The names~~(name)~~, employee identification numbers~~(number)~~, and signatures~~(signature)~~ of the employees~~(employee)~~ overseeing the disposal of the medicinal cannabis; and

(f) If the~~medicinal cannabis waste for~~ disposal contains medicinal cannabis~~(plant material)~~ that was prepared for sale to a dispensary, the harvest or production batch number, strain, volume, and weight, and number of units if applicable of the medicinal cannabis~~(plant material)~~ being disposed of.

(5) The disposal of other waste from the processor that does not include medicinal cannabis, including hazardous waste and liquid waste, shall be performed in a manner consistent with applicable federal, state, and local requirements.

Section 14. Complaints About or Recall of Medicinal Cannabis and Medicinal Cannabis Products.

(1) A cannabis business shall immediately notify the cabinet via electronic mail to kymedcanreporting@ky.gov as well as the processor from which it obtained any medicinal cannabis in question upon becoming aware of any defects or quality issues with the medicinal cannabis or any complaint made to the cannabis business by another cannabis business, a cardholder, or medicinal cannabis practitioner who reports an adverse event from using medicinal cannabis purchased by the cannabis business from the processor. A processor shall investigate the report as follows:

(a) A processor shall immediately investigate a complaint to determine if a voluntary or mandatory recall of medicinal cannabis and medicinal cannabis products is necessary or if any further action is required;

(b) If a processor determines that further action is not required, the processor shall notify the cabinet of its decision via electronic mail to kymedcanreporting@ky.gov and, within twenty-four (24) hours, submit a written report to the cabinet stating its rationale for not taking further action. The cabinet shall review the written report and consult with the processor as needed. If the cabinet disagrees with the processor's decision, the cabinet shall take all necessary steps allowable under KRS Chapter 218B and 915 KAR Chapter 1 to ensure public health and safety, including issuing a cease-and-desist order to pause the sale and distribution of the medicinal cannabis at issue until resolution of the matter; and

(c) If a processor determines that further action is required, the processor shall initiate a voluntary or mandatory recall in accordance with the requirements of this section.

(2) Voluntary recalls. If a processor voluntarily initiates a recall, the processor shall recall seeds, seedlings, medicinal cannabis plants, postharvest plant material, or medicinal cannabis from the market at its discretion for reasons that do not pose a risk to public health and safety and shall notify the cabinet at the time the processor begins the recall via electronic mail to kymedcanreporting@ky.gov.

(3) Mandatory recalls. If a processor discovers that a condition relating to medicinal cannabis processed at its facility poses a risk to public health and safety, the processor shall:

(a) Immediately notify the cabinet by phone and electronic mail to kymedcanreporting@ky.gov; and

(b) Secure, isolate, and prevent the distribution of the medicinal cannabis that may have been affected by the condition and remains in its possession. The processor shall not dispose of affected medicinal cannabis prior to notifying the cabinet and coordinating the disposal with the cabinet.

(4) If a processor fails to cooperate with the cabinet in a recall, or fails to immediately notify the cabinet of a need for a recall under this section, the cabinet may seek a cease-and-desist order and the processor may be subject to any other penalties or sanctions provided for in KRS Chapter 218B and 915 KAR Chapter 1:020.

(5) A processor's recall plan as required under this administrative regulation shall include the following:

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(a) Designation of one or more employees to serve as the recall coordinators. A recall coordinator shall be responsible for, among other duties, accepting the recalled medicinal cannabis;

(b) Procedures for identifying and isolating the affected medicinal cannabis to prevent or minimize its distribution to cardholders and other cannabis businesses;

(c) Procedures to retrieve and dispose of the medicinal cannabis;

(d) A communications plan to notify those affected by the recall, including:

1. The manner in which the processor shall notify other cannabis businesses in possession of medicinal cannabis subject to the recall; and

2. The use of press releases and other appropriate notifications to ensure that cardholders shall be notified of the recall if affected medicinal cannabis was dispensed to cardholders.

(e) Procedures for notifying the cabinet; and

(f) Procedures for entering information relating to the recall into the Commonwealth's designated electronic monitoring system and seed to sale tracking system.

(g) A processor shall follow the procedures outlined in its recall plan unless the processor obtains prior written approval of the cabinet or the cabinet notifies the processor in writing to perform other procedures. A processor shall conduct recall procedures in a manner that maximizes the recall of affected medicinal cannabis and minimizes risks to public health and safety.

(h) A processor shall coordinate the disposal of recalled medicinal cannabis with the cabinet. The cabinet or its authorized agents may oversee the disposal to ensure that the recalled medicinal cannabis is disposed of in a manner that will not pose a risk to public health and safety.

(i) The processor shall enter information relevant to the recall into the Commonwealth's designated electronic monitoring system and seed to sale tracking system as part of the inventory, which may include the following:

(1) The total amount of recalled medicinal cannabis, including types, harvest batches, and production batches, if applicable;

(2) The total amount of recalled medicinal cannabis returned to the processor, including types, forms, harvest batches, and production batches, if applicable;

(3) The names of the recall coordinators;

(4) From whom the recalled medicinal cannabis was received;

(5) The means of transport of the recalled medicinal cannabis;

(6) The reason for the recall;

(7) The number of recalled samples, types, forms, harvest batches, and production batches, if applicable, sent to safety compliance facilities, the names and addresses of the safety compliance facilities, the dates of testing, and the results by sample; and

(8) The manner of disposal of the recalled medicinal cannabis, including:

1. The names[name] of the individuals[individual] overseeing the disposal of the recalled medicinal cannabis;

2. The name of the disposal company, if applicable;

3. The method of disposal;

4. The date of disposal; and

5. The amount disposed of by types, forms, harvest batches, and production batches, if applicable.

(9) The cabinet may initiate a mandatory recall upon receipt of information that a condition relating to the medicinal cannabis processed by a processor poses a risk to public health and safety.

Section 15. Duty to Report.

(1) At the time a processor submits a license renewal application to the cabinet, a processor shall report to the cabinet via electronic mail to kymedcanreporting@ky.gov the following:

(a) Any significant issues with the supply and demand of medicinal cannabis experienced by the processor;

(b) The total amount of raw plant material purchased and processed during the current licensure period and the average price per pound as well as the total amount of raw plant material purchased and sold as raw plant material and the average price per pound; and

(c) The number of current employees, their respective job titles, and hourly wage; and

(2) A processor shall participate in market surveys distributed by the cabinet throughout a licensure period and provide full and complete responses.

SAM FLYNN, Executive Director

ERIC FRIEDLANDER, Secretary

APPROVED BY AGENCY: May 14, 2024

FILED WITH LRC: May 15, 2024 at 11:15 a.m.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements and procedures for medicinal cannabis processors to operate in the commonwealth.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140. In response to comments received by the cabinet, the Amended After Comments version of the administrative regulation will be amended to clarify and address security, facility, and recordkeeping requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations establishing requirements and procedures for processors to operate in the commonwealth. This administrative regulation sets out those requirements and procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the requirements and procedures for processors to operate in the commonwealth.

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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: This administrative regulation affects processors that have applied for and subsequently received licenses to conduct medicinal cannabis processing activities in the commonwealth.

(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 requirements to operate as a processor and remain in good standing throughout the licensure period are provided in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Processors will have to pay an initial application fee, and if approved for a license, an initial license fee and a renewal license fee if it desires to continue operating as a cannabis business following the expiration of its initial license.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Processors that receive a license from the Cabinet for Health and Family Services are authorized to conduct medicinal cannabis processing activities in the

commonwealth for the term of the license (i.e., 1 year from the date of license issuance).

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

(a) Initially: \$1,200,000

(b) On a continuing basis: \$1,200,000

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds provided by the commonwealth.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer and enforce licensure of processors.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All processors will be treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.010, 218B.080, 218B.085, 218B.090, 218B.095, 218B.100, 218B.115, 218B.140.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: The cabinet estimates that it will cost \$1,200,000 to license and regulate processors in the first year.

Revenues: The cabinet will receive initial application fees and initial license fees paid by processors during the first year.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The cabinet estimates that it will cost \$1,200,000 to regulate licensed processors in each subsequent year. The cabinet will receive annual renewal license fees from processors that desire to continue operating in the commonwealth following the expiration of their existing license. The cabinet may also receive additional initial application fees and initial license fees if additional licenses are made available in subsequent years. The cabinet does not anticipate any cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): If its application is approved, a proposed processor will locate within a city or county in the commonwealth.

(a) Estimate the following for the first year:

Expenditures: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Revenues: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

(4) Identify additional regulated entities not listed in questions (2) or (3): Licensed processors.

(a) Estimate the following for the first year:

Expenditures: The initial license fee for a processor is \$25,000 for each licensed location.

Revenues: Unknown at this time. This response will depend upon how much medicinal cannabis is processed and sold by a licensed processor, including the sale price.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The annual renewal license fee for a processor is \$15,000 for each licensed location. Revenues will continue to depend on how much medicinal cannabis is processed and sold by a licensed processor, including the sale price. Cost savings may occur in subsequent years as licensed processors gain experience and efficiency in their operations while still remaining fully compliant with the applicable administrative regulations.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. A portion of the estimated staffing costs will go toward regulating licensed processors.

(b) Methodology and resources used to determine the fiscal impact: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth, including processors, as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services.

(b) The methodology and resources used to reach this conclusion: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.

CABINET FOR HEALTH AND FAMILY SERVICES Office of the Secretary (Amended After Comments)

915 KAR 1:060. Safety compliance facility.

RELATES TO: KRS Chapter 218B

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing requirements and procedures for safety compliance facilities that provide testing services to medicinal cannabis businesses in the Commonwealth. This administrative regulation sets out those requirements and procedures.

Section 1. General Requirements.

(1) A safety compliance facility shall not collect, handle, receive, or conduct tests on medicinal cannabis samples unless it has been issued a license by the cabinet. Prior to conducting any testing of a

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sample at the request of a cannabis business, a safety compliance facility shall enter into a written contract with the cannabis business for testing services. A safety compliance facility shall provide a copy of their contracts with cannabis businesses to the cabinet within two (2) business days of receipt of the request.

(2) The cabinet shall post a list of licensed safety compliance facilities on the Web site for the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(3) A safety compliance facility shall employ at least one (1) director to oversee and be responsible for the testing operations of the facility. A director shall have earned, from a college or university accredited by a national or regional accrediting authority, at least one of the following:

(a) A doctorate of science or an equivalent degree in chemistry, biology, or a subdiscipline of chemistry or biology;

(b) A master's level degree in a chemical or biological science and a minimum of two (2) years post-degree experience related to laboratory testing of medicinal or pharmaceutical products; or

(c) A bachelor's degree in a biological science and a minimum of four (4) years post-degree experience related to laboratory testing of medicinal or pharmaceutical products.

(4) A principal officer, board member, employee, volunteer, or agent of a cultivator, processor, producer, or dispensary shall not be employed by or affiliated with a safety compliance facility that has a contract with that respective cannabis business.

(5) A license issued by the cabinet to a safety compliance facility is valid only for the specific site licensed and identified on the license.

(6) A safety compliance facility shall:

(a) Conduct a criminal background check into the criminal history of each person seeking to become a principal officer, board member, agent, volunteer, or employee before that person begins work and shall retain records of these background checks for five (5) years and provide same to the cabinet during subsequent inspections or upon request;

(b) Maintain and adhere to proper standards of accuracy for testing and comply with the testing requirements contained in 915 KAR 1:110;

(c) Comply with all required analytes standards for the relevant test methods of cannabinoids, terpenoids, residual solvents and processing chemicals, residual pesticides, heavy metals, microbial impurities, mycotoxins, water activity, yeast, mold, and vitamin E acetate;

(d) Accurately and honestly report all medicinal cannabis test results;

(e) Only allow authorized individuals to perform medicinal cannabis testing and sign reports;

(f) Only accept a sample or test sample from a cannabis business employee or agent, or cardholder, or an authorized representative of the cabinet;

(g) Maintain a certificate of accreditation in good standing from an accreditation body and provide a copy to the cabinet during subsequent inspections or upon request. The certificate of accreditation shall attest to the safety compliance facility's competence to perform testing, including all the required analytes for the relevant test methods required, and shall be obtained by the safety compliance facility prior to collecting, receiving, or testing any medicinal cannabis sample or test sample;

(h) Develop and maintain standard operating procedures for a laboratory approved by the accreditation body that issued the certificate of accreditation to the safety compliance facility and provide copies to the cabinet during subsequent inspections or upon request;

(i) Properly enter medicinal cannabis test results into the Commonwealth's designated electronic monitoring system and seed to sale tracking system as required by the cabinet and in accordance with written instructions provided by the cabinet; and

(j) Comply with all applicable requirements of KRS Chapter 218B, specifically KRS 218B.095 and 218B.125, and 915 KAR Chapter 1.

(7) A safety compliance facility shall not employ, take on as a volunteer, or have as a board member, principal officer, or agent any

person who was convicted of a disqualifying felony offense or is younger than twenty-one (21) years of age.

(8) The qualifications that a safety compliance facility shall meet to receive a license are continuing qualifications to maintain the license throughout the licensure period.

Section 2. Selecting and Collecting Samples for Testing.

(1) A sampler is an employee or agent of a cultivator, processor, producer, safety compliance facility, or dispensary that is authorized by his or her employer to collect samples or test samples in accordance with the contracted safety compliance facility's standard operating procedures and this administrative regulation. A sampler shall obtain an amount for a sample or test sample on behalf of his or her employer sufficient to be aliquoted into a primary sample and a reserve sample, which shall be equal in amount. The primary sample and reserve sample shall be in the amounts specified in the safety compliance facility's standard operating procedures.

(2) A safety compliance facility shall ensure that samples and test samples are selected and collected in accordance with standard operating procedures established by the safety compliance facility and required by this administrative regulation. The standard operating procedures for sampling shall be written and provided to the cabinet and each cannabis business that the safety compliance facility contracts with for testing prior to collecting, receiving, or testing any medicinal cannabis. These standard operating procedures shall be in place prior to the first day that the safety compliance facility collects, receives, or tests a sample.

(3) Samples shall consist of enough samples from a harvest batch or production batch to ensure that the required attributes in the products are homogenous and consistent with the safety compliance facility's standard operating procedures for selecting and collecting samples. Test samples shall consist of enough samples of the item identified for testing to ensure any required testing can be accomplished in accordance with the safety compliance facility's standard operating procedures.

(4) The sampling policies and procedures shall include:

(a) A step-by-step guide for obtaining samples and test samples;

(b) Random taking of samples or test samples throughout the harvest batch or production batch;

(c) Using appropriate sampling equipment, including protocols relating to the sanitizing of equipment and tools, protective gear, and sampling containers;

(d) Using consistent collection procedures for samples and test samples;

(e) Transporting samples in a manner that does not endanger the integrity of the samples and that is in accordance with transportation requirements for samples contained in 915 KAR 1:080;

(f) Creating a unique sample identification number that will be linked to the harvest batch or production batch number assigned by the cultivator, processor, or producer in the Commonwealth's designated electronic monitoring system and seed to sale tracking system; and

(g) The process for properly documenting a chain of custody for each sample or test sample and retaining those records for a minimum of two (2) years.

(5) An employee or agent of a safety compliance facility shall only enter a facility operated by a cultivator, processor, producer, or dispensary for the purpose of:

(a) Selecting and collecting samples and test samples and shall have access to limited access areas in the facility for these purposes; and

(b) Providing training to cannabis business agents as provided in KRS 218B.125(7).

(6) An employee or agent of a safety compliance facility shall comply with all visitor requirements for entry into the cultivator, processor, producer, or dispensary's facility.

(7) An authorized cannabis business employee collecting any samples for testing shall follow the standard operating procedures established by the contracted safety compliance facility conducting the testing for sampling and documenting the chain of custody.

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Section 3. Standards for testing. A safety compliance facility shall follow:

- (1) The methodologies and parameters that are contained in the scope of the certificate of accreditation issued to the safety compliance facility; and
- (2) The testing requirements contained in 915 KAR 1:110.

Section 4. Quality Assurance Program.

(1) Prior to its first day of collecting or receiving samples or test samples in the Commonwealth, a safety compliance facility shall establish and implement a written quality assurance program to ensure that measurements are accurate, errors are controlled, and equipment, devices, or instruments used for testing are routinely and properly calibrated in accordance with the equipment, device, or instrument manufacturer recommendations regarding calibration and frequency.

(2) The quality assurance program required under this section shall include the following components:

- (a) An organizational chart that includes the testing responsibilities of employees;
- (b) A description of sampling procedures to be utilized;
- (c) Appropriate chain of custody protocols;
- (d) Analytical procedures;
- (e) Data reduction and validation procedures; and
- (f) A plan for implementing corrective action, when necessary.

(3) A safety compliance facility shall provide a copy of its written quality assurance program to the cabinet upon request or during subsequent inspections or investigations.

Section 5. Cabinet Request for Testing. If the cabinet requests that a safety compliance facility conduct tests on any samples or test samples collected by the cabinet, the safety compliance facility shall comply with the request and directions of the cabinet and provide the cabinet with a written report of the results from a sample tested under this section within seven (7) calendar days of receipt of the sample, or sooner if requested by the cabinet.

Section 6. Ownership Prohibition. The following individuals shall not have a management or a direct or indirect financial or other ownership interest in a safety compliance facility:

- (1) An owner, principal officer, board member, financial backer, employee, volunteer, or agent of a cultivator, processor, producer, or dispensary; and
- (2) A medicinal cannabis practitioner.

Section 7. Plans of Operation.

(1) In addition to any other standard operating procedures required by this administrative regulation, a safety compliance facility shall establish standard operating procedures for the following prior to its first day of collecting or receiving samples or test samples in the Commonwealth:

- (a) Employment policies and procedures;
- (b) Security, including:
 1. Staff identification measures and use of employee identification badges;
 2. Monitoring of attendance of staff and visitors;
 3. Alarm systems;
 4. Video surveillance;
 5. Monitoring and tracking samples and test results, including use of the Commonwealth's electronic monitoring system and seed to sale tracking system established pursuant to KRS 218B.140;
 6. Personnel security;
 7. Transportation of medicinal cannabis **and how to properly secure medicinal cannabis in the event of a traffic collision or transport vehicle malfunction;**
 8. Cash management and anti-fraud procedures;
 9. Measures to prevent loitering, which shall include signage; and
 10. Storage of medicinal cannabis and medicinal cannabis products;

- (c) Recordkeeping;
- (d) The process for receiving, handling, packaging, labeling, storing, transporting, and disposing of medicinal cannabis samples;
- (e) Employee qualifications, supervision, and training;
- (f) Workplace safety;
- (g) Waste disposal and sanitation;
- (h) Inventory management, including intake, labeling, and storage of samples and test samples;
- (i) Contamination;
- (j) Maintenance, cleaning, and sanitation of equipment used to test samples;
- (k) Maintenance, cleaning, and sanitation of the safety compliance facility;
- (l) Proper handling and storage of any chemical or substance used in testing medicinal cannabis;
- (m) Investigation of complaints and potential adverse events received from other cannabis businesses, registered qualified patients, designated caregivers, or medicinal cannabis practitioners regarding the safety compliance facility's operations;
- (n) Preventing unlawful diversion of medicinal cannabis; and
- (o) Any other standard operating procedures required for all cannabis businesses in KRS Chapter 218B and 915 KAR Chapter 1.

(2) A safety compliance facility shall make its standard operation procedures available to the cabinet upon request and during any inspection or investigation.

Section 8. Facilities.

(1) A safety compliance facility shall only test samples in a facility on the specific site licensed by the cabinet and identified on its license issued by the cabinet. The facility shall meet all applicable state and local building codes and specifications in addition to the following:

- (a) Has a complete roof enclosure supported by connecting permanent walls, constructed of solid materials extending from the ground to the roof;
- (b) Is secure against unauthorized entry;
- (c) Has a foundation, slab, or equivalent base to which the floor is securely attached;
- (d) Has commercial grade door locks on all external doors that are locked at all times;
- (e) Restricts access to only authorized personnel to limited access areas identified with signage and daily records of entry and exit;
- (f) Contains adequate plumbing to carry sufficient quantities of water to locations throughout the facility and convey sewage and waste from the facility without cross contamination of potable water and waste;
- (g) Stores toxic cleaning compounds, sanitizing agents, and substances used in testing samples in a manner that is in accordance with applicable local, state, and federal laws and regulations;
- (h) Maintains proper ventilation;
- (i) Maintains pest control;
- (j) Maintains adequate indoor and exterior lighting to facilitate video surveillance at all times; and
- (k) Maintains adequate on-site parking for employees, agents, visitors, transporters of medicinal cannabis, or cabinet staff.

(2) A safety compliance facility shall clearly mark all limited access areas on its premises with proper signage. All areas of ingress and egress to a limited access area shall be clearly identified by the posting of a sign which shall be not less than twelve (12) inches wide and twelve (12) inches long, composed of letters not less than one-half inch in height, which shall state: "Do Not Enter. Limited Access Area. Access Limited to Authorized Personnel and Escorted Visitors."

(3) A safety compliance facility shall have a secure area for the loading and unloading of medicinal cannabis samples into and from a transport vehicle.

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Section 9. Employee Records and Identification.

(1) A safety compliance facility shall keep an individual employment record for all employees, including:

- (a) Full legal name;
- (b) Detailed job description;
- (c) Documentation of completed criminal background check;
- (d) Record of all training received or acquired by the employee;
- (e) Dates of employment;
- (f) Records of days and hours worked; and
- (g) Any disciplinary actions taken by the safety compliance facility.

(2) Employment records shall be maintained, either electronically or in hard copy, for at least five (5) years after the employee's last date of employment with the safety compliance facility.

(3) A safety compliance facility shall create an identification badge for each employee, agent, or volunteer. This badge shall be conspicuously worn by employees or agents at all times that they are on the licensed premises or during transport of samples or test samples. The badge shall contain:

(a) The individual's name, photo, ~~and~~-employee identification number, **and the license number of the safety compliance facility**;

(b) A phone number and email address for the safety compliance facility; and

(c) A phone number and email address for the Kentucky Medical Cannabis Program.

Section 10. Visitors to Safety Compliance Facilities.

(1) A safety compliance facility shall not be open to the general public.

(2) A safety compliance facility shall complete the following steps when admitting a visitor to its site and facility:

(a) Require the visitor to sign a visitor log upon entering and leaving the facility;

(b) Check the visitor's government-issued identification to verify **the visitor's age and** that the name on the identification provided matches the name in the visitor log;

(c) Issue a visitor identification badge with the visitor's name and company, if applicable, and a badge number;

(d) Escort the visitor while the visitor remains in the facility[**keeping a record of the areas of the facility visited**]; and

(e) Ensure that the visitor does not touch any medicinal cannabis located in a limited access area.

(3) No one under the age of eighteen (18) shall be permitted to enter a safety compliance facility. A person who is at least eighteen (18) years of age may enter and remain on the premises if that person is present to perform contract work, including electrical, plumbing, or security maintenance, that does not involve handling medicinal cannabis or is a government employee and is at the facility in the course of his or her official duties.

(4) A safety compliance facility shall post a sign in a conspicuous location at each entrance of its facility that states "THESE PREMISES ARE UNDER CONSTANT VIDEO SURVEILLANCE. NO ONE UNDER THE AGE OF 18 IS PERMITTED TO ENTER." **The letters on the signs required by this provision shall be at minimum one-half inch in height.**

(5) A safety compliance facility shall maintain the visitor log required under this section for five (5) years and make the visitor log available to the cabinet, law enforcement, and other federal or state government officials upon request to perform the government officials' functions and duties. The visitor log shall include the date, the full name of each visitor, the visitor identification badge number, the time of arrival, the time of departure, and the purpose of the visit[**including the areas of the site and the facility visited**].

(6) This section does not limit the right of the cabinet or its authorized agents, or other federal, state, or local government officials from entering any area of a safety compliance facility if necessary to perform the governmental officials' functions and duties.

(7) A principal officer, board member, agent, financial backer, or employee of a safety compliance facility may not receive any type of

consideration or compensation for allowing a visitor to enter a limited access area.

Section 11. Security and Surveillance.

(1) A safety compliance facility shall have security and surveillance systems, utilizing commercial-grade equipment, to prevent unauthorized entry and to prevent and detect an adverse loss. The security and surveillance systems shall include the following:

(a) A professionally monitored security alarm system that includes:

1. Coverage of all facility entrances and exits, storage rooms, including those that contain medicinal cannabis and safes, and the perimeter of the facility;

2. Smoke and fire alarms;

3. Auxiliary power sufficient to maintain operation for at least twenty-four (24) hours following a power outage;

4. The ability to ensure all access doors are not solely controlled by an electronic access panel to prevent locks from becoming released during a power outage; and

5. Motion detectors for exterior lighting.

(b) A professionally monitored security surveillance system that is operational twenty-four (24) hours a day, seven (7) days a week, and records all activity in images capable of clearly revealing facial detail. The security and surveillance system shall include:

1. Fixed camera placement that allows for a clear image of all individuals and activities in and around the following:

a. All limited access areas;

b. A room or area containing a security alarm and surveillance system storage device or equipment;

c. Entrances to and exits from the facility; and

d. Twenty (20) feet from the exterior of the perimeter of the facility.

2. Ability to operate under the normal lighting conditions of each area under surveillance;

3. Ability to immediately produce a clear, color, still photograph in a digital format that is easily accessible;

4. Ability to display the date and time clearly and accurately. The date and time shall be synchronized and set correctly and may not significantly obscure the picture; ~~and~~

5. Ability to record all images captured by each surveillance camera in a format that may be easily accessed for a minimum of **sixty (60)**~~thirty (30)~~ days, unless otherwise required for investigative or litigation purposes. The recordings shall be kept:

a. At the safety compliance facility:

(i) In a locked cabinet, closet or other secure place to protect it from tampering or theft; and

(ii) In a limited access area or other room to which access is limited to authorized individuals; or

b. At a secure location other than the location of the safety compliance facility if approved by the cabinet; ~~and~~ ~~and~~

6. Ability to easily export video recordings and still photographs requested by the cabinet, law enforcement, and other federal or state government officials and provide same in a standard file format that is easily accessible.

(2) The following requirements apply to the inspection, servicing or alteration of, and any upgrade to, the security alarm and surveillance systems:

(a) The systems shall be inspected and all devices tested once every year by a qualified alarm system vendor and a qualified surveillance system vendor;

(b) A safety compliance facility shall conduct maintenance inspections once every month to ensure that any repairs, alterations, or upgrades to the security alarm and surveillance systems are made for the proper operation of the systems. **No more than thirty (30) calendar days shall lapse between the inspections required under this provision;**

(c) A safety compliance facility shall retain at the facility, for at least five (5) years, records of all inspections, servicing, alterations, and upgrades performed on the security alarm and surveillance systems and shall make the records available to the cabinet and its authorized agents within two (2) business days following a request; and

(d) In the event of a mechanical malfunction of the security alarm or surveillance system that a safety compliance facility anticipates will exceed an eight (8) hour period, the safety compliance facility shall notify the cabinet immediately via electronic mail to kymedcanreporting@ky.gov, with cabinet approval, provide alternative security measures that may include closure of the facility.

(3) A safety compliance facility shall meet the following requirements regarding records retention:

(a) Have a secure electronic back-up system for all electronic records;

(b) Within three (3) business days following a request for records under this paragraph, provide up to four (4) screen captures of an unaltered copy of a video surveillance recording to the cabinet or its authorized agents, law enforcement, or other federal, state, or local government officials if necessary to perform the governmental officials' functions and duties; and

(c) If a safety compliance facility has been notified in writing by the cabinet or its authorized agents, law enforcement, or other federal, state, or local government officials of a pending criminal or administrative investigation for which a recording may contain relevant information, retain an unaltered copy of the recording for two (2) years or until the investigation or proceeding is closed or the entity conducting the investigation or proceeding notifies the cultivator that it is not necessary to retain the recording, whichever is later.

(4) During all non-working hours, all entrances to and exits from the safety compliance facility shall be securely locked.

(5) A safety compliance facility shall install lighting to ensure proper surveillance inside and outside of the facility.

(6) A safety compliance facility shall limit access to a room containing the equipment operating the security alarm and surveillance monitoring systems to:

(a) Persons who are essential to maintaining security and surveillance operations;

(b) Federal, state, and local law enforcement;

(c) Security alarm and surveillance system service employees;

(d) The cabinet or its authorized agents; and

(e) Other persons with the prior written approval of the cabinet.

(7) A safety compliance facility shall make available to the cabinet or its authorized agents, upon request, a current list of authorized employees and service employees or contractors who have access to areas containing the equipment operating the security alarm and surveillance monitoring systems **and place a copy of this list on or next to the doors that access those areas.**

(8) A safety compliance facility shall keep rooms housing the equipment operating the security alarm and surveillance monitoring systems locked at all times and may not use these rooms for any other purpose or function.

Section 12. Electronic Monitoring System and Seed to Sale Tracking System.

(1) A safety compliance facility shall use the electronic monitoring system and seed to sale tracking system prescribed by the cabinet containing the requirements in KRS Chapter 218B, specifically KRS 218B.140. A safety compliance facility shall use the electronic monitoring system and seed to sale tracking system in accordance with written instructions provided by the cabinet.

(2) A safety compliance facility shall record in the commonwealth's designated electronic monitoring system and seed to sale tracking system all medicinal cannabis received, disposed, or otherwise transferred by the safety compliance facility and ensure the inventory is accurate in real-time.

(3) A safety compliance facility shall establish inventory controls and procedures to conduct inventory reviews and comprehensive inventories at its facility to include:

(a) A safety compliance facility shall prepare monthly physical inventory reports that include any necessary adjustments and the reason(s) for an adjustment and that demonstrate the physical inventory reconciles with the inventory recorded in the commonwealth's designated electronic monitoring system and seed to sale tracking system, including any medicinal cannabis that has been or is in the process of being destroyed. No more than thirty (30) calendar

days shall lapse between the preparation of a report required under this provision; and

(b) A written or electronic record shall be created and maintained of each inventory conducted under this section that includes the date of the inventory, a summary of the inventory findings, and the employee identification numbers and titles or positions of the individuals who conducted the inventory.

Section 13. Equipment, Operation, and Maintenance.

(1) A safety compliance facility shall have a written process in place to maintain the sanitation and operation of equipment that comes into contact with samples to prevent contamination. A safety compliance facility shall provide a copy of the written process to the cabinet upon request.

(2) As part of the written process required under this section, a safety compliance facility shall:

(a) Routinely check and inspect automatic, mechanical, or electronic equipment as well as any measurement devices used in the safety compliance facility's operations to ensure accuracy; and

(b) Maintain an accurate log recording the:

1. Maintenance of equipment;

2. Cleaning of equipment; and

3. Calibration of equipment.

Section 14. Sanitation and Safety in a Safety Compliance Facility.

(1) A safety compliance facility shall maintain its site and facility in a sanitary condition to limit the potential for contamination of samples. The following requirements shall apply:

(a) Equipment and surfaces, including floors, counters, walls, and ceilings, shall be cleaned and sanitized as frequently as necessary to protect against contamination, using a sanitizing agent registered by the United States Environmental Protection Agency, in accordance with the instructions printed on the label. All equipment and utensils used by a safety compliance facility shall be capable of being adequately cleaned;

(b) Trash shall be properly and routinely removed;

(c) Floors, walls, and ceilings shall be kept in good repair;

(d) Adequate protection against pests shall be provided; and

(e) Toxic cleaning compounds, sanitizing agents, and other chemicals shall be labeled and stored in a manner that prevents contamination of samples, and in a manner that otherwise complies with other applicable laws, rules, and regulations.

(2) All employees shall conform to sanitary practices while on duty, including:

(a) Maintaining adequate personal cleanliness;

(b) Washing hands thoroughly in an adequate hand-washing area before starting work and at any other time when hands may have become soiled or contaminated;

(c) Wearing proper clothing, including gloves, hair nets, headbands, caps, beard covers, or other effective hair restraints where appropriate;

(d) Removing all unsecured jewelry and other objects that might fall into medicinal cannabis, equipment, or containers, and removing hand jewelry that cannot be adequately sanitized during periods in which medicinal cannabis is manipulated by hand. If such hand jewelry cannot be removed, it may be covered by material which can be maintained in an intact, clean, and sanitary condition and which effectively protects the medicinal cannabis from contamination by these objects;

(e) Storing clothing or other personal belongings in areas other than where medicinal cannabis is exposed or where equipment is cleaned;

(f) Confining the following to areas other than where medicinal cannabis may be exposed or where equipment is cleaned: eating food, chewing gum, drinking beverages, or using tobacco; and

(g) Taking any other necessary precautions to protect against contamination of medicinal cannabis with microorganisms or foreign substances including perspiration, hair, cosmetics, tobacco, chemicals, and medicines applied to the skin.

(3) A safety compliance facility shall provide its employees and visitors with adequate and convenient hand-washing facilities furnished with running water at a temperature suitable for sanitizing

hands. Effective nontoxic sanitizing cleansers and sanitary towel service or suitable drying devices shall also be provided.

(4) A safety compliance facility shall provide its employees and visitors with adequate, readily accessible restrooms that are maintained in a sanitary condition and in good repair.

(5) A safety compliance facility shall ensure that its facility is provided with a water supply sufficient for its operations, which shall be derived from a source that is a public water system, or a nonpublic system that is capable of providing a safe, potable, and adequate supply of water to meet the operational needs of the facility.

(6) A safety compliance facility shall comply with all other applicable federal, state, and local building code requirements and occupational safety and health requirements.

Section 15. Storage Requirements.

(1) A safety compliance facility shall have separate locked limited access areas for storage of all samples and test samples until they can be tested and destroyed or otherwise disposed of as required under Section 16 of this administrative regulation.

(2) A safety compliance facility shall maintain all storage areas in a clean and orderly condition and free from infestation by insects, rodents, birds, and pests.

Section 16. Management and Disposal of Medicinal Cannabis Waste.

(1) A safety compliance facility shall dispose of samples in such a manner as to render the medicinal cannabis unusable. A safety compliance facility shall record medicinal cannabis waste as required in the Commonwealth's designated electronic monitoring system and seed to sale tracking system.

(2) Medicinal cannabis that is rendered unusable shall be discarded into a locked dumpster with commercial grade locks or other approved, locked container for removal from the facility by a waste removal company selected by the safety compliance facility, except that ashes resulting from the controlled incineration of medicinal cannabis may be placed in an unlocked dumpster. Medicinal cannabis shall be rendered unusable by:

(a) Controlled incineration; or

(b) Grinding and incorporating the medicinal cannabis with one

(1) or more of the non-consumable, solid wastes listed below, such that the resulting mixture is majority non-cannabis waste:

1. Paper waste;
2. Cardboard waste;
3. Food waste;
4. Yard or garden waste;
5. Grease or other compostable oil waste; or
6. Soil or other used growth media.

(3) The disposal of medicinal cannabis shall be performed under video surveillance from the time the destruction begins to when it is placed in a locked dumpster or other approved, locked container and removed from the safety compliance facility location.

(4) A minimum of two (2) employees shall oversee~~The employee overseeing~~ the disposal of medicinal cannabis and shall maintain and make available a separate record of every disposal indicating the following:

(a) The date and time of disposal;

(b) The manner of disposal;

(c) Any~~The~~ unique identification codes associated with the medicinal cannabis scheduled for destruction;

(d) The reasoning for and description of the disposal;

(e) The names~~name~~, employee identification numbers~~number~~, and signatures~~signature~~ of the employees~~employee~~ overseeing the disposal of the medicinal cannabis; and

(f) The harvest batch or production batch number and weight of the medicinal cannabis~~plant material~~ being disposed of.

(5) The disposal of other waste from the safety compliance facility that does not include medicinal cannabis, including hazardous waste and liquid waste, shall be performed in a manner consistent with applicable federal, state, and local requirements.

Section 17. Duty to Report.

(1) At the time a safety compliance facility submits a license renewal application to the cabinet, a safety compliance facility shall report to the cabinet via electronic mail to kymedcanreporting@ky.gov the following:

(a) A list of the cannabis businesses that the safety compliance facility has contracted with for sample testing;

(b) A list of non-testing activities allowed under KRS 218B.125 that the safety compliance facility engaged in during the licensure period, a list of its customers for each activity, and the compensation received for each activity. If the safety compliance facility produced and sold educational materials related to the use of medicinal cannabis, the safety compliance facility shall provide copies of those educational materials to the cabinet upon request;

(c) Any issues with accomplishing sample testing in a timely manner;~~and~~

(d) The number of current employees, their respective job titles, and hourly wage;~~;~~

(e) The number of samples tested during the previous twelve (12) months; and

(f) The number of samples that failed testing during the previous twelve (12) months and a breakdown of the reason(s) the tests failed.

(2) A safety compliance facility shall participate in surveys distributed by the cabinet throughout a licensure period and provide full and complete responses.

SAM FLYNN, Executive Director

ERIC FRIEDLANDER, Secretary

APPROVED BY AGENCY: May 14, 2024

FILED WITH LRC: May 15, 2024 at 11:15 a.m.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements and procedures for safety compliance facilities that provide testing services to medicinal cannabis businesses in the commonwealth. In response to comments received by the cabinet, the Amended After Comments version of the administrative regulation will be amended to clarify and address security, facility, and recordkeeping requirements.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations establishing requirements and procedures for safety compliance facilities that provide testing services to medicinal cannabis businesses in the commonwealth. This administrative regulation sets out those requirements and procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the requirements and procedures for safety compliance facilities to operate in the commonwealth.

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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: This administrative regulation affects safety compliance facilities that have applied for and subsequently received licenses to provide testing services to medicinal cannabis businesses in the commonwealth.

(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 requirements to operate as a safety compliance facility and remain in good standing throughout the licensure period are provided in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Safety compliance facilities will have to pay an initial application fee, and if approved for a license, an initial license fee and then a renewal license fee if it desires to continue operating as a cannabis business following the expiration of its initial license.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): A safety compliance facility that receives a license from the Cabinet for Health and Family Services is authorized to provide testing and other services to medicinal cannabis businesses in the commonwealth for the term of the license (i.e., 1 year from the date of license issuance).

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

(a) Initially: \$1,200,000

(b) On a continuing basis: \$1,200,000

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds provided by the commonwealth.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer and enforce licensure of safety compliance facilities.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All safety compliance facilities will be treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.010, 218B.080, 218B.085, 218B.090, 218B.095, 218B.100, 218B.125, 218B.140.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: The cabinet estimates that it will cost \$1,200,000 to license and regulate safety compliance facilities in the first year.

Revenues: The cabinet will receive initial application fees and initial license fees paid by safety compliance facilities during the first year.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The cabinet estimates that it will cost \$1,200,000 to regulate licensed safety compliance facilities in each subsequent year. The cabinet will receive annual renewal license fees from safety compliance facilities that desire to continue operating in the commonwealth following the expiration of their existing license. The cabinet may also receive additional initial application fees and initial license fees if additional licenses are made available in subsequent

years. The cabinet does not anticipate any cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): If its application is approved, a proposed safety compliance facility will locate within a city or county in the commonwealth.

(a) Estimate the following for the first year:

Expenditures: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Revenues: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

(4) Identify additional regulated entities not listed in questions (2) or (3): Licensed safety compliance facilities.

(a) Estimate the following for the first year:

Expenditures: The initial license fee for a safety compliance facility is \$12,000 for each licensed location.

Revenues: Unknown at this time. This response will depend on how many licensed cannabis businesses are contracted with a respective safety compliance facility to test samples as well as other allowable activities under KRS 218B.125.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The annual renewal license fee for a safety compliance facility is \$12,000 for each licensed location. Revenues will continue to depend on how many licensed cannabis businesses are contracted with a respective safety compliance facility to test samples as well as other allowable activities under KRS 218B.125. Cost savings may occur in subsequent years as licensed safety compliance facilities gain experience and efficiency in their operations while still remaining fully compliant with the applicable administrative regulations.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. A portion of the estimated staffing costs will go toward regulating licensed safety compliance facilities.

(b) Methodology and resources used to determine the fiscal impact: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth, including safety compliance facilities, as well implementation and continued operation of the electronic monitoring system and seed to sale

tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services.

(b) The methodology and resources used to reach this conclusion: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary
(Amended After Comments)

915 KAR 1:070. Dispensary.

RELATES TO: KRS Chapter 218B

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing requirements and procedures for medicinal cannabis dispensaries in the Commonwealth. This administrative regulation establishes those requirements and procedures.

Section 1. General Requirements.

(1) No person or entity may dispense, sell, or deliver medicinal cannabis to cardholders without first being issued a license by the cabinet.

(2) The cabinet shall post a list of licensed dispensaries on the Web site for the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(3) A dispensary shall:

(a) Conduct a criminal background check into the criminal history of each person seeking to become a principal officer, board member, agent, volunteer, or employee before that person begins work and shall retain records of these background checks for five (5) years and provide same to the cabinet during subsequent inspections or upon request;

(b) Not acquire medicinal cannabis for retail sale from any person or business other than a cannabis business licensed by the cabinet;

(c) Not sell or dispense medicinal cannabis products intended for consumption by vaporizing to a cardholder who is younger than twenty-one (21) years of age or to a designated caregiver for a registered qualified patient who is younger than twenty-one (21) years of age;

(d) Not sell medicinal cannabis directly to a minor;

(e) Not co-locate in a shared space or have any financial arrangement with a medicinal cannabis practitioner;

(f) Not acquire, possess, dispense, sell, offer for sale, transfer, or transport:

1. Raw plant material with a delta-9 tetrahydrocannabinol (THC) content of more than thirty-five (35) percent;

2. Medicinal cannabis products intended for oral consumption as an edible, oil, or tincture with more than ten (10) milligrams of THC per serving;

3. Any medicinal cannabis product not otherwise described in this provision with a THC content of more than seventy (70) percent; or

4. Any medicinal cannabis product that contains vitamin E acetate;

(g) Prohibit a cardholder from self-administering or a designated caregiver from assisting with administering medicinal cannabis on the premises of the licensed dispensary location;

(h) Only dispense or sell medicinal cannabis that has passed the testing requirements contained in 915 KAR 1:110;

(i) Only dispense or sell medicinal cannabis to a cardholder in a sealed and properly labeled package as required by 915 KAR 1:100;

(j) Maintain adequate on-site parking for employees, agents, visitors, transporters of medicinal cannabis, or cabinet staff; and

(k) Comply with all applicable requirements of KRS Chapter 218B, specifically KRS 218B.095 and 218B.110, and 915 KAR Chapter 1.

(4) A dispensary shall not employ, take on as a volunteer, or have as a board member, principal officer, or agent any person who was convicted of a disqualifying felony offense or is younger than twenty-one (21) years of age.

(5) The qualifications that a dispensary shall meet to receive a license are continuing qualifications to maintain the license throughout the licensure period.

(6) A dispensary shall not package medicinal cannabis and medicinal cannabis products for sale to cardholders.

Section 2. Dispensing Medicinal Cannabis.

(1) A dispensary shall only dispense medicinal cannabis to a registered qualified patient, visiting qualified patient, or designated caregiver who:

(a) Presents a valid registry identification card issued by the cabinet; or

(b) Presents a valid out-of-state registry identification card and documentation of having been diagnosed with a qualifying medical condition if the individual is a visiting qualified patient without a valid registry card issued by the cabinet.

(2) Prior to dispensing medicinal cannabis to registered qualified patients, designated caregivers, and visiting qualified patients who have a registry identification card issued by the cabinet, the dispensary shall:

(a) Verify the validity of the registry identification card through use of the Commonwealth's designated electronic monitoring system;

(b) Verify that the individual presenting the registry identification card is at least eighteen (18) years of age and is the person identified on the registry identification card by examining at least one (1) other form of government-issued photo identification; and

(c) Verify the amount of medicinal cannabis that the registered qualified patients, designated caregivers, and visiting qualified patients who have a registry identification card issued by the cabinet is legally permitted to purchase pursuant to KRS 218B.025 by checking the Commonwealth's designated electronic monitoring system. If a medicinal cannabis practitioner sets forth recommendations, requirements, or limitations as to the form or dosage of medicinal cannabis on the written certification issued to the individual, the medicinal cannabis dispensed shall conform to those recommendations, requirements, or limitations.

(3) Prior to dispensing medicinal cannabis to visiting qualified patients that do not have a registry identification card issued by the cabinet, the dispensary shall:

(a) Review the out-of-state registry identification card presented by the individual to determine any issues with its validity, including checking any expiration date;

(b) Verify that the individual presenting the registry identification card is at least eighteen (18) years of age and is the person identified on the registry identification card by examining at least one (1) other form of government-issued photo identification;

(c) Examine documentation provided by the individual of having been diagnosed with a qualifying medical condition. This documentation shall consist of contemporaneous records containing an express statement of diagnosis of a qualifying medical condition and may include a written certification from a physician, patient history and physical report, or a physician summary report; and

(d) Inform the individual that he or she is not be permitted to purchase more medicinal cannabis than the amount determined by the cabinet to constitute an uninterrupted ten (10) day supply of medicinal cannabis during a given eight (8) day period.

(4) A dispensary shall maintain records that include specific notations of the type and amount of medicinal cannabis being dispensed to a cardholder and whether it was dispensed directly to a registered qualified patient or visiting qualified patient, or to a registered qualified patient's designated caregiver. Each entry shall include the date and time the medicinal cannabis was dispensed. The data required to be recorded by this provision shall be entered

into the Commonwealth's designated electronic monitoring system and seed to sale tracking system in accordance with written instructions provided by the cabinet.

(5) Prior to the completion of the transaction, the employee conducting the transaction at the dispensary shall prepare a receipt of the transaction, provide a **hardcopy or electronic** copy of the receipt to the cardholder, and retain a **hardcopy or electronic** copy of the receipt for the dispensary's records for a minimum of two (2) years. The receipt shall include the following information:

- (a) The dispensary's name, address, and license number;
- (b) The name of the cardholder;
- (c) The date and time the medicinal cannabis was dispensed;
- (d) ~~[Any requirement or limitation noted by the medicinal cannabis practitioner on the cardholder's written certification as to the form or amount of medicinal cannabis that the individual should use;]~~
- (e)** The form and the quantity of medicinal cannabis dispensed;
- (f)** Any medicinal cannabis accessories or educational materials included in the transaction; and
- (g)** The amount paid by the cardholder for the medicinal cannabis and other items.

(6) When dispensing medicinal cannabis to visiting qualified patients with an out-of-state registry identification card and required documentation of having been diagnosed with a qualifying medical condition, a dispensary may assess a convenience fee to be collected by the dispensary as part of the transaction. The convenience fee shall not exceed fifteen (15) dollars per transaction.

Section 3. Limitations on Dispensing Medicinal Cannabis. In addition to other dispensing requirements contained in KRS Chapter 218B and this administrative regulation, a dispensary shall not dispense to a cardholder:

- (1) A quantity of medicinal cannabis that is greater than the amount indicated on the individual's written certification, if any;
- (2) A form or dosage of medicinal cannabis that is listed as a restriction or limitation on the individual's written certification;
- (3) A quantity of medicinal cannabis that is greater than the cardholder is legally permitted to purchase at the time of the transaction;
- (4) Any expired medicinal cannabis or medicinal cannabis products; and
- (5) Any medicinal cannabis or medicinal cannabis products that have been identified as part of a recall.

Section 4. Dispensary Facilities.

(1) A dispensary shall only sell medicinal cannabis within a building or secure structure located on the specific site licensed by the cabinet and identified on its license issued by the cabinet. The building or secure structure shall meet all applicable state and local building codes and specifications in addition to the following:

- (a) Has a complete roof enclosure supported by connecting permanent walls, constructed of solid materials extending from the ground to the roof;
- (b) Is secure against unauthorized entry;
- (c) Has a foundation, slab, or equivalent base to which the floor is securely attached;
- (d) Has commercial grade door locks on all external doors that are locked at all times;
- (e) Restricts access to only authorized personnel to limited access areas identified with signage and daily records of entry and exit;
- (f) Contains adequate plumbing to carry sufficient quantities of water to locations throughout the facility and convey sewage and waste from the facility without cross contamination of potable water and waste;
- (g) Properly stores toxic cleaning compounds or sanitizing agents in a manner that is in accordance with applicable local, state, and federal laws and regulations;
- (h) Maintains pest control; and
- (i) Maintains adequate indoor and exterior lighting to facilitate video surveillance at all times.

(2) A dispensary shall only dispense medicinal cannabis to a cardholder in an indoor, enclosed, secure facility between the hours of 8 a.m. and 8 p.m.

(3) A dispensary shall not be located at the same site and location used for growing, cultivating, or processing medicinal cannabis, ~~or~~ in the same office space as a medicinal cannabis practitioner or other physician, **or in the same location as a hemp business.**

(4) A dispensary shall not permit a person under eighteen (18) years of age to enter or remain on its premises. A dispensary shall not permit an individual who is not a cardholder to enter or remain its premises except in accordance with KRS 218B.095(6) and Section 10 of this administrative regulation.

(5) A dispensary shall post a sign in a conspicuous location at each entrance of the facility that reads: "THESE PREMISES ARE UNDER CONSTANT VIDEO SURVEILLANCE. NO ONE UNDER THE AGE OF 18 IS PERMITTED TO ENTER." **The letters on the signs required by this provision shall be at minimum one-half inch in height.**

(6) A dispensary shall clearly mark all limited access areas on its premises with proper signage. All areas of ingress and egress to a limited access area shall be clearly identified by the posting of a sign which shall be not less than twelve (12) inches wide and twelve (12) inches long, composed of letters not less than one-half inch in height, which shall state: "Do Not Enter. Limited Access Area. Access Limited to Authorized Personnel and Escorted Visitors."

(7) A dispensary shall have a secure area for the loading and unloading of medicinal cannabis into and from a transport vehicle.

Section 5. Items and Services Provided at a Dispensary.

(1) **Unless expressly authorized by this administrative regulation, a dispensary shall not sell, offer for sale, or dispense any product except** ~~dispense~~ medicinal cannabis, medicinal cannabis products, and medicinal cannabis accessories in accordance with this administrative regulation. **A dispensary shall not sell prerolled medicinal cannabis products, such as joints or blunts or any other products that are solely intended for consumption by smoking.**

(2) A dispensary may operate a delivery service for registered qualified patients and designated caregivers in accordance with the delivery service requirements established in 915 KAR 001:080, Section 2.

(3) A dispensary may dispense medicinal cannabis to cardholders via a drive-thru window or curbside pickup service if:

(a) The dispensary notifies the cabinet via electronic mail to kymedcanreporting@ky.gov of its intent to dispense medicinal cannabis via a drive-thru window or curbside pickup service;

(b) The dispensary provides the cabinet with detailed written plans and procedures for drive-thru and curbside pickup operations, including operating hours, how payment will be accomplished, how medicinal cannabis products will be provided to cardholders, and safety and security measures to ensure safe operations;

(c) The cabinet approves the dispensary's proposed written plans and procedures; and

(d) The dispensary complies with the dispensing requirements contained in Sections 2 and 3 of this administrative regulation.

(4) A dispensary may display product examples that have been designated by the dispensary for the purpose of product education for cardholders if:

(a) There is a sign or label conspicuously displayed on or near the product example that clearly states "PRODUCT EXAMPLE FOR DISPLAY PURPOSES ONLY. NOT FOR SALE OR CONSUMPTION" in bold, capital letters;

(b) The product example is packaged in a secure jar protected by a plastic, glass, or metal mesh screen to allow cardholders to see the medicinal cannabis or medicinal cannabis product;

(c) The product example is recorded in the Commonwealth's electronic monitoring system and seed to sale tracking system as a product example; and

(d) At the point a product example has noticeably degraded to where it is no longer representative of a new product, the dispensary shall destroy the product example in accordance with Section 14 of this administrative regulation.

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(5) Dispensaries may utilize inducements to assist cardholders. Inducements shall not persuade or influence the use of medicinal cannabis outside of medicinal cannabis practitioner recommendations or limitations or the amounts allowed by KRS Chapter 218B. Authorized inducements are as follows:

- (a) The use of coupons, **loyalty programs**, and discounts; and
- (b) The giving away of educational materials and branded merchandise.

(6) Pursuant to KRS 218B.110(1)(e), a dispensary may accept returns of medicinal cannabis and medicinal cannabis products from a cardholder, ~~[but only]~~ for the purpose of disposal. A dispensary may not offer anything of monetary value in return for medicinal cannabis or medicinal cannabis products received from a cardholder, **except clearly defective products may be exchanged for the same or similar product of equal or lesser value with no monetary refund.** All medicinal cannabis and medicinal cannabis product returns and their subsequent destruction shall be documented by the dispensary.

(7) A dispensary may sell branded merchandise, including t-shirts, mugs, water bottles, and hats.

(8) A dispensary shall not sell any medicinal cannabis accessory that is used solely for the purpose of smoking medicinal cannabis, including rolling papers and lighters.

Section 6. Educational Materials and Product Information.

(1) When dispensing medicinal cannabis, a dispensary shall disseminate evidence-based educational materials and product information regarding dosage, directions for use, and impairment to cardholders who purchase medicinal cannabis as follows:

(a) A dispensary may provide the educational material and product information required under this section to cardholders through the use of a quick response (QR) code that links to the information required under this section. The QR code shall be labeled as "Educational Materials" directly above or below the code and shall be large enough to be smart-phone readable. The QR code may appear on the receipt provided to the cardholder or on a separate sheet of paper provided to the cardholder;

(b) Upon request of the cardholder purchasing the medicinal cannabis, a dispensary shall provide hardcopies of any materials required under this provision; and

(c) Upon request of the cabinet, a dispensary shall provide the cabinet with copies of the educational material required under this section within five (5) business days of receipt of the request.

(2) The educational materials and product information required by this section shall include the following information:

(a) The method or methods for administering individual servings of medicinal cannabis;

(b) Dosage or serving size information;

(c) ~~[Side]~~Effects and impairment;

(d) How to obtain appropriate services or treatment for medicinal cannabis abuse;

(e) Any **known[side effects and]** contraindications associated with medicinal cannabis that may cause harm to the patient; and

(f) How to properly store medicinal cannabis and medicinal cannabis products.

Section 7. Secret Shoppers. The cabinet may utilize secret shoppers to assist with reviewing a dispensary's compliance with KRS Chapter 218B and 915 KAR Chapter 1, including attempting to purchase medicinal cannabis or medicinal cannabis products. The cabinet may conduct an inspection or investigation resulting from a secret shopper's experience.

Section 8. Plans of Operation.

(1) Prior to its first day of selling or dispensing medicinal cannabis in the Commonwealth, a dispensary shall establish standard operating procedures for the following:

(a) Employment policies and procedures;

(b) Security, including:

1. Staff identification measures, including use of identification badges;

2. Monitoring of attendance of staff and visitors;

3. Alarm systems;

4. Video surveillance;

5. Monitoring and tracking inventory, including use of the Commonwealth's electronic monitoring system and seed to sale tracking system established pursuant to KRS 218B.140;

6. Personnel security;

7. Transportation of medicinal cannabis **and how to properly secure medicinal cannabis in the event of a traffic collision or transport vehicle malfunction:**

8. Cash management and anti-fraud procedures;

9. Measures to prevent loitering, which shall include signage;[
and]

10. Storage of medicinal cannabis and medicinal cannabis products; **and**

11. Customer service, including procedures for halting a sale:

(c) Recordkeeping;

(d) The process for receiving, handling, transporting, storing, selling, and disposing of medicinal cannabis;

(e) Employee qualifications, supervision, and training;

(f) Workplace safety;

(g) Waste disposal;

(h) Maintenance, cleaning, and sanitation of facility;

(i) Investigation of complaints and potential adverse events received from other cannabis businesses, cardholders, or medicinal cannabis practitioners;

(j) Preventing unlawful diversion of medicinal cannabis;

(k) Recall plan;

(l) Contamination;

(m) Maintaining confidentiality of cardholder information, including information and documentation provided by visiting qualified patients; and

(n) Any other standard operating procedures required for all cannabis businesses in KRS Chapter 218B and 915 KAR Chapter 1.

(2) A dispensary shall make its standard operation procedures available to the cabinet upon request and during any inspection of the dispensary.

Section 9. Employees Records and Identification.

(1) A dispensary shall keep an individual employment record for all employees, including:

(a) Full legal name;

(b) Detailed job description;

(c) Documentation of completed criminal background check;

(d) Record of all training received or acquired by the employee;

(e) Dates of employment;

(f) Records of days and hours worked; and

(g) Any disciplinary actions taken by the dispensary.

(2) Employment records shall be maintained, either electronically or in hard copy, for at least five (5) years after the employee's last date of employment with the dispensary.

(3) A dispensary shall create an identification badge for each employee, agent, or volunteer. This badge shall be conspicuously worn by employees, agents, or volunteers at all times that they are on the licensed premises or during transport of medicinal cannabis. The badge shall contain:

(a) The individual's name, photo, ~~[and]~~ employee identification number, **and the license number of the dispensary;**

(b) The phone number and email address for the dispensary; and

(c) The phone number and email address for the Kentucky Medical Cannabis Program.

Section 10. Visitor Access to Limited Access Areas.

(1) Except as provided in this section, only authorized employees or agents of a dispensary shall enter a limited access area.

(2) A dispensary shall require visitors requiring access to a limited access area in the dispensary's facility to:

(a) Sign a visitor log upon entering and leaving the limited access area and detail the need for entry;

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(b) Check the visitor's government-issued identification to verify the visitor's age and that the name on the identification provided matches the name in the visitor log;

(c) Issue a visitor identification badge with the visitor's name and company, if applicable, and a badge number;

(d) Escort the visitor while the visitor remains at the dispensary location~~[in a limited access area]~~; and

(e) Ensure that the visitor does not touch any medicinal cannabis located in a limited access area.

(3) The visitor log required by this section shall:

(a) Be maintained for five (5) years and available to the cabinet, law enforcement, and other federal or state government officials upon request to perform the government officials' functions and duties; and

(b) Include the full name of each visitor, the visitor identification badge number, the time of arrival, the time of departure, and the purpose of the visit, including the areas of the site and facility visited].

(4) This section does not limit the right of the cabinet or its authorized agents, or other federal, state, or local government officials, from entering any area of a dispensary if necessary to perform the government officials' functions and duties.

(5) A principal officer, board member, agent, financial backer, employee, or volunteer of a dispensary may not receive any type of consideration or compensation for allowing a visitor to enter a limited access area.

Section 11. Security and Surveillance.

(1) A dispensary shall have security and surveillance systems, utilizing commercial-grade equipment, to prevent unauthorized entry, and to prevent and detect an adverse loss. The security and surveillance systems shall include the following:

(a) A professionally monitored security alarm system that includes the following:

1. Coverage of all facility entrances and exits; rooms with exterior windows, exterior walls, roof hatches or skylights; storage rooms, including those that contain medicinal cannabis, and safes; and the perimeter of the facility;

2. An audible security alarm system signal, known as a panic alarm, generated by the manual activation of a device intended to signal a life-threatening or emergency situation requiring law enforcement response;

3. A silent alarm signal, known as a holdup alarm, generated by the manual activation of a device intended to signal a robbery in progress;

4. A failure notification system that provides an audible, text, or visual notification of any failure in the systems. The failure notification system shall provide by telephone, e-mail, or text message an alert to a designated security person within the facility within five minutes after the failure;

5. Smoke and fire alarms;

6. Auxiliary power sufficient to maintain operation for at least twenty-four (24) hours following a power outage;

7. The ability to ensure all access doors are not solely controlled by an electronic access panel to prevent locks from becoming released during a power outage; and

8. Motion detectors for exterior lighting.

(b) A professionally monitored security surveillance system that is operational twenty-four (24) hours a day, seven (7) days a week, and records all activity in images capable of clearly revealing facial detail. The security and surveillance system shall include:

1. Fixed camera placement that allows for a clear image of all individuals and activities in and around the following:

a. All limited access areas;

b. A room or area containing a security alarm and surveillance system storage device or equipment;

c. Entrances to and exits from the facility. Entrances and exits shall be recorded from both indoor and outdoor vantage points;

d. Rooms with exterior windows, exterior walls, roof hatches, or skylights and storage rooms, including those that may contain medicinal cannabis and safes and excluding restrooms; and

e. Twenty (20)~~Five (5)~~ feet from the exterior of the perimeter of the facility;

2. Auxiliary power sufficient to maintain operation for at least twenty-four (24) hours following a power outage;

3. Ability to operate under the normal lighting conditions of each area under surveillance;

4. Ability to immediately produce a clear, color, still photograph in a digital format that is easily accessible;

5. Ability to clearly and accurately display the date and time. The date and time shall be synchronized and set correctly and may not significantly obscure the picture;

6. Ability to record all images captured by each surveillance camera in a format that may be easily accessed for a minimum of sixty (60)~~thirty (30)~~ days, unless otherwise required for investigative or litigation purposes. The recordings shall be kept:

a. At the dispensary:

(i) In a locked cabinet, closet, or other secure place to protect it from tampering or theft; and

(ii) In a limited access area or other room to which access is limited to authorized individuals; or

b. At a secure location other than the location of the dispensary if approved by the cabinet; and.]

7. Ability to easily export video recordings and still photographs requested by the cabinet, law enforcement, and other federal or state government officials and provide same in a standard file format that is easily accessible.

(2) The following requirements apply to the inspection, servicing or alteration of, and any upgrade to, the security alarm and surveillance systems:

(a) The systems shall be inspected and all devices tested once every year by a qualified alarm system vendor and a qualified surveillance system vendor;

(b) The dispensary shall conduct maintenance inspections once every month to ensure that any repairs, alterations, or upgrades to the security alarm and surveillance systems are made for the proper operation of the systems. No more than thirty (30) calendar days shall lapse between the inspections required under this provision;

(c) The dispensary shall retain at the facility, for at least five (5) years, records of all inspections, servicing, alterations, and upgrades performed on the security alarm and surveillance systems and shall make the records available to the cabinet and its authorized agents within two (2) business days following a request; and

(d) In the event of a mechanical malfunction of the security alarm or surveillance system that a dispensary anticipates will exceed an eight (8) hour period, the dispensary shall notify the cabinet immediately via electronic mail to kymedcanreporting@ky.gov and, with cabinet approval, provide alternative security measures that may include closure of the facility.

(3) A dispensary shall meet the following requirements regarding records retention:

(a) Have a secure electronic back-up system for all electronic records;

(b) Within three (3) business days following a request for records under this paragraph, provide up to four (4) screen captures of an unaltered copy of a video surveillance recording to the cabinet or its authorized agents, law enforcement, or other federal, state, or local government officials if necessary to perform the governmental officials' functions and duties; and

(c) If a dispensary has been notified in writing by the cabinet or its authorized agents, law enforcement, or other federal, state, or local government officials of a pending criminal or administrative investigation for which a recording may contain relevant information, retain an unaltered copy of the recording for two (2) years or until the investigation or proceeding is closed or the entity conducting the investigation or proceeding notifies the dispensary that it is not necessary to retain the recording, whichever is later.

(4) A dispensary shall install commercial-grade, nonresidential doors and door locks on each external door of the facility. Keys or key codes for all doors shall remain in the possession of designated authorized individuals.

(5) During all non-working hours, all entrances to and exits from the dispensary shall be securely locked.

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(6) A dispensary shall limit access to a room containing the equipment operating the security alarm and surveillance monitoring systems to:

(a) Persons who are essential to maintaining security and surveillance operations;

(b) Federal, state, and local law enforcement;

(c) Security alarm and surveillance system service employees;

(d) The cabinet or its authorized agents; and

(e) Other persons with the prior written approval of the cabinet.

(7) A dispensary shall make available to the cabinet or its authorized agents, upon request, a current list of authorized employees and service employees or contractors who have access to areas containing the equipment operating the security alarm and surveillance monitoring systems **and place a copy of this list on or next to the doors that access those areas.**

(8) A dispensary shall keep rooms housing the equipment operating the security alarm and surveillance monitoring systems locked at all times and may not use these rooms for any other purpose or function.

(9) A dispensary shall routinely inspect its point of sale systems to confirm no malicious software, programs, or applications have been downloaded that affect cardholder or sales information and shall document each inspection in writing. The documentation required under this provision shall be retained by the dispensary for a minimum of two (2) years from the date of the inspection.

Section 12. Electronic Monitoring System and Seed to Sale Tracking System.

(1) A dispensary shall use the electronic monitoring system and seed to sale tracking system prescribed by the cabinet containing the requirements in KRS Chapter 218B, specifically KRS 218B.140, and in accordance with written instructions provided by the cabinet.

(2) A dispensary shall establish inventory controls and procedures to conduct inventory reviews at its facility **and ensure its inventory is accurate in real-time in the commonwealth's designated electronic monitoring system and seed to sale tracking system.**

(a) A dispensary shall prepare a ~~monthly~~**[quarterly]** physical inventory report that includes any necessary adjustments, and the reason(s) for an adjustment, and that demonstrates the physical inventory reconciles with the inventory recorded in the Commonwealth's designated electronic monitoring system and seed to sale tracking system, including any medicinal cannabis that has been or is in the process of being destroyed. **No more than thirty (30) calendar days shall lapse between the preparation of a report required under this provision;** and

(b) A written or electronic record shall be created and maintained of each inventory conducted under this section that includes the date of the inventory, a summary of the inventory findings, and the employee identification numbers and titles or positions of the individuals who conducted the inventory.

Section 13. Storage Requirements.

(1) A dispensary shall have separate locked limited access areas for storage of:

(a) Medicinal cannabis and medicinal cannabis products that are ready for sale to cardholders; and

(b) Medicinal cannabis that is expired, damaged, deteriorated, mislabeled, contaminated, recalled, or whose containers or packaging have been opened or breached until the medicinal cannabis is returned to another cannabis business, destroyed, or otherwise disposed of as required under Section 14 of this administrative regulation.

(2) A dispensary shall maintain all storage areas in a clean and orderly condition and free from infestation by insects, rodents, birds, and pests.

(3) A dispensary shall store medicinal cannabis and medicinal cannabis products in a manner that prevents degradation of active compounds and spoilage.

(4) A dispensary shall routinely review medicinal cannabis and medicinal cannabis products in its inventory available for sale to

identify any products that are past their respective expiration date and remove those products from the saleable inventory.

Section 14. Management and Disposal of Medicinal Cannabis Waste.

(1) A dispensary shall dispose of expired, undesired, excess, unauthorized, obsolete, adulterated, misbranded, or deteriorated medicinal cannabis in such a manner as to render the medicinal cannabis unusable. A dispensary shall record medicinal cannabis waste as required in the Commonwealth's designated electronic monitoring system and seed to sale tracking system.

(2) Medicinal cannabis that is rendered unusable shall be discarded into a ~~locked~~**[with commercial grade locks]** or other approved, locked container for removal from the dispensary by a waste removal company selected by the dispensary, **except that ashes resulting from the controlled incineration of medicinal cannabis may be placed in an unlocked dumpster.** Medicinal cannabis shall be rendered unusable by:

(a) Controlled incineration; or

(b) Grinding and incorporating the medicinal cannabis with one (1) or more of the non-consumable, solid wastes listed below, such that the resulting mixture is majority non-cannabis waste:

1. Paper waste;

2. Cardboard waste;

3. Food waste;

4. Yard or garden waste;

5. Grease or other compostable oil waste; or

6. Soil or other used growth media.

(3) The disposal of medicinal cannabis shall be performed under video surveillance from the time the destruction begins to when it is placed in a locked dumpster or other approved, locked container and removed from the dispensary's location.

(4) **A minimum of two (2) employees shall oversee**~~The employee overseeing~~ the disposal of medicinal cannabis **and** shall maintain and make available a separate record of every disposal indicating the following:

(a) The date and time of disposal;

(b) The manner of disposal;

(c) ~~Any~~**[The]** unique identification code(s) associated with the medicinal cannabis scheduled for destruction;

(d) The reasoning for and description of the disposal;

(e) The ~~names~~**[name]**, employee identification ~~numbers~~**[number]**, and ~~signatures~~**[signature]** of the ~~employees~~**[employee]** overseeing the disposal of the medicinal cannabis; and

(f) ~~[If the medicinal cannabis waste for disposal contains raw plant material that was prepared for sale at the dispensary,]~~ The harvest **or production** batch, strain, volume, **number of units if applicable,** and weight of the **medicinal cannabis**~~[plant material]~~ being disposed.

(5) The disposal of other waste from the dispensary that does not include medicinal cannabis, including hazardous waste and liquid waste, shall be performed in a manner consistent with applicable federal, state, and local requirements.

Section 15. Sanitation and Safety in a Dispensary.

(1) A dispensary shall maintain its facility in a sanitary condition to limit the potential for contamination or adulteration of the medicinal cannabis stored in or dispensed at the facility. The following requirements shall apply:

(a) Trash shall be properly and routinely removed;

(b) Floors, walls, and ceilings shall be kept in good repair;

(c) Adequate protection against pests shall be provided; and

(d) Toxic cleaning compounds, sanitizing agents, and other chemicals shall be labeled and stored in a manner that prevents contamination of medicinal cannabis, and in a manner that otherwise complies with other applicable laws, rules, and regulations.

(2) All employees shall conform to sanitary practices while on duty, including:

(a) Maintaining adequate personal cleanliness;

(b) Washing hands thoroughly in an adequate hand-washing area before starting work and at any other time when hands may have become soiled or contaminated; and

(c) Confining the following to areas other than where medicinal cannabis may be exposed: eating food, chewing gum, drinking beverages, or using tobacco.

(3) A dispensary shall provide its employees and visitors with adequate and convenient hand-washing facilities furnished with running water at a temperature suitable for sanitizing hands. Effective nontoxic sanitizing cleansers and sanitary towel service or suitable drying devices shall also be provided.

(4) A dispensary shall provide employees, agents, volunteers, cardholders, and visitors with adequate, readily accessible restrooms that are maintained in a sanitary condition and in good repair.

(5) A dispensary shall comply with all other applicable federal, state, and local building code requirements and occupational safety and health requirements.

Section 16. Complaints About or Recall of Medicinal Cannabis and Medicinal Cannabis Products.

(1) A dispensary shall immediately notify the cabinet via electronic mail to kymedcanreporting@ky.gov as well as the cannabis business from which it received any medicinal cannabis in question upon becoming aware of any defects or quality issues with the medicinal cannabis or any complaint made to the dispensary by another cannabis business, a cardholder, or medicinal cannabis practitioner who reports an adverse event from using medicinal cannabis purchased from the dispensary. A dispensary shall investigate the report as follows:

(a) A dispensary shall immediately investigate a complaint to determine if a voluntary or mandatory recall of medicinal cannabis and medicinal cannabis products is necessary or if any further action is required;

(b) If a dispensary determines that further action is not required, the dispensary shall notify the cabinet of its decision via electronic mail to kymedcanreporting@ky.gov and, within twenty-four (24) hours, submit a written report to the cabinet stating its rationale for not taking further action. The cabinet shall review the written report and consult with the dispensary as needed. If the cabinet disagrees with the dispensary's decision, the cabinet shall take all necessary steps allowable under KRS Chapter 218B and 915 KAR Chapter 1 to ensure public health and safety, including issuing a cease and desist order to pause the sale and distribution of the medicinal cannabis at issue until resolution of the matter; and

(c) If a dispensary determines that further action is required, the dispensary shall initiate a voluntary or mandatory recall in accordance with the requirements of this section.

(2) Voluntary recalls. If a dispensary voluntarily initiates a recall, the dispensary shall recall medicinal cannabis from the market at its discretion for reasons that do not pose a risk to public health and safety and shall notify the cabinet at the time the dispensary begins the recall via electronic mail to kymedcanreporting@ky.gov.

(3) Mandatory recalls. If a dispensary discovers that a condition relating to medicinal cannabis sold at its facility poses a risk to public health and safety, the dispensary shall:

(a) Immediately notify the cabinet by phone and electronic mail to kymedcanreporting@ky.gov; and

(b) Secure, isolate, and prevent the distribution of the medicinal cannabis that may have been affected by the condition and remains in its possession. The dispensary shall not dispose of affected medicinal cannabis prior to notifying the cabinet and coordinating the disposal with the cabinet.

(4) If a dispensary fails to cooperate with the cabinet in a recall, or fails to immediately notify the cabinet of a need for a recall under this section, the cabinet may seek a cease and desist order and the dispensary may be subject to any other penalties or sanctions provided for in KRS Chapter 218B and 915 KAR Chapter 1:020.

(5) A dispensary's recall plan as required under this administrative regulation shall include the following:

(a) Designation of one (1) or more employees to serve as the recall coordinators. A recall coordinator shall be responsible for, among other duties, accepting the recalled medicinal cannabis;

(b) Procedures for identifying and isolating the affected medicinal cannabis to prevent or minimize its distribution cardholders and other cannabis businesses;

(c) Procedures to retrieve and dispose of the medicinal cannabis;

(d) A communications plan to notify those affected by the recall, including:

1. The manner in which the dispensary shall notify other cannabis businesses in possession of medicinal cannabis subject to the recall; and

2. The use of press releases and other appropriate notifications to ensure that cardholders shall be notified of the recall if affected medicinal cannabis was dispensed to cardholders.

(e) Procedures for notifying the cabinet; and

(f) Procedures for entering information relating to the recall into the Commonwealth's designated electronic monitoring system and seed to sale tracking system.

(6) A dispensary shall follow the procedures outlined in its recall plan unless the dispensary obtains prior written approval of the cabinet or the cabinet notifies the dispensary in writing to perform other procedures. A dispensary shall conduct recall procedures in a manner that maximizes the recall of affected medicinal cannabis and minimizes risks to public health and safety.

(7) Upon receiving notification of a recall from a cannabis business or the cabinet, a dispensary shall cease dispensing the affected medicinal cannabis immediately.

(8) A dispensary shall coordinate the disposal of recalled medicinal cannabis with the cabinet. The cabinet or its authorized agents may oversee the disposal to ensure that the recalled medicinal cannabis is disposed of in a manner that will not pose a risk to public health and safety.

(9) The dispensary shall enter information relevant to the recall into the Commonwealth's designated electronic monitoring system and seed to sale tracking system as part of the inventory, which may include the following:

(a) The total amount of recalled medicinal cannabis, including types, harvest batches, and production batches, if applicable;

(b) The total amount of recalled medicinal cannabis returned to the dispensary, including types, forms, harvest batches, and production batches, if applicable;

(c) The names of the recall coordinators;

(d) From whom the recalled medicinal cannabis was received;

(e) The means of transport of the recalled medicinal cannabis;

(f) The reason for the recall;

(g) The number of recalled samples, types, forms, harvest batches, and production batches, if applicable, sent to safety compliance facilities, the names and addresses of the safety compliance facilities, the dates of testing, and the results by sample; and

(h) The manner of disposal of the recalled medicinal cannabis, including:

1. The names[name] of the individuals[individual] overseeing the disposal of the recalled medicinal cannabis;

2. The name of the disposal company, if applicable;

3. The method of disposal;

4. The date of disposal; and

5. The amount disposed of by types, forms, harvest batches, and production batches, if applicable.

(10) The cabinet may initiate a mandatory recall upon receipt of information that a condition relating to the medicinal cannabis sold by the dispensary poses a risk to public health and safety.

Section 17. Duty to Report.

(1) At the time a dispensary submits a license renewal application to the cabinet, a dispensary shall report to the cabinet via electronic mail to kymedcanreporting@ky.gov the following:

(a) A list of the cannabis businesses whose medicinal cannabis products are sold at the dispensary;

(b) A list of the forms of medicinal cannabis sold at the dispensary and their average sale price;

(c) The amount of medicinal cannabis purchased by the dispensary during the current licensure period, including a breakdown by product type;

(d) The amount of medicinal cannabis sold by the dispensary during the current licensure period, including a breakdown by product type;

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(e) Any significant issues with the supply and demand of medicinal cannabis experienced by the dispensary; and

(f)(d) The number of current employees, their respective job titles, and hourly wage.

(2) A dispensary shall participate in surveys distributed by the cabinet throughout a licensure period and provide full and complete responses.

SAM FLYNN, Executive Director

ERIC FRIEDLANDER, Secretary

APPROVED BY AGENCY: May 14, 2024

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements and procedures for medicinal cannabis dispensaries to operate in the commonwealth. In response to comments received by the cabinet, the Amended After Comments version of the administrative regulation will be amended to clarify and address security, facility, and recordkeeping requirements.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations establishing requirements and procedures for dispensaries to operate in the commonwealth. This administrative regulation sets out those requirements and procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the requirements and procedures for dispensaries to operate in the commonwealth.

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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: This administrative regulation affects dispensaries that have applied for and subsequently received licenses to dispense and sell medicinal cannabis to cardholders in the commonwealth.

(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 requirements to operate as a dispensary and remain in good standing throughout the licensure period are provided in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Dispensaries will have to pay an initial application fee, and if approved for a license, an initial license fee and a renewal license fee if it desires to continue operating as a cannabis business following the expiration of its initial license.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Dispensaries that receive a license from the Cabinet for Health and Family Services are authorized to dispense and sell medicinal cannabis in the commonwealth for the term of the license (i.e., 1 year from the date of license issuance).

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

(a) Initially: \$1,200,000

(b) On a continuing basis: \$1,200,000

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds provided by the commonwealth.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer and enforce licensure of dispensaries.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All dispensaries will be treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.010, 218B.080, 218B.085, 218B.090, 218B.095, 218B.100, 218B.110, 218B.140.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: The cabinet estimates that it will cost \$1,200,000 to license and regulate dispensaries in the first year.

Revenues: The cabinet will receive initial application fees and initial license fees paid by dispensaries during the first year.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The cabinet estimates that it will cost \$1,200,000 to regulate licensed dispensaries in each subsequent year. The cabinet will receive annual renewal license fees from dispensaries that desire to continue operating in the commonwealth following the expiration of their existing license. The cabinet may also receive additional initial application fees and initial license fees if additional licenses are made available in subsequent years. The cabinet does not anticipate any cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): If its application is approved, a proposed dispensary will locate within a city or county in the commonwealth.

(a) Estimate the following for the first year:

Expenditures: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Revenues: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

(4) Identify additional regulated entities not listed in questions (2) or (3): Licensed dispensaries.

(a) Estimate the following for the first year:

Expenditures: The initial license fee for a dispensary is \$30,000 for each licensed location.

Revenues: Unknown at this time. This response will depend upon how much medicinal cannabis is sold by a licensed dispensary, including the sale price.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The annual renewal license fee for a dispensary is \$15,000 for each licensed location. Revenues will continue to depend on how much medicinal cannabis is sold by a licensed dispensary, including the sale price. Cost savings may occur in subsequent years as licensed dispensaries gain experience and efficiency in their operations while still remaining fully compliant with the applicable administrative regulations.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. A portion of the estimated staffing costs will go toward regulating licensed dispensaries.

(b) Methodology and resources used to determine the fiscal impact: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth, including dispensaries, as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services.

(b) The methodology and resources used to reach this conclusion: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary
(Amended After Comments)

915 KAR 1:080. Transportation and delivery of medicinal cannabis.

RELATES TO: KRS Chapter 218B, 304.39-110

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing procedures for the secure transportation, including delivery services provided by dispensaries, of medicinal cannabis by cannabis businesses. This administrative regulation establishes those procedures.

Section 1. Transportation of Medicinal Cannabis Between Cannabis Businesses.

(1) A cannabis business shall only transport medicinal cannabis, including seeds, seedlings, and plants, to other cannabis businesses as follows:

(a) A cannabis business shall use a global positioning system (GPS) to ensure safe, efficient delivery of the medicinal cannabis to other cannabis businesses.

(b) Vehicles permitted to transport medicinal cannabis shall:

1. Be equipped with a locked storage compartment that is part of the transport vehicle or have a locked storage container that has a separate key or combination pad;

2. Have no markings that would either identify or indicate that the vehicle is being used to transport medicinal cannabis;

3. Maintain a current state vehicle registration;

4. Be equipped with an alarm system and a minimum of two (2) video cameras as required by subsection (1)(c) of this section; and

5. Be insured as required by Kentucky law, specifically KRS 304.39-110.

(c) A transport vehicle shall be staffed with a delivery **driver**, contain a minimum of two (2) video cameras, one (1) with a clear view of the driver and one (1) with a clear view of the location of the medicinal cannabis, ~~[team consisting of at least two (2) individuals]~~ and comply with the following:

1. The delivery **driver**~~[team]~~ shall have a copy of the cannabis business license for the business transporting the medicinal cannabis;

2. ~~[At least one (1) delivery team member shall remain with the vehicle at all times that the vehicle contains medicinal cannabis;]~~

~~3.]~~ Each delivery **driver**~~[team member]~~ shall have access to a secure form of communication, such as a cellular telephone, at all times that the vehicle contains medicinal cannabis in order to contact cannabis businesses and law enforcement through the 911 emergency system;

~~3.4.]~~ Each delivery **driver**~~[team member]~~ shall conspicuously wear an employee identification badge at all times during transport of medicinal cannabis and shall, upon demand, produce it to the cabinet or its authorized agents, law enforcement, or other federal or state government officials if necessary to perform the government officials' functions and duties;

~~4.5.]~~ Each delivery **driver**~~[team member]~~ shall have a valid driver's license; and

~~5.6.]~~ While on duty, a delivery **driver**~~[team member]~~ shall not wear any clothing or symbols that may indicate ownership or possession of medicinal cannabis.

(d) A delivery **driver**~~[team]~~ shall proceed in a transport vehicle from a cannabis business facility, where the medicinal cannabis is loaded, directly to the other cannabis business, where the medicinal cannabis is unloaded, without making unnecessary stops. A delivery **driver**~~[team]~~ may deliver medicinal cannabis to multiple cannabis businesses during one (1) transport.

(e) A cannabis business shall immediately report to the cabinet, via electronic mail to kymedcanreporting@ky.gov, any vehicle accidents, diversions, losses, or other reportable events that occur during transport of medicinal cannabis.

(f) A transport vehicle is subject to inspection by the cabinet or its authorized agents, law enforcement, or other federal or state government officials if necessary to perform the government officials' functions and duties. A transport vehicle may be inspected by the cabinet or its authorized agents while on the premises of a cannabis business during the course of an inspection or investigation.

(g) Transport manifest. A cannabis business shall generate a printed or electronic transport manifest that accompanies every transport vehicle transporting medicinal cannabis to other cannabis businesses and contains the following information:

1. The date the transport manifest was created;

2. The name, address, telephone number, and license number of the cannabis business transporting the medicinal cannabis and the name of and contact information for a representative of the cannabis business who has direct knowledge of the transport;

3. If applicable, the name, address, and telephone number of the contracted third party that is transporting medicinal cannabis on behalf of the cannabis business and the name of and contact information for a representative of the third party who has direct knowledge of the transport;

4. The name, address, telephone number, and license number of the cannabis business receiving the delivery;

5. The quantity, by weight or unit, of the medicinal cannabis being transported to a cannabis business along with the unique identifier for each harvest batch, production batch, or package;

6. A statement regarding whether the medicinal cannabis being transported to a cannabis business has been tested and, if so, the unique identifier for the harvest batch or production batch test;

7. The date and approximate time of departure;

8. The date and approximate time of arrival;

9. The transport vehicle's make and model and license plate number;

10. The name of each ~~person~~**[member of the delivery team]** accompanying the transport;

11. The driver's license number of the delivery ~~driver~~**[team member driving the transport vehicle]**;

12. The signature of ~~the~~**[a]** delivery ~~driver~~**[team member]** once delivery has been accomplished; and

13. The name and signature of a representative of the cannabis business receiving the medicinal cannabis that confirms receipt of the delivery.

(h) When a delivery ~~driver~~**[team]** delivers medicinal cannabis to multiple cannabis businesses during one (1) transport, the transport manifest shall correctly reflect the specific medicinal cannabis in transit to each cannabis business location.

(i) A cannabis business shall provide a copy of the transport manifest to the cannabis business receiving the medicinal cannabis described in the transport manifest. To maintain confidentiality, a cannabis business may prepare separate manifests for each recipient.

(j) All medicinal cannabis in transport shall be shielded from public view and placed in a locked storage compartment that is part of the transport vehicle or in a locked storage container that has a separate key or combination pad.

(k) A cannabis business shall, if requested, provide a copy of any printed or electronic transport manifest to the cabinet or its authorized agents, law enforcement, or other federal or state government officials if necessary to perform the government officials' functions and duties.

(2) Evidence of adverse loss during transport.

~~(a) [If a cannabis business receiving a delivery of medicinal cannabis discovers a discrepancy in the transport manifest upon delivery, the cannabis business shall report the discrepancy to the cabinet within eight (8) hours of discovery via electronic mail to kymedcanreporting@ky.gov.]~~

~~[(b)] If a cannabis business transporting medicinal cannabis discovers a discrepancy in the transport manifest, the cannabis business shall:~~

~~1. Conduct an investigation to determine the cause of the discrepancy and memorialize the investigation findings in writing, which shall be provided to the cabinet within seven (7) calendar days of receiving a request from the cabinet; and;~~

~~2. Amend the cannabis business's standard plan of operation, if necessary, to prevent future discrepancies between the quantity or description of inventory listed in the transport manifest and the quantity or description of inventory delivered.[-; and]~~

~~[3.] [Electronically submit the following reports of the investigation to the cabinet via electronic mail to kymedcanreporting@ky.gov:]~~

~~[a.] [A written preliminary report of the investigation shall be submitted to the cabinet within seven (7) calendar days of discovering the discrepancy; and]~~

~~[b.] [A final written report of the investigation shall be submitted to the cabinet within thirty (30) calendar days of discovering the discrepancy.]~~

~~[(b)](c) If a cannabis business transporting medicinal cannabis discovers evidence of, or reasonably suspects, a theft or diversion of medicinal cannabis during transport, the cannabis business shall~~

report its findings or suspicions to the cabinet within eight (8) hours of discovery via electronic mail to kymedcanreporting@ky.gov.

(3) An employee or agent of a safety compliance facility, cultivator, processor, producer, or third-party contractor who transports medicinal cannabis samples from a cultivator, processor, or producer to a safety compliance facility shall:

(a) Protect the physical integrity of the sample;

(b) Keep the composition of the sample intact; and

(c) Protect the sample against factors that interfere with the validity of testing results, including the factors of time and temperature.

(4) A cannabis business may contract with a third-party for transportation and delivery to other cannabis businesses if:

(a) The third-party contractor complies with the transportation requirements of this section;

(b) The cannabis business conducts a criminal background check into the criminal history of each employee or agent of the third-party contractor that will transport medicinal cannabis on its behalf and shall not allow any such employee or agent to work for the cannabis business that:

1. Was convicted of a disqualifying felony offense; or

2. Is younger than twenty-one (21) years of age;

(c) The cannabis business provides the third-party contractor with a copy of its license and identification badges for the third-party contractor's employees or agents that will transport medicinal cannabis. The badges shall be conspicuously worn at all times during transport of medicinal cannabis and shall contain:

1. The individual's name, photo, ~~and~~**[an]** employee identification number, ~~and the license number of the cannabis business;~~

2. A phone number and email address for the cannabis business; and

3. A phone number and email address for the Kentucky Medical Cannabis Program;

(d) The cannabis business notifies the cabinet via electronic mail to kymedcanreporting@ky.gov of all third parties it has contracted with to transport medicinal cannabis prior to the third party commencing with any transportation of medicinal cannabis and confirms that it has satisfied the requirements of subsection (b) and (c) of this subsection. The cannabis business shall provide the cabinet with any additional information requested by the cabinet regarding the contracted third party's operations.

Section 2. Delivery Services Provided by Dispensaries.

(1) A dispensary may operate a delivery service for registered qualified patients and designated caregivers.

(2) In order to deliver medicinal cannabis, medicinal cannabis accessories, and educational material to registered qualified patients and designated caregivers, a dispensary shall:

(a) Follow all requirements for dispensing and selling medicinal cannabis to registered qualified patients and designated caregivers in accordance with KRS Chapter 218B and 915 KAR 1:070 prior to delivery;

(b) Accomplish delivery on the date agreed upon by the dispensary and the registered qualified patient or designated caregiver~~[an order is received and processed through the Commonwealth's designated electronic monitoring system and seed-to-sale tracking system]~~;

(c) Accomplish delivery between the hours of 7:00 a.m. and 9:00 p.m.;

(d) Prepare a delivery manifest for each delivery or series of deliveries that includes the names of the delivery ~~driver and any additional employees accompanying the transport~~**[team members]**, address for each delivery, estimated date and time of delivery, and actual date and time of delivery;

(e) Prepare a receipt for each delivery containing the following information:

1. The dispensary's name, address, and license number;

2. The name and address of the registered qualified patient or designated caregiver;

3. The date the medicinal cannabis was dispensed;

~~4. [Any requirement or limitation noted by the medicinal cannabis practitioner on the registered qualified patient or~~

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~~designated caregiver's written certification as to the form or amount of medicinal cannabis that the individual should use;~~

~~[5.] The form and the quantity of medicinal cannabis dispensed;~~

~~5.[6.] Any medicinal cannabis accessories or educational materials included in the delivery order; and~~

~~6.[7.] The amount paid by the registered qualified patient or designated caregiver for the medicinal cannabis and other items.~~

(f) At the time of delivery, check the registry identification card of the registered qualified patient or designated caregiver to verify the person accepting delivery is the same person who placed the order. The registered qualified patient or designated caregiver who placed the order shall sign the receipt to confirm receipt of all items delivered and receive a copy of the receipt;~~[-and]~~

(g) Only deliver medicinal cannabis, medicinal cannabis accessories, and educational material to the Kentucky address identified for the individual in the Commonwealth's designated electronic monitoring system;~~and[-]~~

(h) Delivery drivers may deliver medicinal cannabis to multiple registered qualified patients and designated caregivers during one (1) transport. When delivery drivers deliver to multiple registered qualified patients and designated caregivers during one (1) transport, the transport manifest shall correctly reflect the specific medicinal cannabis in transit to each individual.

(3) Delivery vehicle and delivery ~~driver~~**[team]** requirements.

(a) Transport vehicles used for the delivery of medicinal cannabis by dispensaries to registered qualified patients or designated caregivers shall:

1. Be equipped with a locked storage compartment that is part of the transport vehicle or have a locked storage container that has a separate key or combination pad;

2. Have no markings that would either identify or indicate that the vehicle is being used to transport medicinal cannabis;

3. Maintain a current state vehicle registration;

4. Be equipped with an alarm system **and a minimum of two (2) video cameras as required by subsection (3)(b) of this section;** and

5. Be insured as required by Kentucky law, **specifically KRS 304.39-110[for commercial vehicles].**

~~(b) A transport vehicle shall be staffed with a delivery driver and contain a minimum of two (2) video cameras, one (1) with a clear view of the driver and one (1) with a clear view of the location of the medicinal cannabis[team consisting of at least two (2) dispensary employees. At least one (1) delivery team member shall remain with the transport vehicle at any time that it contains medicinal cannabis].~~

(c) Delivery ~~drivers~~**[team members]** delivering medicinal cannabis shall:

1. Have a copy of the cannabis business license for the dispensary delivering the medicinal cannabis;

2. Have an employee identification badge issued by the dispensary that shall be conspicuously worn at all times during delivery of medicinal cannabis;

3. Have a valid driver's license; and

4. Not make unnecessary stops.

(d) All medicinal cannabis in transport for delivery to registered qualified patients or designated caregivers shall be shielded from public view and placed in a locked storage compartment that is part of the transport vehicle or in a locked storage container that has a separate key or combination pad.

(e) If a transport vehicle delivering medicinal cannabis is involved in any accident or experiences any type of failure rendering the vehicle immobile or requiring the use of a tow truck, the delivery ~~driver~~**[team]** shall notify the cabinet immediately via electronic mail to kymedcanreporting@ky.gov.

SAM FLYNN, Executive Director

ERIC FRIEDLANDER, Secretary

APPROVED BY AGENCY: May 14, 2024

FILED WITH LRC: May 15, 2024 at 11:15 a.m.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A,

Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for the secure transportation, including delivery services provided by dispensaries, of medicinal cannabis by cannabis businesses and their employees or agents. In response to comments received by the cabinet, the Amended After Comments version of the administrative regulation will allow one delivery driver in the transport vehicle along with one camera focused on the driver and one camera focused on the location of the medicinal cannabis in the vehicle, remove a duplicative reporting requirement, require identification badges to display the license number of the cannabis business transporting the medicinal cannabis, and clarify the insurance requirements for delivery vehicles.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations establishing procedures for the secure transportation, including delivery services provided by dispensaries, of medicinal cannabis by cannabis businesses and their employees or agents. This administrative regulation sets out those procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides procedures for the secure transportation of medicinal cannabis by cannabis businesses and their employees or agents.

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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: This administrative regulation affects cannabis businesses that have applied for and subsequently received licenses to conduct medicinal cannabis activities in the commonwealth.

(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: Cannabis businesses must review and comply with the transportation procedures contained in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Each cannabis business will decide how to transport medicinal cannabis in accordance with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Cannabis businesses will be able to transport medicinal cannabis, medicinal cannabis products, and medicinal cannabis accessories throughout the commonwealth.

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

(a) Initially: It is anticipated that an increase in funding will be necessary to implement this administrative regulation as additional staff and resources are necessary to administer and enforce transportation procedures. The cabinet estimates that the total staffing

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costs for the program in the first year will be approximately \$1,800,000, and a portion of those staffing costs will go toward regulating transportation of medicinal cannabis, medicinal cannabis products, and medicinal cannabis accessories.

(b) On a continuing basis: It is anticipated that an increase in funding will be necessary to administer this administrative regulation as additional staff and resources are necessary to enforce transportation procedures. The cabinet estimates that the total staffing costs for the program on a continuing basis following the first year will be approximately \$2,400,000, and a portion of those staffing costs will go toward regulating transportation of medicinal cannabis, medicinal cannabis products, and medicinal cannabis accessories.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds provided by the commonwealth.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer and enforce this administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All cannabis businesses will be treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.140(1)(c)(7)(d).

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: The cabinet estimates that the total staffing costs for the program in the first year will be approximately \$1,800,000, and a portion of those staffing costs will go toward regulating transportation of medicinal cannabis.

Revenues: This administrative regulation is not expected to generate revenue in the first year.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The cabinet estimates that the total staffing costs for the program on a continuing basis following the first year will be approximately \$2,400,000, and a portion of those staffing costs will go toward regulating transportation of medicinal cannabis. This administrative regulation is not expected to generate revenue in subsequent years. The cabinet does not anticipate any cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): If its application is approved, a proposed cannabis business will locate within a city or county in the commonwealth and be subject to the transportation requirements contained in this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Revenues: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Unknown at this time. This response will depend

on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

(4) Identify additional regulated entities not listed in questions (2) or (3): Licensed cannabis businesses.

(a) Estimate the following for the first year:

Expenditures: Each cannabis business will decide how to transport medicinal cannabis in accordance with this administrative regulation.

Revenues: This administrative regulation is not expected to generate revenue in the first year.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Each cannabis business will decide how to transport medicinal cannabis in accordance with this administrative regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. A portion of the estimated staffing costs will go toward regulating transportation of medicinal cannabis.

(b) Methodology and resources used to determine the fiscal impact: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate). The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services.

(b) The methodology and resources used to reach this conclusion: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.

CABINET FOR HEALTH AND FAMILY SERVICES Office of the Secretary (Amended After Comments)

915 KAR 1:090. Advertising.

RELATES TO: KRS Chapter 218B

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing restrictions on advertising, marketing, and signage for cannabis businesses. This administrative regulation establishes those restrictions.

Section 1. Advertising by Cannabis Businesses.

(1) Cannabis businesses shall not advertise medicinal cannabis sales in print, broadcast, online, by paid in-person solicitation of

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customers, or by any other advertising device, except that cannabis businesses may:

- (a) Place appropriate signs on their property identifying their business;
- (b) Place listings in business directories;
- (c) Place listings in trade or medical publications;
- (d) Sponsor health or not-for-profit charity or advocacy events; and
- (e) Maintain an informational Web site and social media presence as provided in Section 2 of this administrative regulation.

(2) Cultivators, processors, and producers shall not display any signage, logos, products, or other identifying characteristics on the outside of their respective facilities to alert the public that medicinal cannabis is grown, processed, produced, or stored at the facility.

(3) A cannabis business shall not make any deceptive, false, or misleading assertions or statements on any advertising, advertising device, sign, listing, or informational material.

Section 2. Informational Web site and Social Media Presence.

(1) A cannabis business may maintain an informational Web site and social media presence that provides:

- (a) A description of their business and services;
- (b) A listing of medicinal cannabis or medicinal cannabis products cultivated, processed, produced, or sold by the cannabis business **as well as listing the respective product prices and inducements allowed pursuant to 915 KAR 1:070, Section 5(5)**;
- (c) Educational materials and product information; and
- (d) Certificates of analysis provided by safety compliance facilities for its respective harvest batches and production batches.

(2) The Web site and social media presence may also provide contact information for the cannabis business and a listing of the dispensaries where its medicinal cannabis or medicinal cannabis products are sold, if applicable.

(3) A cannabis business shall provide the cabinet with a list of all informational Web site and social media accounts maintained by the cannabis business, including links to the respective webpages, and shall not block or prohibit the cabinet from accessing those informational Web site and any social media postings. A cannabis business shall continually update the list required under this provision and notify the cabinet of any changes within two (2) business days of the activation or deactivation of any informational Web site or social media account.

(4) An informational Web site or social media presence for a cannabis business shall not:

- (a) Contain statements that are deceptive, false, or misleading;
- (b) Contain any content that can reasonably be considered to target individuals under the age of eighteen (18), including images of minors, cartoons, toys, or similar images and items typically marketed towards minors, or references to products that are commonly associated with minors or marketed by minors;
- (c) Encourage the transportation of medicinal cannabis products across state lines or otherwise encourage illegal activity; and
- (d) Display consumption of medicinal cannabis **in a manner that does not provide an educational benefit**.

(5) An informational Web site or social media presence for a cannabis business shall conspicuously display the following statements:

- (a) "Medicinal cannabis is for use by cardholders only"; and
- (b) "Keep out of reach of children."

(6) A cannabis business that maintains an informational Web site or social media presence shall utilize appropriate measures to ensure that individuals attempting to access the allowable content are eighteen (18) years of age or older.

Section 3. Removal of Objectionable and Non-conforming Advertising.

(1) A cannabis business shall remove any advertising, advertising device, sign, listing, sponsorship, or online material that the cabinet determines to be in violation of this administrative regulation.

(2) The cabinet shall provide written notice to a cannabis business of any violation of this administrative regulation and specify a reasonable time period for the cannabis business to remove any

advertising, advertising device, sign, listing, sponsorship, or online material that the cabinet finds objectionable.

Section 4. Advertising to Other Cannabis Businesses.

(1) Cultivators, processors, producers, or dispensaries may directly promote their business, services, medicinal cannabis, medicinal cannabis products, medicinal cannabis accessories, educational materials, and product information to other cultivators, processors, producers, or dispensaries.

(2) A safety compliance facility shall only promote its medicinal cannabis testing services and other activities allowed by KRS 218B.125 to other cannabis businesses.

SAM FLYNN, Executive Director

ERIC FRIEDLANDER, Secretary

APPROVED BY AGENCY: May 14, 2024

FILED WITH LRC: May 15, 2024 at 11:15 a.m.

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes restrictions on advertising, marketing, and signage in regard to operations or establishments owned by cannabis businesses necessary to prevent the targeting of minors. In response to comments received by the cabinet, the Amended After Comments version of the administrative regulation clarifies that a cannabis business's informational website and social media presence may list their product prices and inducements allowed by 915 KAR 1:070, Section 5(5) as well as clarifies that consumption of medicinal cannabis shall not be displayed in a manner that does not provide an educational benefit.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140(1)(c)(18).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing restrictions on advertising, marketing, and signage in regard to operations or establishments owned by cannabis businesses necessary to prevent the targeting of minors. This administrative regulation sets out those restrictions.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the advertising restrictions for cannabis businesses.

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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: This administrative regulation affects cannabis businesses that have applied for and subsequently received licenses to conduct medicinal cannabis activities in the commonwealth.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this

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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: Cannabis businesses shall review and comply with the advertising restrictions contained in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Each cannabis business will decide whether and how much to invest in the allowable activities provided for in this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Cannabis businesses will be able to properly provide cardholders and other cannabis businesses with information regarding their products, services, and educational materials.

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

(a) Initially: It is anticipated that an increase in funding will be necessary to implement this administrative regulation as additional staff and resources are necessary to administer and enforce the advertising restrictions. The cabinet estimates that the total staffing costs for the program in the first year will be approximately \$1,800,000, and a portion of those staffing costs will go toward regulating cannabis business advertising.

(b) On a continuing basis: It is anticipated that an increase in funding will be necessary to administer this administrative regulation as additional staff and resources are necessary to enforce the advertising restrictions. The cabinet estimates that the total staffing costs for the program on a continuing basis following the first year will be approximately \$2,400,000, and a portion of those staffing costs will go toward regulating cannabis business advertising.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds provided by the commonwealth.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer and enforce the advertising restrictions.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All cannabis businesses will be treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.140(1)(c)(18).

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: The cabinet estimates that the total staffing costs for the program in the first year will be approximately \$1,800,000, and a portion of those staffing costs will go toward regulating cannabis business advertising.

Revenues: This administrative regulation is not expected to generate revenue in the first year.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The cabinet estimates that the total staffing costs for the program on a continuing basis following the first year will be approximately \$2,400,000, and a portion of those staffing costs will go toward regulating cannabis business advertising. This administrative regulation is not expected to generate revenue in

subsequent years. The cabinet does not anticipate any cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): If its application is approved, a proposed cannabis business will locate within a city or county in the commonwealth and be subject to the advertising restrictions contained in this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Revenues: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

(4) Identify additional regulated entities not listed in questions (2) or (3): Licensed cannabis businesses.

(a) Estimate the following for the first year:

Expenditures: Each cannabis business will decide whether and how much to invest in the allowable activities provided for in this administrative regulation.

Revenues: Each cannabis business will decide whether and how much to invest in the allowable activities provided for in this administrative regulation.

Cost Savings: Due to the advertising restrictions established in KRS 218B.095(2)(f), cannabis businesses are not likely to spend as much on advertising as they otherwise would without restrictions in place.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Each cannabis business will decide whether and how much to invest in the allowable activities provided for in this administrative regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. A portion of the estimated staffing costs will go toward regulating cannabis business advertising.

(b) Methodology and resources used to determine the fiscal impact: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) . The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services.

(b) The methodology and resources used to reach this conclusion: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary
(Amended After Comments)

915 KAR 1:100. Packaging and labeling of medicinal cannabis.

RELATES TO: KRS Chapter 218

STATUTORY AUTHORITY: KRS 218B.140, 15 U.S.C. secs. 1471 to 1476

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing standards for the packaging and labeling of medicinal cannabis transferred, sold, or distributed by cannabis businesses. This administrative regulation establishes those standards.

Section 1. General Requirements for Packaging and Labeling of Medicinal Cannabis.

(1) Packaging and labeling of any medicinal cannabis or medicinal cannabis product shall not bear:

(a) Any resemblance to the trademarked, characteristic, or product-specialized packaging of any commercially available food or beverage product and not be visually reminiscent of major brands of edible noncannabis products;

(b) Any statement, artwork, or design that could reasonably lead an individual to believe that the package contains anything other than medicinal cannabis;

(c) The logo of the cabinet or any seal, flag, crest, coat of arms, or other insignia that could reasonably mislead an individual to believe that the product has been endorsed, manufactured, or approved for use by any state, county, or municipality or any agency thereof; and

(d) Any cartoon, image, graphic, or feature that may make the package attractive to children or minors.

(2) **Medicinal cannabis shall be prepared, packaged, and labeled by cannabis businesses at their licensed locations. [A cannabis business shall package and label at its facility each form of medicinal cannabis prepared for sale to cardholders.]** The original seal of a package may not be broken, except:

(a) For testing at a safety compliance facility;

(b) By a dispensary for the purpose of displaying product examples for the benefit of cardholders; or

(c) As needed by the cabinet or its authorized agents as part of an inspection or investigation.

Section 2. Packaging of Medicinal Cannabis for Sale to Cardholders.

(1) Pursuant to KRS 218B.140(1)(c)(13), a cannabis business shall comply with 15 U.S.C. secs. 1471 to 1476 when packaging and labeling medicinal cannabis and medicinal cannabis products for sale to cardholders.

(2) When packaging medicinal cannabis and medicinal cannabis products for sale to cardholders, a cannabis business shall ensure each product package:

(a) Is child-resistant and requires at least a two (2) step process of initial opening;

(b) Has a tamper-evident seal;

(c) Minimizes exposure to oxygen;

(d) Contains the following warnings:

1. The typical length of time for the medicinal cannabis to take effect;

2. The statements **in bold** "For medicinal use by cardholders only. KEEP OUT OF REACH OF CHILDREN"; and

3. For raw plant material packaged for sale to a cardholder, the statement "NOT INTENDED FOR CONSUMPTION BY SMOKING";

(e) Discloses the strain of medicinal cannabis, **including whether it is a sativa, indica, or hybrid**, form of medicinal cannabis, and standard amount of delta-9 tetrahydrocannabinol (THC), **terpenes**, and cannabidiol (CBD) in the medicinal cannabis, including:

1. If the medicinal cannabis product is intended for oral consumption as an edible, oil, or tincture, potency shall be stated as milligrams per serving for total THC and total CBD, as applicable, and milligrams per package for total THC and total CBD, as applicable; and

2. For concentrates **and raw plant material**, total THC, **total terpenes**, and total CBD, as applicable, shall be stated in percentages;

(f) Discloses the amount of medicinal cannabis the product is considered the equivalent to, if applicable;

(g) Discloses any possible allergens;

(h) Is light-resistant and opaque;

(i) Clearly and conspicuously displays the standardized symbol in navy blue provided in Appendix A, which is incorporated by reference, indicating that a product contains medicinal cannabis;

(j) Is resealable, if applicable;

(k) Contains the name~~[-address,]~~ and license number of the cannabis business packaging the medicinal cannabis;

(l) Protects the medicinal cannabis from contamination;

(m) Does not impart any toxic or deleterious substance to the medicinal cannabis; and

(n) Provides the telephone number for the National Poison Control Center.

Section 3. Labeling of Medicinal Cannabis for Sale to Cardholders.

(1) Medicinal cannabis and medicinal cannabis products prepared for sale to cardholders shall include a label, **with writing no smaller than one-sixteenth of an inch in height**, that is firmly affixed to the packaging holding medicinal cannabis or firmly affixed to any outer packaging if used.

(2) ~~The label required by this section may contain a quick response (QR) code that links to some or all of the information required under this section. The QR code shall be:~~

~~[(a)] [Labeled as "Specific Product Information" directly above or below the QR code; and]~~

~~[(b)] [Large enough to be smart-phone readable.]~~

~~[(3)] The label required by this section shall:~~

(a) Be made of weather-resistant and tamper-resistant materials;

(b) Be legible;

(c) List the strain~~[-form,]~~ and net weight of the medicinal cannabis included in the package;

(d) List any ingredients;

(e) List the specific amount of THC and CBD in the medicinal cannabis included in the package as stated on the certificate of analysis for the medicinal cannabis's harvest batch or production batch. **For concentrates,** the specific amount of THC and CBD **shall[~~may~~]** be expressed in milligrams **and[~~or~~]** by percentage, as applicable;

(f) List the percentage of total terpenes and the ~~three (3)~~ most prevalent terpenes expressed in the medicinal cannabis, as applicable. **For concentrates, the specific amount of terpenes shall be expressed in milligrams and by percentage, as applicable;**

(g) Provide the name and license number of the cannabis business that cultivated the medicinal cannabis;

(h) Provide the name and license number of the cannabis business that processed the medicinal cannabis, if applicable;

(i) Provide the identifier that is unique to the particular harvest batch or production batch of medicinal cannabis in the package;

(j) List the date the medicinal cannabis was harvested or processed, **as applicable;**

(k) List the date the medicinal cannabis was packaged;
 (l) List the name and license number of the safety compliance facility that tested the medicinal cannabis and the date the medicinal cannabis was tested;

(m) List the expiration date of the medicinal cannabis; ~~and~~

(n) The method of extraction, if applicable;

(o) If the product contains multiple servings, the statement in bold "MULTIPLE SERVINGS";

(p) Directions for use for concentrates and THC infused medicinal cannabis products; and

(q) If the medicinal cannabis product is intended for oral consumption as an edible, oil, or tincture, provide a nutritional fact panel, the number of individual servings contained within the package, and the amount of THC per serving, which shall not exceed ten (10) milligrams per serving.

(3) Quick response (QR) codes. The label required by this section may contain a QR code that links to information required under this section.

(a) Any QR code shall be:

1. Labeled as "Specific Product Information" directly above or below the QR code; and

2. Large enough to be smart-phone readable.

(b) The information available through use of a QR code may include:

1. The name and license number of the cannabis business that cultivated the medicinal cannabis;

2. The name and license number of the cannabis business that processed the medicinal cannabis, if applicable;

3. The name and license number of the cannabis business that packaged the medicinal cannabis;

4. The method of extraction, if applicable; and

5. The date the medicinal cannabis was packaged.

(c) If a cannabis business makes any of the items listed in subsection 3(b) of this section available through use of a QR code on the product label, the cannabis business is not required to include that information directly on the product label.

(4) A dispensary shall affix a sticker to each package of medicinal cannabis sold at its licensed location that contains the dispensary's name, license number, and telephone number.

Section 4. Packaging and Labeling Requirements for Sale or Transfer of Medicinal Cannabis Between Cannabis Businesses.

(1) All medicinal cannabis sold or otherwise transferred between cannabis businesses for the purpose of processing or packaging and labeling for retail sale to cardholders shall:

(a) Regarding packaging:

1. Fully enclose the medicinal cannabis so that it cannot be seen from outside the packaging;

2. Protect the medicinal cannabis from contamination; and

3. Not impart any toxic or deleterious substance to the medicinal cannabis.

(b) Be accompanied by all tracking tags required by the state's designated seed to sale tracking system for the medicinal cannabis contained in the transfer. The tracking tag required by the state's designated seed to sale tracking system shall be firmly affixed to the outer most packaging of the respective package containing the medicinal cannabis identified by the tag. A transport manifest shall also accompany transfers of medicinal cannabis between cannabis businesses as required by 915 KAR 1:080(1)(g). [A label shall be firmly affixed to the packaging holding medicinal cannabis or firmly affixed to outer packaging if used that, at a minimum, contains the following information:]

~~[4.] [Name, address, phone number, and license number of the cannabis business that is selling or otherwise transferring the medicinal cannabis to another cannabis business;]~~

~~[2.] [Name, address, phone number, and license number of the cannabis business receiving the medicinal cannabis;]~~

~~[3.] [The type and amount of medicinal cannabis in the package;]~~

~~[4.] [An identifier that is unique to the particular harvest batch or production batch of medicinal cannabis in the package;]~~

~~[5.] [The date the medicinal cannabis was harvested and, if applicable, processed;]~~

~~[6.] [The date the medicinal cannabis was packaged; and]~~

~~[7.] [A statement confirming that the medicinal cannabis in the package has been tested, and;]~~

~~[a.] [Affix a QR code to the label that directs the purchaser to the certificate of analysis for the medicinal cannabis harvest batch or production batch contained in the package; or]~~

~~[b.] [Provide a hardcopy or electronic copy of the certificate of analysis for the medicinal cannabis harvest batch or production batch contained in the package to the purchaser at the time of sale.]~~

(2) Any sale or transfer of medicinal cannabis between cannabis businesses shall be documented in the Commonwealth's designated electronic monitoring system and seed to sale tracking system.

Section 5. Voluntary Packaging and Labeling Compliance Review.

(1) Cannabis businesses shall comply with the packaging and labeling requirements established in this administrative regulation.

(2) Cannabis businesses may submit proposed packaging and labels for medicinal cannabis and medicinal cannabis products intended for sale to cardholders to the cabinet for a voluntary compliance review. Cannabis businesses shall submit proposed packaging and labels in the manner prescribed by the cabinet and made available through the Web site for the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(3) A cannabis business requesting a voluntary compliance review for a product shall provide the following to the cabinet at the time of submission:

(a) Documentation from the packaging company confirming the proposed packaging is child-resistant and has at least a two (2) step process of initial opening;

(b) A clear digital proof or photograph of the product packaging with a file size no greater than twenty-five (25) megabytes;

(c) A clear digital proof or photograph of the product label with a file size no greater than twenty-five (25) megabytes; and

(d) The category of product being submitted, such as raw plant material, concentrate, or infused product.

(4) If the cabinet determines that a voluntary compliance review request is lacking sufficient information upon which to make a determination, the cabinet shall notify the cannabis business in writing of the additional information and documentation needed to complete the review. The cannabis business shall have seven (7) calendar days from the date of the notice to provide the requested information and documentation to the cabinet. If a cannabis business fails to provide the requested information to the cabinet by the deadline, the cabinet shall not provide a compliance determination to the cannabis business for the product submitted.

(5) The nonrefundable fee for the voluntary compliance review established in this section is \$200 per product submission and shall be paid by the cannabis business at the time of submission via credit card or automated clearing house (ACH) transfer.

(6) The cabinet shall complete a product packaging and labeling compliance review within twenty-one (21) calendar days of submission to the cabinet, unless additional information is requested by the cabinet as provided in subsection (4) of this section.

(7) Upon completion of its review, the cabinet shall:

(a) For compliant submissions, provide the cannabis business with an electronic notification stating the submitted product packaging and label is in compliance with 915 KAR 1:100. This compliance determination shall only apply to the

specific product package and label submitted to the cabinet for review and shall not apply to any variations of that product package or label; or

(b) For non-compliant submissions, provide the cannabis business with an electronic notification stating the submitted product packaging and label is not in compliance with 915 KAR 1:100 and the reasons for that determination. A cannabis business may correct a product package and label previously found to be non-compliant by the cabinet and resubmit that package and label for an additional voluntary compliance review upon payment of the fee established in subsection (5) of this section.

Section 6. Incorporation by Reference.

(1) "Appendix A: Standardized symbol indicating a product contains medicinal cannabis", dated January 4, 2024, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Office of the Secretary, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8:30 a.m. to 4:30 p.m. This material may also be viewed on the Kentucky Medical Cannabis Program's Web site at <https://kymedcan.ky.gov>.

SAM FLYNN, Executive Director

ERIC FRIEDLANDER, Secretary

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CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes standards for the packaging and labeling of medicinal cannabis transferred, sold, or distributed by cannabis businesses. In response to comments received by the cabinet, the Amended After Comments version of the administrative regulation will clarify the required items to include on a product label, what may be accessed through a QR code on a label, and the labeling requirements for business-to-business transfers of medicinal cannabis. The Amended After Comments version will also include a new section regarding voluntary packaging and labeling compliance review.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140(1)(c)(13).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations establishing standards for the packaging and labeling of medicinal cannabis transferred, sold, or distributed by cannabis businesses. This administrative regulation sets out those procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides standards for the packaging and labeling of medicinal cannabis transferred, sold, or distributed by cannabis businesses.

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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: This administrative regulation affects cannabis businesses that have applied for and subsequently received licenses to conduct medicinal cannabis activities in the commonwealth.

(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: Cannabis businesses shall review and comply with the packaging and labeling standards contained in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Each cannabis business will decide how to package and label medicinal cannabis in accordance with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Cannabis businesses will be able to properly package and label medicinal cannabis and medicinal cannabis products.

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

(a) Initially: It is anticipated that an increase in funding will be necessary to implement this administrative regulation as additional staff and resources are necessary to administer and enforce packaging and labeling requirements. The cabinet estimates that the total staffing costs for the program in the first year will be approximately \$1,800,000, and a portion of those staffing costs will go toward regulating packaging and labeling requirements.

(b) On a continuing basis: It is anticipated that an increase in funding will be necessary to administer this administrative regulation as additional staff and resources are necessary to enforce packaging and labeling requirements. The cabinet estimates that the total staffing costs for the program on a continuing basis following the first year will be approximately \$2,400,000, and a portion of those staffing costs will go toward regulating packaging and labeling requirements.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds provided by the commonwealth.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer and enforce this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation establishes a voluntary fee of \$200 if a cannabis business decides to request cabinet review any proposed packaging and labeling for compliance with this administrative regulation.

(9) TIERING: Is tiering applied? Tiering is not applied. All cannabis businesses will be treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.140(1)(c)(13).

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: The cabinet estimates that the total staffing costs for the program in the first year will be approximately \$1,800,000, and a portion of those staffing costs will go toward regulating packaging and labeling requirements.

Revenues: This administrative regulation is not expected to generate significant revenue in the first year though its voluntary packaging and labeling compliance review program.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The cabinet estimates that the total staffing costs for the program on a continuing basis following the first year will be approximately \$2,400,000, and a portion of those staffing costs will go toward regulating packaging and labeling requirements. This administrative regulation is not expected to generate significant revenue in subsequent years though its voluntary packaging and labeling compliance review program. The cabinet does not anticipate any cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): If its application is approved, a proposed cannabis business will locate within a city or county in the commonwealth and be subject to the packaging and labeling requirements contained in this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Revenues: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

(4) Identify additional regulated entities not listed in questions (2) or (3): Licensed cannabis businesses.

(a) Estimate the following for the first year:

Expenditures: Each cannabis business will decide how to package and label medicinal cannabis in accordance with this administrative regulation and determine whether to participate in the cabinet's voluntary packaging and labeling compliance review program.

Revenues: This administrative regulation is not expected to generate revenue in the first year.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Each cannabis business will decide how to package and label medicinal cannabis in accordance with this administrative regulation and determine whether to participate in the cabinet's voluntary packaging and labeling compliance review program.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. A portion of the estimated staffing costs will go toward regulating packaging and labeling of medicinal cannabis.

(b) Methodology and resources used to determine the fiscal impact: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in

questions (2) - (4). (\$500,000 or more, in aggregate) The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services.

(b) The methodology and resources used to reach this conclusion: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary
(Amended After Comments)

915 KAR 1:110. Medicinal cannabis testing.

RELATES TO: KRS Chapter 218B

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140

requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing requirements for random sample testing of medicinal cannabis to ensure quality control. This administrative regulation establishes those requirements and procedures.

Section 1. General Requirements.

(1) To ensure the suitability and safety for human consumption of medicinal cannabis and medicinal cannabis products, cultivators, processors, and producers shall test medicinal cannabis in accordance with Section 2 of this administrative regulation.

(2) No laboratory may test medicinal cannabis under this administrative regulation without being issued a license to operate as a safety compliance facility. A safety compliance facility shall only send medicinal cannabis samples for testing to another licensed safety compliance facility in the Commonwealth.

(3) Batch size.

(a) Cultivators and producers shall separate all harvested medicinal cannabis into harvest batches not to exceed fifteen (15) pounds with the exception of any raw plant material to be sold to a processor or producer for the purposes of turning the raw plant material into concentrate which may be separated into harvest batches of no more than fifty (50) pounds.

(b) Processors and producers shall separate all medicinal cannabis product into production batches not to exceed four (4) liters of liquid medicinal cannabis concentrate or nine (9) pounds for nonliquid medicinal cannabis products and, for final medicinal cannabis products, no greater than 1,000 grams of delta-9-tetrahydrocannabinol.

(4) An authorized cannabis business employee or agent collecting any samples for testing shall follow the standard operating procedures established by the contracted safety compliance facility conducting the testing for:

(a) Sampling; and

(b) Documenting the chain of custody.

(5) Testing frequency.

(a) Harvest batch samples shall be obtained and tested post-harvest and prior to sell, transfer, or delivery of the medicinal cannabis from the respective harvest batch.

(b) Production batch samples shall be obtained and tested in their final form prepackaging and prior to sale, transfer, or delivery of the medicinal cannabis from the respective production batch.

(6) Prohibitions.

(a) Cultivators and producers shall not sell, transfer, or deliver any medicinal cannabis from a harvest batch to a dispensary,

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processor, cultivator, or producer until a sample of the harvest batch has passed all tests required by Section 2 of this administrative regulation.

(b) Processors and producers shall not sell, transfer, or deliver any medicinal cannabis from a production batch to a dispensary, processor, cultivator, or producer until a sample of the production batch has passed all tests required by Section 2 of this administrative regulation.

(c) Dispensaries shall not dispense or sell medicinal cannabis to cardholders until a sample of its harvest or production batch has passed all tests required by Section 2 of this administrative regulation.

(d) Following the collection of a sample from a harvest batch or production batch, medicinal cannabis shall not undergo any additional processing, transforming, or other changes that alter the substance of the medicinal cannabis or otherwise would result in different test results. Any medicinal cannabis that undergoes additional processing, transforming, or other changes that alters the substance of the medicinal cannabis following sample collection shall be tested as required by Section 2 of this administrative regulation prior to any sale, transfer, or delivery to a dispensary, processor, or producer.

(7) The cabinet may select and collect a sample or test sample from a cannabis business at any time. The cabinet may require a cultivator, processor, producer, or dispensary to submit a sample or test sample to a safety compliance facility upon request when the cabinet has reason to believe the medicinal cannabis is unsafe for cardholder consumption or inhalation or has not been tested in accordance with KRS Chapter 218B and Section 2 of this administrative regulation. A cultivator, processor, producer, or dispensary shall provide the samples for testing at their own expense.

(8) Except as authorized in Section 5 of this administrative regulation, cannabis businesses shall properly dispose of and shall not use, sell, or otherwise transfer medicinal cannabis that fails to meet any testing standard or requirement set forth in this administrative regulation. Cannabis businesses shall dispose of this medicinal cannabis waste in accordance with the 915 KAR 1:030, 915 KAR 1:040, 915 KAR 1:060, and 915 KAR 1:070, as applicable.

Section 2. Medicinal Cannabis Tests.

(1) Medicinal cannabis shall be tested for:

(a) Tetrahydrocannabinol (THC) and cannabinoid concentration;

(b) Terpenoid type and concentration;

(c) Residual solvents and processing chemicals (for production batches);

(d) Residual pesticides;

(e) Heavy metals;

(f) Microbial impurities;

(g) Mycotoxins;

(h) Water activity (for harvest batches);

(i) Yeast and mold; and

(j) Vitamin E acetate.

(2) The cabinet may conduct additional tests on samples or test samples at its discretion.

Section 3. Maximum Allowable Limits for Medicinal Cannabis Tests.

(1) Cannabinoid and terpenoid concentration. KRS Chapter 218B, specifically KRS 218B.095, KRS 218B.105, KRS 218B.115, and KRS 218B.120, establishes the maximum delta-9 tetrahydrocannabinol content for raw plant material and medicinal cannabis products in the Commonwealth. Cultivators, processors, and producers shall test harvest batch and production batch samples for levels of total THC and cannabinoid concentration and terpenoid type and concentration.

(a) For THC and cannabinoid concentration, the testing shall include:

1. Total THC;

2. Total cannabidiol (CBD);

3. Total cannabinoids;

4. Tetrahydrocannabinolic acid (THCa);

5. Delta-9-tetrahydrocannabinol (Delta-9-THC);

6. Delta-8-tetrahydrocannabinol (Delta-8-THC);

7. Cannabidiolic acid (CBDA);

8. Cannabidiol (CBD);

9. Cannabinol (CBN);

10. Cannabigerolic acid (CBGa);

11. Cannabigerol (CBG);

12. Tetrahydrocannabivarin (THCV);

13. Cannabichromene (CBC);

(b) For terpenoid type and concentrate concentration, the testing shall include:

1. Total terpenes;

2. Limonene;

3. Myrcene;

4. Pinene;

5. Linalool;

6. Eucalyptol;

7. Delta-terpinene (terpinolene);

8. Caryophyllene

9. Nerolidol;

10. Humulene;

11. Bisabolol;

12. Camphene;

13. Delta 3 Carene;

14. Borneol;

15. Geraniol; and

16. Terpeneol;

(c) In accordance with KRS 218B.140(1)(c)(9), cultivators and producers shall track the terpene content of the twelve (12) major terpenoids within each strain of medicinal cannabis that they cultivate in the Commonwealth and provide a written summary of this information to the cabinet upon request.

(2) Residual solvents and processing chemicals. Production batch samples shall be tested for residual solvents and processing chemicals and shall not exceed the maximum allowable concentration for each solvent or chemical used as set forth in Appendix A, which is incorporated by reference.

(3) Residual Pesticides. Harvest batch samples and production batch samples shall be tested for residual pesticides and shall not exceed the maximum allowable concentration for each pesticide used as set forth in Appendix B, which is incorporated by reference.

(4) Heavy Metals. All harvest batch and production batch samples shall be tested for heavy metals, which shall include arsenic, cadmium, lead, and mercury, as follows:

(a) For inhaled medicinal cannabis products, including administration by metered dose nasal spray or pressurized metered dose inhaler, harvest and production batches shall be tested for the following heavy metal analytes and shall comply with the maximum allowable concentration:

1. Arsenic, maximum allowable concentration: zero and two-tenths (0.2) parts per million (ppm);

2. Cadmium, maximum allowable concentration: zero and two-tenths (0.2) ppm;

3. Lead, maximum allowable concentration: zero and five-tenths (0.5) ppm; and

4. Mercury, maximum allowable concentration: zero and one-tenths (0.1) ppm.

(b) For medicinal cannabis products not intended to be inhaled, harvest and production batches shall be tested for the following heavy metal analytes and shall comply with the maximum allowable concentration:

1. Arsenic, maximum allowable concentration: zero and four-tenths (0.4) ppm;

2. Cadmium, maximum allowable concentration: zero and four-tenths (0.4) ppm;

3. Lead, maximum allowable concentration: one (1) ppm; and

4. Mercury, maximum allowable concentration: one and two-tenths (1.2) ppm.

(5) Microbial impurities. Harvest batch samples and production batch samples shall be tested for the presence of microbial impurities. Harvest batch and production batch samples shall be deemed to have passed the microbial impurities testing if the following conditions are met:

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(a) Total *Escherichia coli* is not detected above one hundred (100) colony forming units/gram;

(b) Shiga toxin-producing *Escherichia coli* is not detected in one (1) gram;

(c) *Salmonella* spp. is not detected in one (1) gram; and

(d) Pathogenic *Aspergillus* species *A. fumigatus*, *A. flavus*, *A. niger*, and *A. terreus* are not detected in one (1) gram.

(6) Mycotoxins. Harvest batch and production batch samples shall be tested for the following mycotoxins: aflatoxin B1, B2, G1, and G2 ochratoxin A. A production batch shall be deemed to have passed mycotoxin testing if the following conditions are met:

(a) Total of aflatoxin B1, B2, G1, and G2 does not exceed twenty (20) microgram per kilogram ($\mu\text{g}/\text{kg}$) of substance; and

(b) Ochratoxin A does not exceed twenty (20) $\mu\text{g}/\text{kg}$ of substance.

(7) Water activity. Harvest batch samples shall be tested to determine the level of water activity. Harvest batch samples shall have a water activity (aw) rate of less than 0.65.

(8) Yeast and mold. Harvest batch and production batch samples shall be tested to determine the level of yeast and mold. Harvest batch and production batch samples shall have a total combined yeast and mold not to exceed 100,000 colony forming units per gram.

(9) Vitamin E acetate. Harvest batches and production batches shall be tested for any detectable level of vitamin E acetate.

Section 4. Failed Testing.

(1) A harvest batch or production batch sample that fails any initial testing may be reanalyzed by the safety compliance facility using the reserve sample for that harvest or production batch.

(2) If the reserve sample passes the required testing, an authorized cannabis business employee or agent shall resample the harvest batch or production batch in question and send the new sample to a different safety compliance facility than the one that performed the initial testing. In order for the harvest batch or production batch in question to pass testing under this administrative regulation, the new safety compliance facility shall test the resample and confirm the resample passed all required tests.

(3) A harvest batch or production batch shall fail testing if the respective sample exceeds any maximum allowable limit established in Section 3 of this administrative regulation or the maximum allowable delta-9 tetrahydrocannabinol content for raw plant material and medicinal cannabis products established in KRS Chapter 218B:

(a) During an initial test where no reanalysis is requested; or

(b) Upon reanalysis as described in this section.

(4) If a harvest batch or production batch sample fails a test or a reanalysis, the harvest batch or production batch:

(a) May be remediated or sterilized if allowed by Section 5 of this administrative regulation; or

(b) If it cannot be remediated or sterilized in accordance with Section 5 of this administrative regulation, the harvest or production batch shall be deemed medicinal cannabis waste and destroyed by the cultivator, processor, or producer in accordance with 915 KAR 1:030 or 915 KAR 1:040 as applicable for their respective business.

(5) Medicinal cannabis from a harvest or production batch that failed testing shall not be combined with another harvest or production batch. Mixed products shall be considered adulterated and shall not be sold, transferred, or otherwise delivered to a cannabis business.

Section 5. Remediation.

(1) THC concentration.

(a) If a harvest batch sample exceeds the THC content limit imposed on raw plant material in KRS 218B.095, KRS 218B.105, 218B.115, or 218B.120, the harvest batch shall be deemed medicinal cannabis waste and destroyed by the cultivator or producer in accordance with 915 KAR 1:030.

(b) If a production batch sample exceeds the THC content limits imposed on edibles, oils, tincture, and other medicinal cannabis products by KRS 218B.095, 218B.115, or 218B.120, the production batch may be remediated using procedures that would reduce the concentration of THC to allowable levels provided that the

remediation method does not impart any toxic or deleterious substance to the medicinal cannabis in the production batch.

(c) A production batch that is remediated in accordance with this subsection shall be sampled and tested in accordance with Sections 2 and 3 of this administrative regulation.

(d) A processor or producer shall inform the safety compliance facility conducting the retesting prior to samples being taken that the production batch has previously failed testing and is being retested after undergoing remediation. Any remediation methods or remediation solvents used on the production batch being retested shall be disclosed to the safety compliance facility conducting the retesting.

(e) A production batch that exceeds the required THC content limits that is not remediated or that if remediated fails testing shall be deemed medicinal cannabis waste and destroyed by the processor or producer in accordance with 915 KAR 1:040.

(2) Residual solvents and processing chemicals.

(a) If a production batch sample fails residual solvent testing, the production batch may be remediated using procedures that would reduce the concentration of solvents to less than the action level provided that the remediation method does not impart any toxic or deleterious substance to the medicinal cannabis in the production batch.

(b) A production batch that is remediated in accordance with this subsection shall be sampled and tested in accordance with Sections 2 and 3 of this administrative regulation.

(c) A processor or producer shall inform the safety compliance facility conducting the retesting prior to samples being taken that the production batch has previously failed testing and is being retested after undergoing remediation or decontamination. Any remediation methods or remediation solvents used on the production batch being retested shall be disclosed to the safety compliance facility conducting the retesting.

(d) A production batch that fails solvent testing that is not remediated or that if remediated fails testing shall be deemed medicinal cannabis waste and destroyed by the processor or producer in accordance with the 915 KAR 1:040.

(3) Residual Pesticides. A harvest batch or production batch that fails residual pesticide testing shall be deemed medicinal cannabis waste and destroyed by the cultivator, processor, or producer in accordance with 915 KAR 1:030 or 915 KAR 1:040 as applicable for their respective business.

(4) Heavy metals. A harvest batch or production batch that fails heavy metals testing shall be deemed medicinal cannabis waste and destroyed by the cultivator, processor, or producer in accordance with the 915 KAR 1:030 or 915 KAR 1:040 as applicable for their respective business.

(5) Microbial impurities.

(a) If a harvest batch or production batch sample fails microbial impurities testing, the harvest batch or production batch may be further processed if the processing method effectively sterilizes the batch and does not impart any toxic or deleterious substance to the medicinal cannabis in the batch.

(b) A harvest batch or production batch that is sterilized in accordance with this subsection shall be sampled and tested in accordance with Sections 2 and 3 of this administrative regulation.

(c) A cultivator, processor, or producer shall inform the safety compliance facility conducting the retesting prior to samples being taken that the harvest or production batch has previously failed testing and is being retested after undergoing sterilization. Any sterilization methods or sterilization solvents used on the harvest or production batch being retested shall be disclosed to the safety compliance facility conducting the retesting.

(d) A harvest batch or production batch that fails microbiological contaminant testing after undergoing a sterilization process in accordance with this subsection shall be deemed medicinal cannabis waste and destroyed by the cultivator, processor, or producer in accordance with 915 KAR 1:030 or 915 KAR 1:040 as applicable for their respective business.

(6) Mycotoxins. A harvest batch or production batch that fails mycotoxins testing shall be deemed medicinal cannabis waste and destroyed by the cultivator, processor, or producer in accordance

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with 915 KAR 1:030 or 915 KAR 1:040 as applicable for their respective business.

(7) Water activity. If a harvest batch sample fails water activity testing, the harvest batch may be further dried and cured by the cultivator or producer. A harvest batch that is further dried and cured shall be sampled and retested in accordance with Sections 2 and 3 of this administrative regulation.

(8) Yeast and mold. A harvest batch or production batch sample that fails yeast and mold testing shall be deemed medicinal cannabis waste and destroyed by the cultivator, processor, or producer in accordance 915 KAR 1:030 or 915 KAR 1:040 as applicable for their respective business.

(9) Vitamin E acetate. A harvest batch or production batch that fails vitamin E acetate testing shall be deemed medicinal cannabis waste and destroyed by the cultivator, processor, or producer in accordance with 915 KAR 1:030 or 915 KAR 1:040 as applicable for their respective business.

(10) Where remediation is allowed, a harvest or production batch shall only be remediated twice. If the harvest or production batch fails testing after a second remediation attempt and the second retesting, the harvest or production batch shall be deemed medicinal cannabis waste and destroyed by the cultivator, processor, or producer in accordance with 915 KAR 1:030 or 915 KAR 1:040 as applicable for their respective business.

(11) Prior to taking any remediation efforts, cultivators, processors, and producers shall:

(a) Create and maintain detailed written procedures for all remediation processes used by the cannabis business and provide those procedures to the cabinet upon request within three (3) business days of receiving the request or during an inspection; and

(b) Document all remediation, sterilization, resampling, retesting, and disposal of medicinal cannabis that fails testing required by Section 2 of this administrative regulation.

Section 6. Certificate of Analysis.

(1) A safety compliance facility shall:

(a) Generate a certificate of analysis (COA) for each harvest batch and production batch sample that the safety compliance facility analyzes; and

(b) Ensure the COA contains the results of all required analyses performed for the harvest batch or production batch sample.

(2) The COA shall contain, at minimum:

(a) The safety compliance facility's name, address, and license number;

(b) The cultivator, processor, or producer's name, address, and license number;

(c) The harvest batch or production batch number from which the sample was obtained;

(d) Sample identifying information, including matrix type and unique sample identifiers;

(e) Sample history, including the date collected, the date received by the safety compliance facility, and the date of all sample analyses and corresponding testing results;

(f) The analytical methods, analytical instrumentation used, and corresponding limit of detection (LOD) and limits of quantitation (LOQ);

(g) An attestation from an authorized employee of the safety compliance facility that all testing required by Section 2 of this administrative regulation was performed; and

(h) Analytes detected during the analyses of the harvest batch or production batch sample that are unknown, unidentified, or injurious to human health if consumed, if any.

(3) The safety compliance facility shall report test results for each representative harvest batch or production batch sample on the COA as an overall "pass" or "fail" for the entire batch.

(a) When reporting qualitative results for each analyte, the safety compliance facility shall indicate "pass" or "fail";

(b) When reporting quantitative results for each analyte, the testing facility shall use the appropriate units of measurement for testing the analyte;

(c) When reporting results for each test method, the testing facility shall indicate "pass" or "fail";

(d) When reporting results for any analytes that were detected below the analytical method LOQ, indicate "<LOQ," notwithstanding cannabinoid and terpenoid results;

(e) When reporting results for any analytes that were not detected or detected below the LOD, indicate "ND"; and

(f) Indicate "NT" for any test that the safety compliance facility did not perform.

(4) The safety compliance facility shall retain a reserve sample for each harvest or production batch consisting of any portion of a sample that was not used in the testing process. The reserve sample shall be kept for a minimum of forty-five (45) calendar days after the analyses, after which time it may be destroyed as medicinal cannabis waste by the safety compliance facility in accordance with 915 KAR 1:060.

(5) The safety compliance facility shall securely store the reserve sample in a manner that minimizes the risk of sample degradation, contamination, and tampering.

(6) The safety compliance facility shall provide any reserve samples to the cabinet upon request within three (3) business days of receiving the request.

(7) All certificates of analysis prepared by safety compliance facilities shall be documented in the Commonwealth's designated electronic monitoring system and seed to sale tracking system in accordance with instructions provided by the cabinet.

(8) On any informational website that they maintain in accordance with 915 KAR 1:090, Section 2, cultivators, processors, and producers shall publish or provide links to the COAs that they receive from safety compliance facilities for their respective harvest batches and production batches. The information required to be provided under this provision shall be presented in such a way that cardholders can easily access the specific COA for the harvest batch or production batch referenced on the medicinal cannabis product label.

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Appendix A: List of residual solvents for medicinal cannabis testing", dated January 4, 2024; and

(b) "Appendix B: List of residual pesticides for medicinal cannabis testing", dated January 4, 2024.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, Office of the Secretary, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8:30 a.m. to 4:30 p.m. This material may also be viewed on the Kentucky Medical Cannabis Program's website at <https://kymedcan.ky.gov>.

SAM FLYNN, Executive Director

ERIC FRIEDLANDER, Secretary

APPROVED BY AGENCY: January 3, 2024

FILED WITH LRC: January 4, 2024 at 11:50 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 25, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by March 18, 2024, 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 virtually 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 March 31, 2024. 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.

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CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for random sample testing of medicinal cannabis to ensure quality control.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations establishing requirements for random sample testing of medicinal cannabis to ensure quality control. This administrative regulation sets out those requirements and procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the requirements for random sample testing of medicinal cannabis to ensure quality control.

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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: This administrative regulation affects cannabis businesses that have applied for and subsequently received licenses to conduct medicinal cannabis activities in the commonwealth.

(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: Cannabis businesses must review and comply with the testing requirements contained in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Cultivators, processors, and producers will contract with safety compliance facilities to conduct the required testing of medicinal cannabis harvest and production lots.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Cultivators, processors, producers, and safety compliance facilities will be able to properly sample and test medicinal cannabis in the commonwealth.

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

(a) Initially: It is anticipated that an increase in funding will be necessary to implement this administrative regulation as additional staff and resources are necessary to administer and enforce testing requirements. The cabinet estimates that the total staffing costs for the program in the first year will be approximately \$1,800,000, and a portion of those staffing costs will go toward regulating testing requirements.

(b) On a continuing basis: It is anticipated that an increase in funding will be necessary to administer this administrative regulation as additional staff and resources are necessary to enforce testing

requirements. The cabinet estimates that the total staffing costs for the program on a continuing basis following the first year will be approximately \$2,400,000, and a portion of those staffing costs will go toward regulating testing requirements.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds provided by the commonwealth.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer and enforce the testing requirements.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All cannabis businesses will be treated equally.

FISCAL NOTE

(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 Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.140.

(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 in the first year.

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

(c) How much will it cost to administer this program for the first year? It is anticipated that an increase in funding will be necessary to implement this administrative regulation as additional staff and resources are necessary to administer and enforce testing requirements. The cabinet estimates that the total staffing costs for the program in the first year will be approximately \$1,800,000, and a portion of those staffing costs will go toward regulating testing requirements.

(d) How much will it cost to administer this program for subsequent years? It is anticipated that an increase in funding will be necessary to administer this administrative regulation as additional staff and resources are necessary to enforce the testing requirements. The cabinet estimates that the total staffing costs for the program on a continuing basis following the first year will be approximately \$2,400,000, and a portion of those staffing costs will go toward regulating packaging and labeling requirements.

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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? The cabinet does not anticipate any cost savings in the first year.

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(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? The cabinet does not anticipate any cost savings in subsequent years.

(c) How much will it cost the regulated entities for the first year? Cultivators, processors, and producers will contract with safety compliance facilities to conduct the required testing of medicinal cannabis harvest and production lots.

(d) How much will it cost the regulated entities for subsequent years? Cultivators, processors, and producers will contract with safety compliance facilities to conduct the required testing of medicinal cannabis harvest and production lots.

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services, and it is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 1 related to cannabis businesses.

PROPOSED AMENDMENTS

Public comment periods for ordinary, non-emergency regulations are at least two months long. For other regulations with open comment periods, please also see last month's [Administrative Register of Kentucky](#).

**GENERAL GOVERNMENT CABINET
Council on Postsecondary Education
(Amendment)**

13 KAR 2:120. Comprehensive funding model for the allocation of state general fund appropriations to public universities.

RELATES TO: KRS 48.600-48.630, 164.001, 164.092
STATUTORY AUTHORITY: KRS 164.092(12)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.092(12) requires the Council on Postsecondary Education to promulgate an administrative regulation to implement a comprehensive funding model for the public postsecondary education system. This administrative regulation establishes the formula by which general fund appropriations shall be distributed in the public university sector.

Section 1. Definitions.

(1) "Academic year" means July 1st through June 30th and all terms completed therein.

(2) "Bachelor's degrees" means the total number of bachelor's degrees awarded during the academic year, including degrees conferred to resident and non-resident students.

(3) "Comprehensive university" is defined by KRS 164.001(7).

(4) "Council" is defined by KRS 164.092(1)(c).

(5) "FAFSA form" means the free application for federal student aid form completed by students to determine eligibility to receive federal student financial aid.

(6) "First-generation college students" means students who report on the FAFSA form that neither parent has earned a college degree or credential, or one (1) parent if the other parent's education level is unknown.

(7) "Formula base amount" is defined by KRS 164.092(1)(e) and includes a deduction for mandated programs.

(8)~~(6)~~ "Hold-harmless provision" is defined by KRS 164.092(1)(f).

(9)~~(7)~~ "Institution" means a public university.

(10)~~(8)~~ "Low-income student" means a student who received a Federal Pell Grant after the 2005-2006 academic year for attendance at the institution from which the student received a bachelor's degree.

(11)~~(9)~~ "Mandated program" means a research or public service activity not integral to the instructional mission of the institution that is:

(a) Funded with greater than \$450,000 of state appropriations at research universities and \$200,000 at comprehensive universities; and

(b) Directed by statute, resolution, executive branch budget bill, executive order, or other legal mandate.

(12) "Non-traditional age students" is defined in KRS 164.092(1)(k).

(13)~~(10)~~ "Non-resident student" means a student who does not meet the requirements for Kentucky residency for purposes of tuition set forth in 13 KAR 2:045.

(14)~~(11)~~ "Research university" is defined by KRS 164.092(1)(m)~~(j)~~.

(15)~~(12)~~ "Resident student" means a student certified as a Kentucky resident for purposes of tuition pursuant to 13 KAR 2:045 and any non-resident student attending an institution under a state tuition reciprocity agreement entered into by the council.

(16)~~(13)~~ "Small school adjustment" means a one (1)-time calculation made using the formula base amounts in 2017-2018 and equals:

(a) For a research university, ten (10) percent of the respective formula base amount for each institution;~~and~~

(b) For a comprehensive university, ten (10) percent of the total formula base amount for all comprehensive universities divided by six (6); ~~and~~[-]

(c) For institutions that have a hold-harmless amount in fiscal year 2023-2024, an additional amount equaling the institution's 2023-2024 hold-harmless amount.

(17)~~(14)~~ "STEM+H degrees" means degrees in the fields of science, technology, engineering, math, and health sciences as determined by the council.

(18)~~(15)~~ "Stop-loss provision" is defined by KRS 164.092(1)(n)~~(k)~~.

(19)~~(16)~~ "Underrepresented [~~minority~~]-students" means first-generation college students~~[students who categorize themselves as Hispanic or Latino, American Indian or Alaska Native, Black or African American, Native Hawaiian or Other Pacific Islander, or two (2) or more races].~~

(20)~~(17)~~ "University allocable resources" is defined by KRS 164.092(1)(o)~~(l)~~.

Section 2. Allocable Resources. The council shall determine total university allocable resources for any given year by calculating each institution's formula base amount and subtracting the small school adjustment and any amount protected by a hold-harmless provision. These amounts shall then be combined along with any applicable increase or decrease in general fund appropriation.

Section 3. Metric Weighting. For purposes of Sections 5, 6, and 7 of this administrative regulation, bachelor's degrees, student progression, earned credit hours, facilities' square feet, instruction and student services costs, and full-time equivalent student enrollment shall be calculated with differential weights for research and comprehensive universities in accordance with the Public University Funding Model Metric Weighting Chart.

Section 4. Three (3)-year Rolling Average. Each metric shall be calculated by averaging the most recent three (3) years of finalized data.

Section 5. Student Success Outcomes. Forty (40)~~[Thirty-five (35)]~~ percent of total university allocable resources shall be certified for distribution to each institution based on its share of the total volume of student success outcomes related to bachelor's degree production and student progression as established in KRS 164.092(6)(a)1. through 5., and in the following denominations:

(1) Nine (9) percent based on the ~~[normalized]~~-bachelor's degrees awarded in an academic year as described in the Public University Sector Funding Model Formula Chart;

(2) Five (5) percent based on STEM+H bachelor's degrees awarded in an academic year;

~~[(3)] [Three (3) percent based on bachelor's degrees awarded to underrepresented minority students in an academic year;]~~

(3)~~(4)~~ Nine and a half (9.5)~~[Three (3)]~~ percent based on bachelor's degrees awarded to low-income students in an academic year;

(4)~~(5)~~ Three (3) percent based on the number of full-time and part-time undergraduate students reaching or surpassing thirty (30) cumulative earned credit hours in any term completed from August 1st to July 31st;

(5)~~(6)~~ Five (5) percent based on the number of full-time and part-time undergraduate students reaching or surpassing sixty (60) cumulative earned credit hours in any term completed from August 1st to July 31st;~~and~~

(6)~~(7)~~ Seven (7) percent based on the number of full-time and part-time undergraduate students reaching or surpassing ninety (90) cumulative earned credit hours in any term completed from August 1st to July 31st;~~and~~[-]

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(7) One and a half (1.5) percent based on the number of bachelor's degrees awarded to first generation students in an academic year.

Section 6. Student Credit Hour Production. ~~Thirty (30)~~Thirty-five (35) percent of total university allocable resources shall be certified for distribution to each institution based on its share of total volume of weighted student credit hours earned during an academic year as established in KRS 164.092(6)(b).

(1) Credit hour weighting by course level and discipline shall be in accordance with the Public University Funding Model Earned Credit Hour Production Weighting Index. Credit hours earned by non-resident students shall be given one-half (0.5) the weight of those earned by resident students in comparable programs of study. Beginning fiscal year 2024-2025, credit hours earned by non-resident students shall be given three-quarters (.75) the weight of those earned by resident students in comparable programs of study and resident undergraduate non-traditional age students shall be given twice the weight of those earned by traditional age students in comparable programs of study. [– and]

(2) The calculation in subsection (1) of this section shall not include credit hours earned by high school students taking courses for college credit.

Section 7. Operational Support. Thirty (30) percent of total university allocable resources shall be certified for distribution to each institution in support of vital campus operations as established in KRS 164.092(6)(c)1. through 3.

(1) Ten (10) percent shall be allocated based on facilities' square feet as reported annually to the council and as established in KRS 164.092(6)(c)1.

(2) Ten (10) percent shall be allocated based on direct instruction and student services costs as reported on each institution's annual audited financial statement and as established in KRS 164.092(6)(c)2.

(3) Ten (10) percent shall be allocated based on total full-time equivalent student enrollment as established in KRS 164.092(6)(c)3 and using the formula established in the Public University Sector Funding Model Formula Chart.

Section 8. Hold-harmless and Stop-loss Provisions.

(1) Any final amounts certified for distribution to any institution shall account for any hold-harmless or stop-loss provisions established in KRS 164.092(9).

(2) The council shall determine hold-harmless amounts for institutions ~~[in fiscal year 2018-2019]~~ through application of the formula established in this administrative regulation.

(a) If the formula total amount generated for an institution is less than its initial allocable resources, the amount of that difference shall be designated as the institution's hold-harmless allocation.

(b) If applied, an institution maintaining a hold-harmless allocation shall not receive additional distributions of funding through the model until the hold-harmless allocation balance is brought to zero through improved institutional performance, additional appropriations, or some combination thereof.

~~[(e)] [The council shall apply these hold-harmless allocations, with any applicable credit adjustments as determined annually by the formula, to all applicable institutions in 2018-2019, 2019-2020, 2020-2021, and in any subsequent years as directed by the General Assembly.]~~

Section 9. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Public University Funding Model Formula Chart," April 2024~~June 2017~~;

(b) "Public University Funding Model Metric Weighting Chart," April 2024~~June 2017~~; and

(c) "Public University Funding Model Earned Credit Hour Production Weighting Index," June 2017.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Council on Postsecondary Education, 100 Airport Road, Third Floor~~1024 Capital Center Drive, Suite 320~~, Frankfort, Kentucky 40601,

Monday through Friday, 8 a.m. to 4:30 p.m. and <https://cpe.ky.gov/>.

MADISON SILVERT, Chair

APPROVED BY AGENCY: April 30, 2024

FILED WITH LRC: April 30, 2024 at 3:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024 at 10:00 a.m. EST at the Council on Postsecondary Education, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601 in Conference Room A. 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 to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until July 31, 2024. 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: Sterling Crayton, Attorney, Council on Postsecondary Education, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, phone 502.892.3005, fax 502.573.1535, email sterling.crayton@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sterling Crayton

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation implements a comprehensive funding model by which general fund appropriations shall be distributed in the public university sector.

(b) The necessity of this administrative regulation: KRS 164.092(12) requires the Council on Postsecondary Education to promulgate an administrative regulation to implement a comprehensive funding model for the public postsecondary education system.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms explicitly to the authorizing statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation allows the Council to determine total university allocable resources for any given year by calculating each institution's formula base amount, subtracting the small school adjustment and any amount protected by a hold harmless provision, and combining these amounts along with any applicable increase or decrease in general fund appropriation in accordance with KRS 164.092.

(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 increases the low-income degree production allocation, removes the underrepresented minority degree production allocation, adds a degree production allocation for first generation students, adds an adult learner earned credit hour premium, eliminates the degree efficiency index weighting, increases the small school adjustments at Kentucky State University and Morehead State University, and increases the nonresident credit hour weighting.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to implement changes as required by SB 191 (2024 Regular Session). In addition, this amendment constitutes incremental but constructive change to the funding model by creating financial incentives and leveraging the formula to advance state goals for postsecondary education.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of KRS 164.092 as amended by SB 191 (2024 Regular Session) by capturing changes required therein and makes other changes in areas delegated to the Council.

(d) How the amendment will assist in the effective administration of the statutes: The amendment conforms to the content of KRS 164.092(12) by further ensuring the improvement of opportunities for the Commonwealth's citizens and building a stronger economy through its public college and university system.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation impacts the 8 public universities in Kentucky.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities will not be required to take any action in order to comply with this amendment, although institutional strategies to achieve the performance incentivized by this regulation by change.

(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 entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): If the public universities increase performance in the areas identified in this regulation relative to other institutions their distribution of performance funding dollars will increase.

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

(a) Initially: See 4(b) above.

(b) On a continuing basis: See 4(b) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The postsecondary education performance fund established by KRS 164.092(13), an appropriation unit of the general fund used to support improvement in the operations of the public postsecondary institutions and achievement of the Commonwealth's education policy goals and workforce development priorities.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not assess fees.

(9) TIERING: Is tiering applied? Yes, one hundred percent (100%) of public institution allocable resources among the public universities based on rational criteria, including each college's share of student success outcomes, course completion, and operational support components, regardless of whether state funding for postsecondary institution operations increases, decreases, or remains stable. Weighting for various items in the regulation vary between research and comprehensive universities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 48.600-48.630, 164.001, 164.092

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Council on Postsecondary Education and the eight public universities across the state.

(a) Estimate the following for the first year:

Expenditures: Approximately \$200,000 per year for CPE to manage and run the model. No cost of implementation for postsecondary institutions.

Revenues: None for CPE. In and of itself, this regulation will not generate any revenue, however depending on campus performance and the overall general fund appropriation to higher education, institutions could see increases in general fund revenue.

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(4) Identify additional regulated entities not listed in questions (2) or (3): N/A

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: Duties related to this regulation are generally assumed by Council staff members as part of their many other responsibilities. There are no additional costs of administration.

(b) Methodology and resources used to determine the fiscal impact: General analysis.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This regulation is not anticipated to have a major economic impact on state or local government or regulated entities. This regulation will provide financial incentives to public universities across the Commonwealth.

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

GENERAL GOVERNMENT CABINET Council on Postsecondary Education (Amendment)

13 KAR 2:130. Comprehensive funding model for the allocation of state general fund appropriations to Kentucky Community and Technical College System institutions.

RELATES TO: KRS 48.600-48.630, 164.001, 164.092

STATUTORY AUTHORITY: KRS 164.092(12)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.092(12) requires the Council on Postsecondary Education to promulgate an administrative regulation to implement a comprehensive funding model for the public postsecondary education system. This administrative regulation establishes the formula by which general fund appropriations shall be distributed in the Kentucky Community and Technical College System sector.

Section 1. Definitions.

(1) "Academic year" means the Summer, Fall, and Spring terms~~[means July 1 through June 30 and all terms completed therein].~~

(2) "Credentials" means the total number of certificates, diplomas, and associate degrees awarded during the academic year~~["Associate degree" means total number of associate degrees awarded during the academic year, including degrees conferred to resident and non-resident students].~~

(3) "Council" is defined by KRS 164.092(1)(c).

(4) "Equity adjustment" means ten (10) percent of total KCTCS institution allocable resources divided by sixteen (16) and allocated to each institution using the Community Needs Index.

(5) "FAFSA form" means the free application for federal student aid form completed by students to determine eligibility for federal student financial aid.

(6) "First-generation college students" means students who report on the FAFSA that neither parent has earned a college degree or credential, or one (1) parent if the other parent's education level is unknown.

~~(7)~~~~(5)~~ "Formula base amount" is defined by KRS 164.092(1)(e) and includes a deduction for mandated programs.

~~(8)~~~~(6)~~ "Full-time equivalent student enrollment" means the total academic year credit hours taken divided by thirty (30)~~[fall semester credit hours earned divided by fifteen (15)]~~.

~~(7)~~ ["High-wage, high-demand credentials" means credentials tied to occupations identified in the Kentucky Office of Employment and Training's Kentucky Occupational Outlooks and annual Occupational Employment statistics wage data that meet the following criteria:]

~~(a)~~ [Have a median annual wage that is greater than or equal to the wage at the 75th percentile for all occupations in the state of Kentucky;]

~~(b)~~ [Show growth greater than or equal to the projected percent change for all Kentucky occupations; or]

~~(c)~~ [Have 100 or more average annual job openings.]

~~(9)~~~~(8)~~ "Hold-harmless provision" is defined by KRS 164.092(1)(f).

~~(10)~~~~(9)~~ "Institution" means a college in the Kentucky Community and Technical College System.

~~(11)~~~~(10)~~ "KCTCS" is defined by KRS 164.092(1)(h).

~~(12)~~~~(11)~~ "KCTCS institution allocable resources" is defined by KRS 164.092(1)(i).

~~(13)~~~~(12)~~ "Low-income student~~[students]~~" means a student who has received a Federal Pell Grant at any time since 2005-2006 at KCTCS~~[the graduating institution]~~.

~~(14)~~~~(13)~~ "Mandated program" means a research or public service activity not integral to the instructional mission of the institution that is:

(a) Funded with greater than \$200,000 of state appropriations; and

(b) Directed by statute, resolution, executive branch budget bill, executive order, or other legal mandate.

~~(15)~~ "Non-traditional college students" is defined by KRS 164.092(1)(k).

~~(16)~~~~(14)~~ ["Non-resident student" means a student who does not meet the requirements for Kentucky residency for purposes of tuition set forth in 13 KAR 2:045.]

~~(15)~~ ["Resident student" means a student certified as a Kentucky resident for purposes of tuition pursuant to 13 KAR 2:045 and any non-resident student attending an institution under a state tuition reciprocity agreement entered into by the council.]

~~(16)~~ ["STEM+H degrees" mean degrees in the fields of science, technology, engineering, math, and health sciences as identified to annually by KCTCS.]

~~(17)~~ "Stop-loss provision" is defined by KRS 164.092(1)~~(n)~~~~(k)~~.

~~(18)~~ ["Targeted industry credentials" means credentials awarded in Classification of Instructional Programs (CIP) codes developed by the U.S. Department of Education's National Center for Education Statistics that crosswalk to occupations with education or training requirements of an associate degree or below in targeted industry sectors as identified in a targeted industry CIPs index provided annually by KCTCS.]

~~(17)~~~~(19)~~ "Underprepared students" means~~[mean]~~ students who tested into developmental English, math, or reading upon entering KCTCS~~[at any period of enrollment]~~ since the 2010-11 academic year.

~~(18)~~~~(20)~~ "Underrepresented ~~[minority]~~ students" means first-generation college students~~[mean students who categorized themselves as Hispanic or Latino, American Indian or Alaska Native, Black or African American, Native Hawaiian or Other Pacific Islander, or two (2) or more races].~~

Section 2. Allocable Resources. The council shall determine total KCTCS institution allocable resources for any given year by calculating each institution's formula base amount and subtracting the equity adjustment and any amount protected by a hold harmless provision. These amounts shall then be combined along with any applicable increase or decrease in general fund appropriation.

Section 3. Data Sets. Unless indicated otherwise, each metric, except facilities square footage, shall be calculated using a three (3) year rolling average~~[the most recent set of finalized data]~~.

Section 4. Student Success Outcomes. Thirty-five (35) percent of total KCTCS institution allocable resources shall be certified for distribution to each institution based on its share of the total volume of student success outcomes as established in KRS 164.092(8)(a)1. through 7., and in the following denominations:

(1) Eight (8)~~[Ten (10)]~~ percent based on the credentials awarded in an academic year weighted to provide a premium for credentials that are aligned with the economic needs of the state~~[using an average of the most recent three (3) years of finalized data and weighted in the following manner:]~~

[1-0]	[for an undergraduate certificate or diploma which a student can complete in less than one (1) academic year;]
[2-0]	[for an undergraduate certificate or diploma which a student can complete in at least one (1), but less than two (2) academic years; and]
[4-0]	[for an associate degree.]

~~(2)~~ ~~[Two (2) percent based on STEM+H credentials awarded in an academic year;]~~

~~(2)~~~~(3)~~ One (1)~~[Two (2)]~~ percent based on degrees~~[credentials]~~ awarded to underrepresented ~~[minority-]~~students in an academic year;

~~(3)~~~~(4)~~ Five (5)~~[Two (2)]~~ percent based on credentials awarded to low-income students in an academic year;

~~(4)~~~~(5)~~ Four (4)~~[Two (2)]~~ percent based on credentials awarded to underprepared students in an academic year;

~~(5)~~ Six (6) percent based on credentials awarded to non-traditional college students in an academic year;

~~(6)~~ Four (4)~~[Two (2)]~~ percent based on the number of students in the cohort who transferred to a baccalaureate degree granting college or university after the last term a student was enrolled at a KCTCS institution in the academic year;

~~(7)~~ ~~[Two (2) percent based on targeted industry credentials awarded in an academic year;]~~

~~(8)~~ ~~[One (1) percent based on high-wage, high-demand credentials awarded in an academic year;]~~

~~(7)~~~~(9)~~ One (1)~~[Two (2)]~~ percent based on the number of full-time and part-time undergraduate students reaching or surpassing fifteen (15) cumulative earned credit hours in an academic year;

~~(8)~~~~(10)~~ Two (2)~~[Four (4)]~~ percent based on the number of full-time and part-time undergraduate students reaching or surpassing thirty (30) cumulative earned credit hours in an academic year; and

~~(9)~~~~(11)~~ Four (4)~~[Six (6)]~~ percent based on the number of full-time and part-time undergraduate students reaching or surpassing forty-five (45) cumulative earned credit hours in an academic year.

Section 5. Student Credit Hour Production. Thirty-five (35) percent of total KCTCS allocable resources shall be certified for distribution to each institution based on its share of total volume of weighted student credit hours earned during an academic year as established in KRS 164.092(8)(b). Credit hour weighting by course discipline shall be in accordance with the KCTCS Funding Model Classification of Instructional Program (CIP) Cost Factors Index.

Section 6. Operational Support. Thirty (30) percent of total KCTCS allocable resources shall be certified for distribution to each institution in support of vital campus operations as established in KRS 164.092(8)(c)1. through 3.

(1) Ten (10) percent shall be allocated based on facilities' square feet as reported annually to the council and as established in KRS 164.092(8)(c)1.

(2) Ten (10) percent shall be allocated based on direct instruction and student services costs as reported to The Integrated Postsecondary Education Data System (IPEDS) and as established in KRS 164.092(8)(c)2.

(3) Ten (10) percent shall be allocated based on total full-time equivalent student enrollment as established in KRS 164.092(8)(c)3.

Section 7. Stop-loss and Hold-Harmless Provisions.

(1) Any final amounts certified for distribution to any institution shall account for any hold-harmless or stop-loss provisions established in KRS 164.092(9).

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(2) The council shall determine hold-harmless amounts for institutions [~~in fiscal year 2018-2019~~] through application of the formula established in this administrative regulation.

(3) If the formula total amount generated for an institution is less than its initial allocable resources, the amount of that difference shall be certified to KCTCS as that institution's hold-harmless allocation.

~~[(4)] [The council shall apply these hold-harmless allocations to all applicable institutions in 2018-2019 and in any subsequent years as directed by the General Assembly.]~~

Section 8. Incorporation by Reference.

(1) ~~The following material is incorporate by reference:~~

~~(a) "KCTCS Funding Model Classification of Instructional Program (CIP) Cost Factors Index", June 2017;~~

~~(b) "Community Needs Index (CNI)", April 2024; and~~

~~(c) "Credentials tied to the Economy", April 2024[,] is hereby incorporated by reference.]~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Council on Postsecondary Education, 100 Airport Road, Third Floor[4024 Capital Center Drive, Suite 320], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. and <https://cpe.ky.gov/>.

MADISON SILVERT, Chair

APPROVED BY AGENCY: April 30, 2024

FILED WITH LRC: April 30, 2024 at 3:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024 at 10:00 a.m. EST at the Council on Postsecondary Education, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601 in Conference Room A. 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 to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until July 31, 2024. 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: Sterling Crayton, Attorney, Council on Postsecondary Education, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, phone 502.892.3005, fax 502.573.1535, email sterling.crayton@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sterling Crayton

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation implements a comprehensive funding model by which general fund appropriations shall be distributed in the Kentucky Community and Technical College System.

(b) The necessity of this administrative regulation: KRS 164.092(12) requires the Council on Postsecondary Education to promulgate an administrative regulation to implement a comprehensive funding model for the public postsecondary education system.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms explicitly to the authorizing statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation allows the Council to determine total KCTCS institution allocable resources for any given year by calculating each institution's formula base amount, subtracting the equity adjustment and any amount protected by a hold harmless provision, and combining these amounts along with any applicable increase or decrease in general fund appropriation.

(2) If this is an amendment to an existing administrative

regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment adds an adult learner metric, reallocates the equity adjustment using the community needs index, increases weightings for targeted student populations, eliminates the underrepresented minority student credential metric and replaces it with an metric for degrees awarded to underrepresented student that is defined as first generation students, reduces weighting of progression metrics, merges overlapping credential metrics, and now uses three-year rolling average data.

(b) The necessity of the amendment to this administrative regulation: This amendment conforms to changes made in SB 191 (2024 Regular Session) and constitutes incremental but constructive change to the funding model by creating financial incentives and leveraging the formula to advance state goals for postsecondary education.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of KRS 164.092 by further ensuring the improvement of opportunities for the Commonwealth's citizens and building a stronger economy through its public college and university system.

(d) How the amendment will assist in the effective administration of the statutes: The amendment assists in the effective administration of KRS 164.092 by outlining how resources should be allocated to KCTCS institutions in accordance with the provisions of the statute.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The 16 community and technical colleges in the Kentucky Community and Technical College System will be affected by this administrative regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities will not be required to take any new action in order to comply with this amendment, but may modify actions in order to best perform in the model.

(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 entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The entities will not be required to take any action in order to comply with this amendment, but may modify actions in order to best perform in the model.

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

(a) Initially: See 4(b) above.

(b) On a continuing basis: See 4(b) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: CPE will use general fund dollars 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: This regulation does not assess fees.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not assess fees.

(9) TIERING: Is tiering applied? No. All regulated entities are of the same class, i.e. KCTCS institutions.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. 164.092

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Council on Postsecondary Education and the Kentucky Community and Technical College System.

(a) Estimate the following for the first year:
Expenditures: Approximately \$200,000 per year for CPE to manage and run the model. No cost of implementation for postsecondary institutions.

Revenues: None for CPE. In and of itself, this regulation will not generate any revenue, however depending on campus performance and the overall general fund appropriation to higher education, institutions could see increases in general fund revenue.

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(4) Identify additional regulated entities not listed in questions (2) or (3): N/A

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: Duties related to this regulation are generally assumed by Council staff members as part of their many other responsibilities. There are no additional costs of administration.

(b) Methodology and resources used to determine the fiscal impact: General analysis.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This regulation is not anticipated to have a major economic impact on state or local government or regulated entities. This regulation will provide financial incentives to colleges across the Commonwealth overseen by the Kentucky Community and Technical College System.

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

**EDUCATION AND LABOR CABINET
Education Professional Standards Board
(Amendment)**

16 KAR 2:110. Endorsement for teachers for gifted education.

RELATES TO: KRS 161.020, 161.028, 161.030, 161.052

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020, 161.028 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation approved by the Education Professional Standards Board (EPSB). KRS 161.052 requires that all persons employed as a teacher for gifted education hold an appropriate certificate endorsement for gifted education. This administrative regulation establishes a preparation-certification program for teachers for gifted education.

Section 1. Definition[Definitions].

[(1)] ["Qualified teacher" means a teacher who holds the appropriate certification as a teacher for gifted education unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.]

[(2)] "Teacher for gifted education" means a teacher who works:

[(1)][(a)] Directly with identified gifted pupils, in addition to the regularly assigned classroom teacher; or

[(2)][(b)] For at least one-half (1/2) of the regular school day in a classroom made up only of properly identified gifted students.

Section 2.

(1) A certificate endorsement as teacher for gifted education shall be issued in accordance with KRS Chapter 161 and KAR Title 16 to an applicant who:

(a) Holds a certificate valid for classroom teaching at the elementary school level, the middle grade level, or the high school level; and

(b) [~~Successfully completed the Kentucky Teacher Internship Program established in 16 KAR 7:010. A teacher who has successfully completed the Kentucky Teacher Internship Program prior to issuance of the initial probationary certificate or who is not required to complete the internship program under the requirements for out-of-state teachers established in KRS 161.030(5) shall not be required to complete the internship program again while serving on the probationary certificate; and]~~

[(e)] Has completed the appropriate program of preparation for the certificate endorsement established in this administrative regulation at a teacher education institution approved under the standards and procedures established in 16 KAR 5:010.

(2) The endorsement as teacher for gifted education shall be valid for grades primary[(K)-12].

(a) Assignment to a full-time self-contained gifted education class shall be restricted to the level of the base certificate.

(b) The endorsement shall have the same duration as the base certificate.

(3) Each person employed as a teacher for gifted education shall hold an appropriate certificate endorsement for gifted education, except a teacher:

(a) Identified in Section 3 of this administrative regulation; or

(b) Certified on or before July 1, 1984, in accordance with KRS 161.052.

Section 3.

(1) A probationary endorsement for teachers for gifted education may be issued to a candidate who:

(a) Holds a Kentucky teaching certificate; and

(b) Is enrolled in an EPSB approved preparation program for the endorsement for teachers for gifted education.

(2) Application for a probationary endorsement for teachers for gifted education shall be submitted to the EPSB and shall:

(a) Contain a recommendation from the educator preparation provider for the endorsement; and

(b) Be in compliance with 16 KAR 2:010, Section 3(1). [If a qualified teacher is not available for the position of teacher for gifted education as attested by the local school superintendent, the superintendent, on behalf of the local board of education, may request a probationary endorsement for teaching gifted education for a teacher who:]

[(a)] [Has a bachelor's degree;]

[(b)] [Has a valid Kentucky teaching certificate;]

[(c)] [Has been admitted to the preparation program for the endorsement for teachers for gifted education; and]

[(d)] [Is currently enrolled in graduate studies related to the education profession.]

[(2)] [The request for the probationary endorsement shall be submitted on Form CA-GP to the Education Professional Standards Board for each teacher for gifted education requiring the probationary endorsement.]

(3)

(a) The probationary endorsement for teachers for gifted education shall be valid for a period of two (2) years from the initial request.

(b) A teacher receiving this probationary endorsement shall complete the required curriculum for recommendation for the endorsement for teacher for gifted education issued under Section 2 of this administrative regulation within the two (2) year validity of the probationary endorsement.

(c) The probationary endorsement shall not be renewed.

[Section 4.] [Incorporation by Reference.]

[(1)] [Form CA-GP, 08/15, is incorporated by reference.]

[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]

JUSTIN MITCHELL, Board Chair

APPROVED BY AGENCY: April 8, 2024

FILED WITH LRC: May 15, 2024 at 11:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on July 29, 2024, at 10:00 a.m. in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Todd Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the endorsement for teachers of gifted education and the probationary endorsement for teachers of gifted education.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set the certification requirements for the endorsement for teachers of gifted education and the probationary endorsement for teachers of gifted education.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.020, 161.028 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation approved by the Education Professional Standards Board. KRS 161.052 requires that all persons employed as a teacher for gifted education hold an appropriate certificate endorsement for gifted education.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the certification requirements for the endorsement for teachers of gifted education and the probationary endorsement for teachers of gifted education.

(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 proposed amendment streamlines the language in the regulation to make clear that any Kentucky certified teacher is eligible for a probationary endorsement upon enrollment in an approved educator preparation program for teachers of gifted education, removes the requirement that the candidate complete coursework prior to issuance of the probationary endorsement and removes the reference to an outdated application form. The amendment also removes the reference to the Kentucky Teacher Internship Program.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to allow candidates to be issued probationary certificates upon enrollment in an approved educator preparation program for teachers of gifted education. It is also necessary to remove the requirement that candidates have an

offer of employment and remove references to the Kentucky Teacher Internship Program.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment sets the requirements for issuance of the endorsement and probationary endorsement for teaching gifted education. The amendment removes the condition that the candidates for the probationary endorsement have a job offer prior to issuance and removes references to the Kentucky Teacher Internship Program to comply with the amendments in Senate Bill 265 from the 2024 Legislative Session.

(d) How the amendment will assist in the effective administration of the statutes: This amendment streamlines the language in the regulation to make clear that any Kentucky certified teacher is eligible for a probationary endorsement upon enrollment in an approved educator preparation program for teachers of gifted education.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 171 Kentucky school districts, 31 institutions of higher education with an approved educator preparation program, and those pursuing the endorsement or probationary endorsement for teaching gifted 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:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment will not require any additional actions from the regulated entities. It removes the reference to an outdated application form and removes the requirements that an applicant possess a job offer or complete coursework prior to issuance of the probationary certificate. Applicants for the probationary certificate will have to enroll in an approved educator preparation program. Institutions of higher education will have to verify enrollment.

(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 fee established by the Education Professional Standards Board in this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance will result in issuance of a probationary endorsement to eligible candidates sooner.

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

(a) Initially: There are no costs expected to implement this amendment.

(b) On a continuing basis: There are no expected continuing costs with this amendment.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased by this regulation.

(9) TIERING: Is tiering applied? Tiering is not applicable to the requirements of this regulation because the standards apply to all teachers seeking certification for teaching gifted education.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.020, KRS 161.028, KRS 161.030, KRS 161.052

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Education Professional Standards Board.

(a) Estimate the following for the first year:

Expenditures: No additional expenditures are expected to be needed since the systems and staff are already in place for processing applications and issuing endorsements and probationary

endorsements for teaching gifted education.

Revenues: The amendment to this administrative regulation is not expected to generate any revenue during the first year as this regulation does not create fees and there are no fees associated with probationary endorsements.

Cost Savings: No cost savings are expected with this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues and cost savings are not expected to differ in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Public-school districts.

(a) Estimate the following for the first year:

Expenditures: There are no expected expenditures for districts as there are no fees established in this regulation.

Revenues: This regulation sets the standards for the endorsement and probationary endorsement for teachers of gifted. It will not generate revenue for districts.

Cost Savings: There may be some cost savings in the form of staff time. Since applicants no longer have to have an offer of employment prior to issuance of the probationary endorsement, districts will not have to initiate the application for the probationary certificate.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures, revenues and cost savings are not expected to differ in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Applicants for certification for teaching gifted education.

(a) Estimate the following for the first year:

Expenditures: There are no expected expenditures for applicants to comply with this amendment.

Revenues: This regulation sets the standards for the endorsement and probationary endorsement for teachers of gifted education. It will not generate revenue for applicants.

Cost Savings: There is no expected cost savings since there are no fees created or reduced by this regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures, revenues and cost savings are not expected to differ in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no fiscal impact as a result of the proposed amendments to this regulation. No fees are established or increased in this regulation, and there are no fees for probationary endorsements. While processing applications and issuing endorsements and probationary endorsements does require staff time and resources from the Education Professional Standards Board, the amendments can be carried out by the existing staff and systems.

(b) Methodology and resources used to determine the fiscal impact: The methodology and resources used to determine that there is no fiscal impact, is looking to current systems and processes to see if additional expenditures or resources are needed to carry out the amendments. Since no additional expenditures or resources are needed to carry out the amendments, and there are no fees established or increased by this regulation, it was determined there is no fiscal impact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) There is not an expected major economic impact from this regulation as it does not create additional costs for the Education Professional Standards Board or the regulated entities.

(b) The methodology and resources used to reach this conclusion: The methodology and resources used to determine this is looking to current systems and processes to see if additional expenditures or resources are needed to carry out the amendments. Since no additional expenditures or resources are needed to carry out the amendments, and there are no fees are established or increased by this regulation, there will not be a negative or adverse major economic impact.

EDUCATION AND LABOR CABINET
Education Professional Standards Board
(Amendment)

16 KAR 2:140. Probationary certificate for teachers of exceptional children and interdisciplinary early childhood education[~~birth to primary~~].

RELATES TO: KRS 157.3175, 161.020, 161.030, 34 C.F.R. 300.156 (c)(2)[34 C.F.R. 200.56, 20 U.S.C. 7801(23)]

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020 and 161.030 require that a teacher and other professional school personnel hold a certificate of legal qualification for the respective position to be issued upon completion of a program of preparation prescribed by the Education Professional Standards Board (EPSB). KRS 161.028(1)(a) requires the EPSB[Education Professional Standards Board] to establish the standards for obtaining and maintaining a teaching certificate. KRS 161.028(1)(b) requires that a teacher education institution be approved for offering the preparation program corresponding to a particular certificate on the basis of standards and procedures established by the EPSB[Education Professional Standards Board]. KRS 161.028(1)(f) requires the EPSB[Education Professional Standards Board] to issue and renew any certificate. This administrative regulation establishes a plan for recruiting certified teachers[qualified individuals] into positions for teachers of exceptional children and interdisciplinary early childhood education[ages birth to primary age].

Section 1. Requirements for Probationary Certificate for Teachers of Exceptional Children or Interdisciplinary Early Childhood Education.[~~Definition. "Qualified teacher" means a teacher who holds an interdisciplinary early childhood education certificate or who has received an approval as established in 16 KAR 2:040, Section 5, unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.~~]

[~~Section 2. [If a qualified teacher is not available for the position as teacher of children birth to primary age, as attested by the local school superintendent, the superintendent, on behalf of the local board of education, may request a]~~

(1) A one (1) year probationary certificate for teachers of exceptional certificate or interdisciplinary early childhood education may[certificate] be issued to a candidate who:

(a) Holds a Kentucky teaching certificate; and

(b) Is enrolled in an EPSB approved educator preparation program for the certification area for which application is being made.[as provided in this administrative regulation.]

[~~(1) [A prerequisite for a one (1) year probationary interdisciplinary early childhood education certificate for teaching children, birth to primary age, shall be:]~~

[~~(a) [A certificate or statement of eligibility in kindergarten or elementary special education; or]~~

[~~(b) [A certificate in another area, if the applicant has had one (1) year of teaching children birth through age five (5) years.]~~

[~~(2) [The applicant shall have:]~~

[~~(a) [Enrolled in an approved preparation program for certification in interdisciplinary early childhood education established in 16 KAR 2:040; and]~~

[~~(b) [Completed a minimum of nine (9) semester hours of credit in the development of children below primary age or in special education.]~~

[~~(3) [The requirements established in subsection (2) of this section shall be verified by submission of a curriculum contract completed by the teacher education institution with an interdisciplinary early childhood education preparation program approved pursuant to 16 KAR 2:040.]~~

[~~(4) [The applicant shall complete twelve (12) clock hours of training established by the Kentucky Department of Education prior to employment.]~~

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~~[(5)] [The applicant shall complete an additional six (6) clock hours of training established by the Kentucky Department of Education within the first three (3) months of employment.]~~

~~[(6)] [To apply for the probationary interdisciplinary early childhood education certificate, the applicant shall submit a completed Form CA-BP to the Education Professional Standards Board.]~~

(2) Application for a probationary certificate for a teacher of exceptional children or interdisciplinary early childhood education shall:

(a) Contain a recommendation from the educator preparation provider for the grade level and specialization of the probationary certificate; and

(b) Be in compliance with 16 KAR 2:010, Section 3(1).

(3) The probationary certificate for a teacher of exceptional children or interdisciplinary early childhood education shall be issued in accordance with the grade level and specialization as recommended by the educator preparation provider and valid for employment consistent with the area of certification being sought through the preparation program.

~~Section 2.[Section 3:] Requirements for Renewal of a Probationary Certificate for Teachers of Exceptional Children or Interdisciplinary Early Childhood Education[Certificate].~~

(1) Upon application to the EPSB, a candidate shall be eligible for renewal of the probationary certificate for a teacher of exceptional children **if he or she is in** compliance with 16 KAR 2:010, Section 3(1), and has a recommendation from the educator preparation provider based on continued enrollment and progress towards the completion of the preparation program.

(2) The probationary certificate for teachers of exceptional children or interdisciplinary early childhood education may be renewed a maximum of two (2) times.[The first renewal of the probationary interdisciplinary early childhood education certificate shall be for one (1) year based upon:]

~~[(a)] [Evidence of employment in a Kentucky school district or nonpublic school as a teacher of children ages birth to primary;]~~

~~[(b)] [Completion of at least six (6) semester hours or its equivalent from the interdisciplinary early childhood education preparation program as approved pursuant to 16 KAR 2:040 and indicated on the teacher's curriculum contract; and]~~

~~[(c)] [Successful completion of the Kentucky Teacher Internship Program established in 16 KAR 7:010. A teacher who has successfully completed the Kentucky Teacher Internship Program prior to issuance of the initial probationary certificate or who is not required to complete the internship program under the requirements for out-of-state teachers established in KRS 161.030(5) shall not be required to complete the internship program again while serving on the probationary certificate.]~~

~~[(2)]~~

~~[(a)] [Subsequent one (1) year renewals of the probationary interdisciplinary early childhood education certificate shall require at least six (6) semester hours or its equivalent of additional credit from the interdisciplinary early childhood education preparation program as approved pursuant to 16 KAR 2:40 and as indicated on the teacher's curriculum contract.]~~

~~[(b)] [The total validity period of the probationary certificate for interdisciplinary early education shall not exceed three (3) years in compliance with the No Child Left Behind Act of 2001, 20 U.S.C. 7801(23) and 34 C.F.R. 200.56.]~~

(3) Upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and successful completion of all program requirements for the approved exceptional children or interdisciplinary early childhood education preparation program [established in 16 KAR 2:040,] including successful completion of all required assessments established in 16 KAR 6:010, a professional certificate for teaching exceptional children established in 16 KAR 2:010 or interdisciplinary early childhood education, birth to primary, established in 16 KAR 4:020 and valid for five (5) years shall be issued.

(4) Program requirements for completion of the exceptional children interdisciplinary early childhood education preparation program while serving on the probationary certificate established in

this administrative regulation shall not include student teaching.

~~[Section 4.] [Incorporation by Reference.]~~

~~[(1)] [Form CA-BP, 08/15, Education Professional Standards Board, is incorporated by reference.]~~

~~[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

JUSTIN MITCHELL, Board Chair

APPROVED BY AGENCY: May 14, 2024

FILED WITH LRC: May 15, 2024 at 11:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on July 29, 2024, at 10:00 a.m. in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Todd Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the qualifications and procedures for probationary certificates for teachers of exceptional children and interdisciplinary early childhood education.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set the certification requirements for probationary certificates for teachers of exceptional children and interdisciplinary early childhood education.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.020, 161.028 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the certification requirements for the probationary certificate for teachers of exceptional children and interdisciplinary early childhood education.

(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 proposed amendment streamlines the language in the regulation to make clear that any Kentucky certified teacher is eligible for a probationary certificate upon enrollment in an approved educator preparation program for teachers of exceptional children or interdisciplinary early childhood education, removes the requirement that the candidate complete coursework prior to issuance of the certificate and removes the reference to an outdated application form. The amendment will remove the need for 16 KAR 2:160, allowing the EPSB to withdraw that regulation and cover all probationary certificates for teaching special education in one regulation.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to allow candidates to be issued probationary certificates upon enrollment in an approved educator preparation program for teachers of exceptional children or

interdisciplinary early childhood education.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment sets the requirements for issuance of the probationary certificate, removes the condition that the candidate have a job offer, and removes references to the Kentucky Teacher Internship Program which was removed from statute by Senate Bill 265 during the 2024 Legislative Session.

(d) How the amendment will assist in the effective administration of the statutes: This amendment streamlines the language in the regulation to make clear that any Kentucky certified teacher is eligible for a probationary certificate upon enrollment in an approved educator preparation program for teachers of exceptional children or interdisciplinary early childhood education.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 171 Kentucky school districts, 31 institutions of higher education with an approved educator preparation program, and those pursuing probationary certification.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment will not require any additional actions from the regulated entities. It removes the reference to an outdated application form and removes the requirements that an applicant possess a job offer or complete coursework prior to issuance of the probationary certificate. Applicants for the probationary certificate will have to enroll in an approved educator preparation program. Institutions of higher education will have to verify enrollment.

(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 fee established by the Education Professional Standards Board in this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance will result in issuance of a probationary certificate to eligible candidates sooner. This will assist districts in filling vacancies with certified teachers.

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

(a) Initially: There are no costs expected to implement this amendment as staff and structures are already in place to issue probationary certificates.

(b) On a continuing basis: There are no expected continuing costs with this amendment.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased by this regulation.

(9) TIERING: Is tiering applied? Tiering is not applicable to the requirements of this regulation because the standards apply to all teachers seeking probationary certification for teaching exceptional children or interdisciplinary early childhood education.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.020, KRS 161.028, KRS 161.030, 34 C.F.R. § 300.156.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Education Professional Standards Board.

(a) Estimate the following for the first year:

Expenditures: No additional expenditures are expected to be needed since the systems and staff are already in place for processing

applications and issuing probationary certificates.

Revenues: The amendment to this administrative regulation is not expected to generate any revenue during the first year as this regulation does not create fees and there are no fees associated with probationary certificates.

Cost Savings: No cost savings are expected with this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues and cost savings are not expected to differ in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Public-school districts.

(a) Estimate the following for the first year:

Expenditures: There are no expected expenditures for districts as there are no costs associated with the probationary certificates.

Revenues: This regulation sets the standards for the probationary certificate for teachers of exceptional children or interdisciplinary early childhood education. It will not generate revenue for districts.

Cost Savings: There may be some cost savings in the form of staff time, since applicants no longer have to have an offer of employment prior to issuance of the probationary certificate, districts will not have to initiate the application for the probationary certificate.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures, revenues and cost savings are not expected to differ in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Applicants for probationary certificates for teaching exceptional children or interdisciplinary early childhood education.

(a) Estimate the following for the first year:

Expenditures: There are no expected expenditures for applicants as there are no costs associated with the probationary certificates.

Revenues: This regulation sets the standards for the probationary certificate for teachers of exceptional children or interdisciplinary early childhood education. It will not generate revenue for districts.

Cost Savings: There is no expected cost savings since there has never been a fee to applicants for probationary certificates.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures, revenues and cost savings are not expected to differ in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no fiscal impact as a result of the proposed amendments to this regulation. There is no financial cost to districts or applicants for probationary teaching certificates. While processing applications and issuing probationary teaching certificates does require staff time and resources from the Education Professional Standards Board, the amendments can be carried out by the existing staff and systems.

(b) Methodology and resources used to determine the fiscal impact: The methodology and resources used to determine that there is no fiscal impact, is looking to current systems and processes to see if additional expenditures or resources are needed to carry out the amendments. Since no additional expenditures or resources are needed to carry out the amendments, and there are no fees created for districts or applicants, it was determined there is no fiscal impact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) There is not an expected major economic impact from this regulation as it does not create additional costs for the Education Professional Standards Board or the regulated entities.

(b) The methodology and resources used to reach this conclusion: The methodology and resources used to determine this is looking to current systems and processes to see if additional expenditures or resources are needed to carry out the amendments. Since no additional expenditures or resources are needed to carry out the amendments, and there are none.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 34 C.F.R. § 300.156 (c)(2) establishes standards for a teacher participating in an alternate route to special education certification program to meet personnel qualifications under the Individuals with

Disabilities Education Act.

(2) State compliance standards. The standards for the probationary certificate for teachers of exceptional children and interdisciplinary early childhood education contained in this administrative regulation comply with the requirement in 34 C.F.R. § 300.156 (c)(2) because candidates using this pathway to obtain special education certification will assume functions as a teacher only for a specified period not to exceed three years, and demonstrate satisfactory progress toward full certification. As probationary certificates are only available for candidates who hold a Kentucky teaching certificate, they are receiving professional development in accordance with KRS 156.095 and supervision and guidance in accordance with KRS 156.557.

(3) Minimum or uniform standards contained in the federal mandate. 34 C.F.R. § 300.156 (c)(2) requires teachers participating in an alternate route to special education certification program to receive high-quality professional development, participate in a program of intensive supervision that consists of structured guidance and regular ongoing support, assume functions as a teacher only for a specified period not to exceed three years, and demonstrate satisfactory progress toward full certification as prescribed by the State.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This regulation will not impose stricter requirements, or additional or different responsibilities or requirements. All candidates for probationary certification for teachers of exceptional children or interdisciplinary early childhood education will receive high-quality professional development, participate in a program of intensive supervision that consists of structured guidance and regular ongoing support, and demonstrate satisfactory progress toward full certification. The regulation will limit probationary certificates for teachers of exceptional children to three years as required by the federal regulation.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

EDUCATION AND LABOR CABINET
Education Professional Standards Board
(Amendment)

16 KAR 2:170. Probationary certificate for middle school teachers.

RELATES TO: KRS 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.020, 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020 and 161.030 require that a teacher and other professional school personnel hold a certificate of legal qualifications for the respective position to be issued upon completion of a program of preparation prescribed by the Education Professional Standards Board (EPSB). KRS 161.028 requires the Education Professional Standards Board to establish the standards for obtaining and maintaining a teaching certificate. This administrative regulation establishes the probationary certificate for middle school teachers and the requirements for issuance and renewal of this certificate.

Section 1. [Definition. "Qualified teacher" means a teacher who holds the appropriate certification as a middle school teacher unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.]

[Section 2.] Requirements for Issuance of the Probationary Certificate for Middle School Teachers, Grades Five (5) Through Nine (9).

(1) A one (1) year probationary certificate for middle school teachers may be issued to a candidate who:

(a) Holds a Kentucky teaching certificate; and

(b) Is enrolled in an EPSB approved middle school preparation program for the content area or areas for which certification is sought.

(2) Application for a probationary certificate for middle school teachers shall be submitted to the EPSB and shall:

(a) Contain a recommendation from the educator preparation provider for the content area or areas of the probationary certificate for middle school teachers; and

(b) Be in compliance with 16 KAR 2:010, Section 3(1). [If a qualified teacher is not available for the position of middle school teacher at the grade level and content area necessary as attested by the local superintendent, the superintendent may request a one (1) year probationary certificate for a teacher who:]

[(a)] [Holds at least a valid Kentucky teaching statement of eligibility or Kentucky teaching certificate issued by the Education Professional Standards Board;]

[(b)]

[1.] [Has a cumulative grade point average of at least 2.5 on a 4.0 scale; or]

[2.] [Has a grade point average of at least 3.0 on a 4.0 scale on the last sixty (60) hours of credit completed, including undergraduate and graduate coursework;]

[(c)] [Has an offer of employment from a Kentucky school district or accredited nonpublic school in grades five (5) through nine (9) in a content area or areas;]

[(d)] [Has enrolled in an approved middle school preparation program for the content area or areas for which certification is sought; and]

[(e)] [Has successfully completed at least twelve (12) semester credit hours of content coursework in each content area for which certification is sought.]

[(2)] [Application shall be made on Form CA-MG.]

[(3)] [Compliance with the requirements established in subsection (1)(d) and (e) of this section shall be verified by submission of a curriculum contract completed by the teacher education institution with a middle school preparation program, approved pursuant to 16 KAR Chapter 5, in the content area or areas for which certification is sought.]

(3)

[(a)] [(4)] [(a)] Upon completion of all requirements established in this section, the applicant shall be issued a probationary certificate for middle school teachers in the content area or areas as recommended by the educator preparation provider valid for one (1) year.

(b) The probationary certificate shall be valid for teaching grades five (5) through nine (9) in the content area or areas indicated on the face of the certificate.

Section 2. [Section 3.] Requirements for Renewal of a Probationary Certificate for Middle School Teachers, Grades Five (5) Through Nine (9).

(1) A candidate shall be eligible for renewal of the probationary certificate for middle school teachers upon application to the EPSB, compliance with 16 KAR 2:010, Section 3(1), and recommendation from the educator preparation provider based on continued enrollment and progress towards the completion of the preparation program. [The first renewal of the probationary certificate for middle school teachers shall be for one (1) year based upon:]

[(a)] [Evidence of employment in a Kentucky school district or nonpublic school in grades five (5) through nine (9) in the content area or areas indicated on the initial probationary certificate;]

[(b)] [Completion of at least six (6) semester hours or its equivalent from the middle school preparation program, approved pursuant to 16 KAR Chapter 5, as indicated on the teacher's curriculum contract; and]

[(c)] [Successful completion of the Kentucky Teacher Internship Program established in 16 KAR 7:010. A teacher who has successfully completed the Kentucky Teacher Internship Program prior to issuance of the initial probationary certificate or who is not required to complete the internship program under the requirements for out-of-state teachers established in KRS 161.030(5) shall not be required to complete the internship program again while serving on the probationary certificate.]

[(2)]

[(a)] [Subsequent one (1) year renewals of the probationary certificate for middle school teachers shall require at least six (6) semester hours or its equivalent of additional credit from the middle school preparation, approved pursuant to 16 KAR Chapter 5,

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program as indicated on the teacher's curriculum contract.]

(2)(b) The probationary certificate for middle school teachers may be renewed for a maximum of two (2) times after the initial issuance.

(3) Upon successful completion of all program requirements for the middle school preparation program, approved pursuant to 16 KAR Chapter 5, including successful completion of all required assessments established in 16 KAR 6:010, a professional certificate for teaching middle school established in 16 KAR 2:010 and valid for five (5) years shall be issued.

(4) Program requirements for completion of the middle school preparation program while serving on the probationary certificate for middle school teachers shall not include student teaching.

[Section 4.] [Incorporation by Reference.]

[(1)] [Form CA-MG, 08/15, Education Professional Standards Board, is incorporated by reference.]

[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.]

JUSTIN MITCHELL, Board Chair

APPROVED BY AGENCY: April 8, 2024

FILED WITH LRC: May 15, 2024 at 11:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on July 29, 2024, at 10:00 a.m. in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Todd Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the probationary certificate for middle school teachers and the requirements for issuance and renewal of this certificate.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set the certification requirements for probationary certificates for middle school teachers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.020, 161.028 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Education Professional Standards Board.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the certification requirements for the probationary certificate for middle school teachers.

(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 proposed amendment streamlines the language in the regulation to make clear that any Kentucky certified teacher is eligible for a probationary certificate upon enrollment in an approved educator

preparation program for middle school teachers, removes the requirement that the candidate complete coursework prior to issuance of the certificate and removes the reference to an outdate application form.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to allow candidates to be issued probationary certificates upon enrollment in an approved educator preparation program for middle school teachers

(c) How the amendment conforms to the content of the authorizing statutes: The amendment sets the requirements for issuance of the probationary certificate, removes the condition that the candidate have a job offer, and removes references to the Kentucky Teacher Internship Program.

(d) How the amendment will assist in the effective administration of the statutes: This amendment streamlines the language in the regulation to make clear that any Kentucky certified teacher is eligible for a probationary certificate upon enrollment in an approved educator preparation program for middle school teachers.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 171 Kentucky school districts, 31 institutions of higher education with an approved educator preparation program, and those pursuing probationary certification.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment will not require any additional actions from the regulated entities. It removes the reference to an outdated application form and removes the requirements that an applicant possess a job offer or complete coursework prior to issuance of the probationary certificate. Applicants for the probationary certificate will have to enroll in an approved educator preparation program. Institutions of higher education will have to verify enrollment.

(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 fee established by the Education Professional Standards Board in this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance will result in issuance of a probationary certificate to eligible candidates sooner.

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

(a) Initially: There are no costs expected to implement this amendment.

(b) On a continuing basis: There are no expected continuing costs with this amendment.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased by this regulation.

(9) **TIERING:** Is tiering applied? Tiering is not applicable to the requirements of this regulation because the standards apply to all teachers seeking probationary certification for teaching middle school.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.020, KRS 161.028, KRS 161.030.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Education Professional Standards Board.

(a) Estimate the following for the first year:

Expenditures: No additional expenditures are expected to be

needed since the systems and staff are already in place for processing applications and issuing probationary certificates.

Revenues: The amendment to this administrative regulation is not expected to generate any revenue during the first year as this regulation does not create fees and there are no fees associated with probationary certificates.

Cost Savings: No cost savings are expected with this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues and cost savings are not expected to differ in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Public-school districts.

(a) Estimate the following for the first year:

Expenditures: There are no expected expenditures for districts as there are no costs associated with the probationary certificates.

Revenues: This regulation sets the standards for the probationary certificate for middle school teachers. It will not generate revenue for districts.

Cost Savings: There may be some cost savings in the form of staff time, since applicants no longer have to have an offer of employment prior to issuance of the probationary certificate, districts will not have to initiate the application for the probationary certificate.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures, revenues and cost savings are not expected to differ in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Applicants for probationary certificates for teaching middle school.

(a) Estimate the following for the first year:

Expenditures: There are no expected expenditures for applicants as there are no costs associated with the probationary certificates.

Revenues: This regulation sets the standards for the probationary certificate for middle school teachers. It will not generate revenue for applicants.

Cost Savings: There is no expected cost savings since there has never been a fee to applicants for probationary certificates.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures, revenues and cost savings are not expected to differ in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no fiscal impact as a result of the proposed amendments to this regulation. There is no financial cost to districts or applicants for probationary teaching certificates. While processing applications and issuing probationary teaching certificates does require staff time and resources from the Education Professional Standards Board, the amendments can be carried out by the existing staff and systems.

(b) Methodology and resources used to determine the fiscal impact: The methodology and resources used to determine that there is no fiscal impact, is looking to current systems and processes to see if additional expenditures or resources are needed to carry out the amendments. Since no additional expenditures or resources are needed to carry out the amendments, and there are no fees created for districts or applicants, it was determined there is no fiscal impact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) There is not an expected major economic impact from this regulation as it does not create additional costs for the Education Professional Standards Board or the regulated entities.

(b) The methodology and resources used to reach this conclusion: The methodology and resources used to determine this is looking to current systems and processes to see if additional expenditures or resources are needed to carry out the amendments. Since no additional expenditures or resources are needed to carry out the amendments, and there are no fees for probationary certificates there will not be a negative or adverse major economic impact.

**EDUCATION AND LABOR CABINET
Education Professional Standards Board
(Amendment)**

16 KAR 2:200. Probationary endorsement for teachers for English as a second language.

RELATES TO: KRS 161.020, 161.028, 161.030

STATUTORY AUTHORITY: KRS 161.028, 161.030

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.020, 161.028, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation approved by the Education Professional Standards Board (EPSB). This administrative regulation establishes a plan for recruiting certified classroom teachers into positions for teachers of English as a second language.

Section 1. Definition[Definitions].

~~[(1)] ["Qualified teacher" means a teacher who holds the appropriate certification as a teacher for English as a second language unless the superintendent of the employing school district has documented evidence that the teacher is unsuitable for appointment.]~~

~~[(2)] "Teacher for English as a second language" means a teacher who works:~~

~~(1)[(a)] Directly with identified English as a second language pupils, in addition to the regularly assigned classroom teacher; or~~

~~(2)[(b)] In a classroom made up only of properly identified English as a second language students.~~

Section 2.

~~(1) A probationary endorsement for teaching English as a second language may be issued to a candidate who:~~

~~(a) Holds a Kentucky teaching certificate; and~~

~~(b) Is enrolled in an EPSB approved preparation program for the endorsement for teaching English as a second language.~~

~~(2) Application for a probationary endorsement for teaching English as a second language shall be submitted to the EPSB and shall:~~

~~(a) Contain a recommendation from the educator preparation provider for the endorsement; and~~

~~(b) Be in compliance with 16 KAR 2:010, Section 3(1). [If a qualified teacher is not available for the position of teacher for English as a second language as attested by the local school superintendent, the superintendent, on behalf of the local board of education, may request by filing a Form CA-EL with the Education Professional Standards Board a probationary endorsement for teaching English as a second language for a teacher who:]~~

~~[(a)] [Has a bachelor's degree;]~~

~~[(b)] [Has a valid Kentucky teaching certificate;]~~

~~[(c)] [Has completed at least one (1) year of successful teaching experience;]~~

~~[(d)] [Has been admitted to the preparation program for the endorsement for teachers for English as a second language; and]~~

~~[(e)] [Is currently enrolled in graduate studies related to the education profession.]~~

~~[(2)] [The request for the probationary endorsement shall be submitted on Form CA-EL to the Education Professional Standards Board for each teacher for English as a second language requiring the probationary endorsement.]~~

~~(3)~~

~~(a) The probationary endorsement for teachers for English as a second language shall be valid for a period of two (2) years from the initial request.~~

~~(b) A teacher receiving this probationary endorsement shall complete the required curriculum for recommendation for the endorsement for teacher for English as a second language within the two (2) year validity of the probationary endorsement.~~

~~(c) The probationary endorsement shall not be renewed.~~

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[Section 3.] [Incorporation by Reference.]

[(1)] [Form CA-EL, 08/15, is incorporated by reference.]

[(2)] [This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]

JUSTIN MITCHELL, Board Chair

APPROVED BY AGENCY: April 8, 2024

FILED WITH LRC: May 15, 2024 at 11:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on July 29, 2024, at 10:00 a.m. in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Todd Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, Kentucky 40601, phone 502-564-4474, fax 502-564-9321; email regcomments@education.ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Todd Allen

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a plan for recruiting certified classroom teachers into positions for teachers of English as a second language.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set the certification requirements for probationary endorsements for teaching English as a second language.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.020, 161.028, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation approved by the Education Professional Standards Board.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation delineates the certification requirements for the probationary endorsement for teaching English as a second language.

(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 proposed amendment streamlines the language in the regulation to make clear that any Kentucky certified teacher is eligible for a probationary endorsement upon enrollment in an approved educator preparation program for teaching English as a second language, removes the requirement that the candidate complete coursework prior to issuance of the endorsement and removes the reference to an outdated application form.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to allow candidates to be issued probationary endorsements upon enrollment in an approved educator preparation program for teaching English as a second language.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment sets the requirements for issuance of the probationary endorsement and removes the condition that the candidate have a job offer.

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

regulation to make clear that any Kentucky certified teacher is eligible for a probationary endorsement upon enrollment in an approved educator preparation program for teaching English as a second language.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 171 Kentucky school districts, 31 institutions of higher education with an approved educator preparation program, and those pursuing the probationary endorsement.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment will not require any additional actions from the regulated entities. It removes the reference to an outdated application form and removes the requirements that an applicant possess a job offer or complete coursework prior to issuance of the probationary endorsement. Applicants for the probationary endorsement will have to enroll in an approved educator preparation program. Institutions of higher education will have to verify enrollment.

(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 fee established by the Education Professional Standards Board in this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance will result in issuance of a probationary endorsement to eligible candidates sooner.

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

(a) Initially: There are no costs expected to implement this amendment.

(b) On a continuing basis: There are no expected continuing costs with this amendment.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established or increased by this regulation.

(9) TIERING: Is tiering applied? Tiering is not applicable to the requirements of this regulation because the standards apply to all teachers seeking the probationary endorsement for teaching English as a second language.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161.020, KRS 161.028, KRS 161.030.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Education Professional Standards Board.

(a) Estimate the following for the first year:

Expenditures: No additional expenditures are expected to be needed since the systems and staff are already in place for processing applications and issuing probationary endorsements.

Revenues: The amendment to this administrative regulation is not expected to generate any revenue during the first year as this regulation does not create fees and there are no fees associated with probationary endorsements.

Cost Savings: No cost savings are expected with this amendment.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures, revenues and cost savings are not expected to differ in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Public-school districts.

(a) Estimate the following for the first year:

Expenditures: There are no expected expenditures for districts as there are no costs associated with the probationary endorsements.

Revenues: This regulation sets the standards for the probationary endorsement for teaching English as a Second Language. It will not generate revenue for districts.

Cost Savings: There may be some cost savings in the form of staff time, since applicants no longer have to have an offer of employment prior to issuance of the probationary endorsement, districts will not have to initiate the application for the probationary endorsement.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures, revenues and cost savings are not expected to differ in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Applicants for probationary endorsements for teaching English as a second language.

(a) Estimate the following for the first year:

Expenditures: There are no expected expenditures for applicants as there are no costs associated with the probationary endorsements.

Revenues: This regulation sets the standards for the probationary endorsement for teaching English as a second language. It will not generate revenue for applicants.

Cost Savings: There is no expected cost savings since there has never been a fee to applicants for probationary endorsements.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures, revenues and cost savings are not expected to differ in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no fiscal impact as a result of the proposed amendments to this regulation. There is no financial cost to districts or applicants for probationary endorsements. While processing applications and issuing probationary endorsements does require staff time and resources from the Education Professional Standards Board, the amendments can be carried out by the existing staff and systems.

(b) Methodology and resources used to determine the fiscal impact: The methodology and resources used to determine that there is no fiscal impact, is looking to current systems and processes to see if additional expenditures or resources are needed to carry out the amendments. Since no additional expenditures or resources are needed to carry out the amendments, and there are no fees created for districts or applicants, it was determined there is no fiscal impact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) There is not an expected major economic impact from this regulation as it does not create additional costs for the Education Professional Standards Board or the regulated entities.

(b) The methodology and resources used to reach this conclusion: The methodology and resources used to determine this is looking to current systems and processes to see if additional expenditures or resources are needed to carry out the amendments. Since no additional expenditures or resources are needed to carry out the amendments, and there are no fees for probationary endorsements there will not be a negative or adverse major economic impact.

**ENERGY AND ENVIRONMENT CABINET
Department for Environmental Protection
Division for Air Quality
(Amendment)**

401 KAR 50:038. Air emissions fee.

RELATES TO: KRS 224.10-100, 224.10-230, 224.20-050, 224.20-100, 224.20-130, 40 C.F.R. Part 70, 42 U.S.C. 7401-7671q, et seq.

STATUTORY AUTHORITY: KRS 224.10-100, 224.10-230, 224.20-050, 224.20-100, 224.20-130, 40 C.F.R. Part 70, 42 U.S.C. 7401-7671q, et seq.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 requires the [Environmental and Public Protection] Cabinet to prescribe administrative regulations for the prevention, abatement,

and control of air pollution. This administrative regulation provides for the assessment of fees necessary to fund the state permit program as defined in Section 1(8) of this administrative regulation.

Section 1. Definitions. As used in this administrative regulation, terms defined in this section shall have the following meanings. All terms not defined in this section shall have the meaning given them in 401 KAR 50:010.

(1) "Act," "Clean Air Act," or "CAA" means 42 USC 7401 through 7671q.

(2) "Actual emissions" means the amount of a pollutant actually emitted in the calendar year immediately preceding the fiscal year during which an emissions fee is assessed, as recorded by the Kentucky Emissions Inventory System (KyEIS).

(3) "Designated representative" means a responsible person authorized by the owners and operators of an affected source and of all affected units at the source, as evidenced by a certificate of representation submitted to the U.S. EPA pursuant to 40 CFR 72.20(b), to represent and legally bind each owner and operator, as a matter of federal law, in all matters pertaining to the acid rain program.

(4) "Emissions fee" means the amount of money assessed by the cabinet to fund the cost of administering the operating permit program.

(5) "Fiscal year" means the period beginning July 1 and ending the following June 30.

(6) "Hazardous air pollutant" means a pollutant listed in 401 KAR 63:060.

(7) "Kentucky emissions inventory system" or "KyEIS" means a database used by the cabinet to record, among other information, emissions of air pollutants from Kentucky sources.

(8) "Permit program" means the issuance and enforcement of permits for all sources subject to this administrative regulation.

(a) Permit program includes:

1. The review of permit applications and exemptions;
2. The issuance of permits to air pollution sources;
3. Inspections of air pollution sources;
4. Enforcement activities other than prosecutions in a court of law or administrative hearings;
5. Air quality and emissions monitoring, including quality assurance;
6. The preparation of generally applicable reports, plans, administrative regulations, and statutes;
7. Responses to inquiries;
8. Preparing inventories and tracking emissions;
9. The preparation and maintenance of records, including computerized data bases;
10. Air quality modeling, analyses, and demonstrations; and
11. Providing direct and indirect support through a small business technical assistance program.

(b) Permit program does not include:

1. The control of asbestos emissions from renovations or demolitions, or any activities required under the Asbestos Hazard Emergency Response Act (AHERA);
2. The issuance of permits or the enforcement of permit conditions required only by 401 KAR 63:020, 63:021, or 63:022, or any other applicable requirement, as defined in 401 KAR 52:001, that is not required to be federally enforceable; or
3. The control and enforcement of any activity not required to be permitted, and the enforcement of applicable requirements at any source not required to have a permit.

(9) "Responsible official" means one (1) of the following:

(a) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of that person if the representative is responsible for the overall operation of one (1) or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

1. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
2. The delegation of authority to the representative is approved

in advance by the cabinet;

(b) For a partnership or sole proprietorship, a general partner or the proprietor, respectively;

(c) For a municipality, state, federal, or other public agency, a principal executive officer or ranking elected official. For this administrative regulation, the principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operation of a principal geographic unit of the agency; or

(d) For affected sources, if requested by the source, the designated representative.

(10) "Subject emissions" means actual emissions, as recorded in the Kentucky emissions inventory system, of sulfur dioxide, oxides of nitrogen, particulate matter[PM]₁₀, lead, volatile organic compounds, hazardous air pollutants listed in 401 KAR 57:061 or 401 KAR 63:060 for which a standard applies, or a pollutant subject to a standard contained in Section 111 of the Act, from an air pollution source subject to this administrative regulation, ~~except that actual emissions in excess of 4,000 tons of a single pollutant from a source shall not be subject emissions~~. Pollutants subject only to 42 USC 7412r (Section 112(r) of the Act), and pollutants that are class I or class II substances under 42 USC 7671 through 7671q and which are not otherwise regulated shall not be subject emissions.

Section 2. Applicability.

(1) This administrative regulation shall apply to all major sources as defined in 401 KAR 52:001, and to the following minor sources unless a final rule exempting the minor source category from the permitting requirements of 42 USC 7661 through 7661f (Title V of the Act) has been published by the U.S. EPA:

(a) Minor sources subject to a standard, federal regulation, or state administrative regulation promulgated pursuant to 42 USC 7411 or 7412 (Section 111 or 112 of the Act);

(b) Minor sources required to have a permit pursuant to 42 USC 7470 through 7515 (Part C or D of Title I of the Act); and

(c) Any other minor stationary source in a category required by the U.S. EPA to obtain a permit pursuant to 42 USC 7661 through 7661f (Title V of the Act).

(2) This administrative regulation shall not apply to:

(a) Mobile sources;

(b) Sources located in an air pollution control district granted concurrent jurisdiction by the cabinet under KRS 224.20-130;

(c) An electric utility unit exempted by 42 USC 7651g, unless a substitute unit has been approved by the administrator of the U.S. EPA pursuant to 42 USC 7651c; or

(d) A substitute unit approved by the U.S. EPA pursuant to 42 USC 7651c, if the cabinet has been notified in writing at least thirty (30) days prior to the fee assessment established in Section 3(1) of this administrative regulation;[-]

(3) A minor source with the only applicable requirement of 40 C.F.R. Part 60, Subpart JJJJ, Subpart IIII, or 40 C.F.R. Part 63 Subpart ZZZZ, or any combination of those, which is required for fire suppression purposes only as depicted in the source's permit when the survey is sent shall not be required to pay an emissions fee.

Section 3. Fee Assessment.

(1) On or about July 1, 1994, and on or about July 1 of each succeeding year, the division for air quality shall calculate and assess an annual emissions fee based on subject emissions for each air pollution source subject to this administrative regulation and shall provide written notification to the source of the amount of fee due. If a pollutant qualifies as more than one (1) of the subject emissions listed in Section 1(10) of this administrative regulation, it shall be assessed as a single subject emission.

(2) Determining subject emissions. At least four (4) months but not more than twelve (12) months prior to assessing the emissions fee, the cabinet shall provide each source subject to the emissions fee a written copy of the KYEIS containing the most recent information appropriate to that source. Within thirty (30) days of the date this information is mailed, each source shall provide the cabinet with all information necessary to determine its subject emissions. The information shall be accompanied by a statement signed by a responsible official or by a designated representative, as appropriate, certifying the accuracy of the information. Each day

past the deadline for submitting information that the source fails to submit the information shall be a separate violation of this administrative regulation. If no response is received by the deadline, the cabinet shall estimate the subject emissions for the source based on previous actual emissions and on other information considered pertinent by the cabinet.

(3) Fee assessment. At least sixty (60) days prior to assessing the fee, the cabinet shall determine the subject emissions for each source, based on the information provided by the source and on other information available to the cabinet. The cabinet shall notify the source of its determination for subject emissions at least forty-five (45) days prior to assessing the fee. Assessment of the subject emissions shall be a final determination by the cabinet. If the source fails to notify the cabinet of an error in the determination of subject emissions within thirty (30) days after the date the determination is mailed by the cabinet, the source shall be assessed a fee based on the cabinet's determination. If the source notifies the cabinet in a timely manner that there is an error in the determination of its subject emissions, and the cabinet disagrees with the assessment by the source, the cabinet shall notify the source, in writing, specifying the reasons for rejecting the error notification.

(4) Computation of emissions fee. The cabinet shall compute the emissions fee as follows:

(a) For fiscal year 1995 the emissions fee shall be \$5,505,200, and for fiscal year 1996 the emissions fee shall be \$6,594,700. The cost per ton of the subject emissions shall be the emissions fee, minus \$150 times the number of sources subject to subsection (5)(b) of this section, divided by the total number of tons of subject emissions from all sources subject to this administrative regulation which emit twenty-five (25) tons or more of subject emissions.

(b) Except as provided in paragraph (c) of this subsection, the emissions fee for each succeeding fiscal year shall be \$6,594,700 adjusted annually using the method provided in 40 CFR 70.9(b)(2)(iv). The cost per ton of subject emissions shall be determined as prescribed in paragraph (a) of this subsection.

(c) Notwithstanding the provisions of paragraph (b) of this subsection the emissions fee for a fiscal year may be increased by an amount greater than that calculated pursuant to 40 CFR 70.9(b)(2)(iv), may be left unchanged from the previous fiscal year, or may be decreased from the previous fiscal year if the cabinet determines after public hearing and after approval by the U.S. EPA that the increase is necessary, or the same or lesser amount is adequate, to cover all reasonable costs of administering the permit program.

(5) Payment of fees.

(a) A source subject to this administrative regulation which emitted twenty-five (25) tons or more of subject emissions shall pay a portion of the emissions fee which shall be determined by multiplying the subject emissions from the source, expressed in tons to the nearest ton, by the cost per ton of subject emissions, and subtracting from that amount any portion of unexpended emissions fees which are carried forward from the previous year in an amount proportional to that paid by the source during the previous year. The source shall pay the fee by check or money order, made payable to the Kentucky State Treasurer, within sixty (60) days after the date on which the fee invoice is mailed.

(b) A source subject to this administrative regulation which emitted less than twenty-five (25) tons of subject emissions shall pay an annual fee of \$150. The source shall pay the fee by check or money order, made payable to the Kentucky State Treasurer, within sixty (60) days after the date on which the fee invoice is mailed.

(c) The fee invoice shall be mailed to the permit holder of record as of the date the invoice is mailed, and the permit holder shall be responsible for payment.

(6) Enforcement.

(a) Each day after the deadline for payment of the source's portion of the emissions fee during which the source fails to pay the fee shall be a separate violation of this administrative regulation.

(b) Failure to pay the fee within ninety (90) days after the date on which the cabinet notifies the source of the amount of fee due shall result in:

1. An increase in the fee of an additional fifty (50) percent of the original amount due, plus interest on the fee amount computed in

accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (relating to computation of interest on underpayment of federal taxes); and

2. Suspension of the source's permit until the fee is paid or until the cabinet has approved a schedule of payment.

Section 4. Use of Fees. All fees collected pursuant to this administrative regulation shall be deposited in a trust and agency account and shall be used solely for funding the permit program.

REBECCA W. GOODMAN, Secretary

APPROVED BY AGENCY: May 13, 2024

FILED WITH LRC: May 13, 2024 at 9:23 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A virtual public hearing on this administrative regulation amendment will be held on July 26, 2024, at 10:00 a.m. (Eastern time). Individuals interested in being heard at this hearing shall notify this agency in writing by June 19, 2024, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. Please note that registration is required to participate in this hearing. You must either email or mail your name and mailing address to the contact person listed below. Please put "Registration for 401 KAR 50:038 public hearing" as the subject line and state in the body of the message if you plan to speak during the hearing. 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 July 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation amendment to the contact person. The hearing facility is accessible to person with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing may be made to the contact person at least five (5) workdays prior to the hearing.

CONTACT PERSON: Cassandra Jobe, Program Planning & Administration Manager, Division for Air Quality, 300 Sower Boulevard, 2nd Floor, Frankfort, Kentucky 40601, Phone (502) 782-6670, Email Cassandra.Job@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Cassandra Jobe, Manager

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides for the assessment of fees necessary to fund the Division for Air Quality's state permit program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide for the assessment of fees needed to fund the state permit program and inventory the emissions of air pollution from Part 70 sources and minor sources in nonattainment and maintenance areas.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.20-050 authorizes the Cabinet to promulgate administrative regulations for the collection of fees necessary to administer the air quality program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will enable the Cabinet to continue to implement and enforce the air emission fees requirements established in 40 C.F.R. Part 70, in accordance with the Clean Air Act. The air emission fees are used solely for air permit program cost.

(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 amends two specific components. The first component removes the limit of the 4,000 ton limit per pollutant. The second component exempts a source from invoicing if the source's only applicable requirement is 40 C.F.R. Part 60, Subpart JJJJ, Subpart IIII, or 40 C.F.R. Part 63 Subpart ZZZZ, or any combination of those, which is required for fire suppression purposes. Remaining amendments are for cleanup purposes.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to not create a financial disincentive for fire suppression engines and safety for the individuals, businesses, sources, and organizations affected by this administrative regulation. The removal of the 4,000 ton cap is an incentive for sources that emit the most pollution to control emissions more effectively.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statute by continuing to charge an emissions fee for air contaminant sources in accordance with 40 C.F.R Part 70.

(d) How the amendment will assist in the effective administration of the statutes: The regulation follows the general guidelines of 40 C.F.R. Part 70, this amendment does not assist the effective administration of the statutes more than the previous regulation. The new provisions will be enforced by the Cabinet.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will impact all Part 70 sources that pay emission fees. For 2022 emissions, approximately 712 sources paid fees. The removal of the 4,000 ton cap will effectively lower the per ton cost for 708 sources. There are 4 sources that will see increases because they emit over the 4,000 ton fee, 3 electric generating units (EGUs) and 1 distillery. This administrative regulation will also impact sources with the only applicable requirement of 40 C.F.R. Part 60, Subpart JJJJ, Subpart IIII, or 40 C.F.R. Part 63 Subpart ZZZZ, or any combination of those, for fire suppression purposes. At this time, the Cabinet is aware of one source that would meet the exemption and would save the source approximately \$20,000. The Cabinet will retain delegation of authority for the implementation and enforcement of these requirements under 40 C.F.R. Part 70.

(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: Part 70 sources are already subjected to air emission fees. Part 70 sources that continue to be subject to the fee would see a decrease in the per ton emission fee. Any entity affected by the exemption would no longer pay an emission fee. The 4 sources that have more than 4,000 tons per pollutant would see an increase in their invoices.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The removal of the 4,000 ton cap would cost LGE-KU approximately \$782,000 more each year; TVA approximately \$1.3 Million more each year; and Big Rivers approximately \$73,000 more each year. The distillery with more than 4,000 tons is Jim Beam, but overall, they do not see an increase across all Jim Beam facilities. All other sources currently paying a fee would see a decrease either due to the exemption of fire pump engines, or the overall decrease in the per ton fee.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, sources will continue to work with the Cabinet for implementation and enforcement of 40 C.F.R. Part 70 in Kentucky.

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

(a) Initially: The Cabinet will not incur any additional costs for the implementation of this administrative regulation initially. The Cabinet's budget is set and the per ton fee is based off billable tons of emissions and the operating budget.

(b) On a continuing basis: The Cabinet will not incur any additional continuing costs for the implementation of this administrative regulation on a continuing basis. The Cabinet's budget is set and the per ton fee is based off billable tons of emissions and the operating budget.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Cabinet's operating budget will be used for the implementation and enforcement of the amendment to this administrative regulation.

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This includes the assessment of the emissions fee in accordance with 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: There is not an increase in funding necessary to implement this administrative regulation. The Cabinet's budget is set and the per ton fee is based off billable tons of emissions and the operating budget. The amendment will increase billable tons by removing the 4,000 ton cap, which will decrease the per ton emission fee for all sources. The sources with the only applicable requirement of 40 C.F.R. Part 60, Subpart JJJJ, Subpart IIII, or 40 C.F.R. Part 63 Subpart ZZZZ, or any combination of those, which is required for fire suppression purposes would not pay a fee.

(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 new fees but does remove the 4,000 cap, which will increase the billable tons of emissions. This will lead to a per ton fee reduction for all sources. A source with the only applicable requirement of 40 C.F.R. Part 60, Subpart JJJJ, Subpart IIII, or 40 C.F.R. Part 63 Subpart ZZZZ, or any combination of those, which is required for fire suppression purposes would be exempt from air emission fees.

(9) TIERING: Is tiering applied? Yes tiering is applied. This administrative regulation has tiering because sources emitting less than 25 tons pay \$150, not the per ton fee. While sources emitting 25 tons or more pay the per ton fee.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. U.S. EPA promulgated the federal regulations in 40 C.F.R. Part 70, pursuant to 42 U.S.C. 7401-7671q.

(2) State compliance standards. This administrative regulation provides the assessment of air emission fees for major and select minor sources to fund the permit program.

(3) Minimum or uniform standards contained in the federal mandate. 40 C.F.R. Part 70 establishes the minimum requirements for states to adopt emissions fees for the administration of a permit program.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No stricter or additional or different requirements are imposed.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There are no stricter standards or additional or different responsibilities or requirements.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100, 224.10-230, 224.20-050, 224.20-100, 224.20-130, 40 C.F.R. Part 70, 42 U.S.C. 7401-7671q.

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

(a) Estimate the following for the first year:

Expenditures: There is no known effect on current expenditures for the Division for Air Quality.

Revenues: There is no known effect on current revenues for the Division for Air Quality.

Cost Savings: Any state entity that pays an emissions fee will see a reduction in the per ton fee with the removal of the 4,000 ton cap per pollutant, as the total number of billable tons will increase, resulting in an overall per ton reduction.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures, revenues, and cost savings will not change in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Any local entities that pay the per ton fee will be impacted by the change in this administrative

regulation and will likely see a decrease in the amount of emissions fee paid.

(a) Estimate the following for the first year:

Expenditures: There is no known effect on current expenditures.
Revenues: There is no known effect on current revenues.

Cost Savings: Any local entity that pays an emissions fee will see a reduction in the per ton fee with the removal of the 4,000 ton cap per pollutant.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures, revenues, and cost savings will not change in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3):

(a) Estimate the following for the first year:

Expenditures: There will be an expenditure decrease for regulated entities (40 C.F.R. Part 70 sources) as the per ton emission fee decreases with the removal of the 4,000 per ton pollutant cap.

Revenues: There is no known effect on current revenues.

Cost Savings: Approximately 706 sources will see a reduction in overall fees as a result of the decrease in the per ton emission fee. 4 sources will see an increase, 3 utilities, and 1 distillery. However, the distillery will not see an overall increase in expenditures as other sources under the same ownership will see reductions due to the lower per ton emission fee.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures, revenues, and cost savings will not change in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The Division for Air Quality has a budget that is set by statute as part of the enacted budget bill each biennium. The overall budget is not impacted by the amendment to this administrative regulation. Most Part 70 sources will see a decrease in the invoices received for emissions fee as a result of this amendment to this administrative regulation. There are 4 sources that will see an increase, three electric generating units (EGUs) and one distillery.

(b) Methodology and resources used to determine the fiscal impact: The Division for Air Quality has a budget that is set by statute as part of the enacted budget bill each biennium. The Division surveys permitted air sources for emissions each year. The Division then calculates 'billable tons' of emissions from sources and a per ton emission fee is calculated by dividing the budget by the total billable tons. This per ton fee is then applied to each source's billable tons of emissions and an invoice is created for each source.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) There are a total of 4 sources that will see an increase in billable tons, and thus an increase in invoices as part of the proposed amendment to this administrative regulation. LGE-KU will have an increase of approximately \$782,000 more each year; TVA approximately \$1.3 Million more each year; and Big Rivers approximately \$73,000 more each year. The distillery with more than 4,000 tons is Jim Beam, but overall, they do not see an increase across all Jim Beam sources, as the other sources see reductions of the fee. The remaining Part 70 sources will see a decrease in invoice totals due to the removal of the 4,000 ton cap and the subsequent reduction in the per ton emissions fee. Sources that see a reduction include small businesses.

(b) The methodology and resources used to reach this conclusion: As discussed above, the Division surveys Part 70 sources each calendar year for the emissions from the previous calendar year. The Division then calculates billable tons. The Divisions budget is divided by the billable tons to determine the per ton emissions fee. This fee is then applied to each source and an invoice is created based on the per ton fee and the sources billable tons for the previous calendar year. The Division's overall budget does not change and is set as part of the biennial budget process. This analysis was done based on the Division's budget and the billable tons for 2022 emissions from Part 70 sources.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 6:280. Risk and needs assessment.

RELATES TO: KRS 196.035, 197.020, 439.265, 439.3101, 439.3104, 439.3105, 439.331, 439.348, 439.480, 446.010

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.3101, 439.3104, 439.331

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(d), 439.3101(2)(a), 439.3104(1) and (2), and 439.331(1) require the Department of Corrections to promulgate an administrative regulation for the administration of a validated risk and needs assessment to assess the criminal risk factors and correctional needs of all inmates and offenders upon commitment to the department. This administrative regulation establishes the validated risk and needs assessment requirements for assessing the criminal risk factors and correctional needs of inmates and offenders.

Section 1. Incorporation by Reference.

(1) "Department of Corrections policies and procedures for risk and needs assessment," May 15, 2024~~[January 13, 2020]~~, are incorporated by reference. These policies and procedures include:

29.1	Risk and Needs Assessment (Amended 1/13/20)
29.2	Case Planning (Amended 1/13/20)
[29.3]	[Risk and Needs Assessment and Reentry Programming Training and Quality Assurance (Amended 1/13/20)]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or <https://corrections.ky.gov/about/pages/lrcfilings.aspx> ~~[https://corrections.ky.gov/About/cpp/Pages/default.aspx]~~.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes policies and procedures relating to risk and needs assessment and case management of offenders.

(b) The necessity of this administrative regulation: This regulation meets statutory requirements in KRS 196.035, 197.020, 439.3101, 439.3104, and 439.331.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation establishes policies and procedures that govern the risk and needs assessment and case planning of offenders to comply with the authorizing statutes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation and material incorporated by reference provide direction and information to Department of Corrections employees and to offenders for risk and needs assessments and case planning.

(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 deletes CPP 29.3, which is being renumbered as 30.3 and placed on another administrative regulation concerning programs to assist with sentence credits.

(b) The necessity of the amendment to this administrative regulation: The amendment realigns department policies into separate administrative regulations.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes require risk and needs assessments for offenders and the amendment allows realignment of department policies to assist with sentence credits.

(d) How the amendment will assist in the effective administration of the statutes: The amendment allows realignment of department policies to assist with sentence credits.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation may affect approximately 688 employees of the Department of Corrections, 12,500 inmates committed to the Department of Corrections, and 11,000 parolees and 29,000 probationers under community supervision of the Department of Corrections.

(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: Department staff will follow the realignment of the policies in performing their work.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply with the realignment of the department's policies since tasks remain the same.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The realignment of policies provides greater clarity.

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

(a) Initially: Additional cost is not anticipated for the amendment.

(b) On a continuing basis: Additional cost is not anticipated for the amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or incorporate any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 439.3101, 439.3104, 439.331

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department operates but is not expected to have a fiscal impact. A policy is deleted from the administrative regulation and is incorporated by reference in a new administrative regulation with other policies.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. A policy is deleted from the administrative regulation and is incorporated by reference in a new administrative regulation with other policies.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. A policy is deleted from the administrative regulation and is incorporated by reference in a new administrative regulation with other policies.

EDUCATION AND LABOR CABINET Department of Workers' Claims (Amendment)

803 KAR 25:089. Workers' compensation medical fee schedule for physicians.

RELATES TO: KRS 342.0011(32), 342.019, 342.020, 342.035

STATUTORY AUTHORITY: KRS 342.020, 342.035(1), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.035(1) requires the commissioner of the Department of Workers' Claims to promulgate administrative regulations to ensure that all fees, charges, and reimbursements for medical services under KRS Chapter 342 are limited to charges that are fair, current, and reasonable for similar treatment of injured persons in the same community for like services, where treatment is paid for by general health insurers. KRS 342.035(4) requires the commissioner to promulgate an administrative regulation establishing the workers' compensation medical fee schedule for physicians. Pursuant to KRS 342.035 requires a schedule of fees to be reviewed and updated, if appropriate, every two (2) years on July 1. This administrative regulation establishes the medical fee schedule for physicians.

Section 1. Definitions.

(1) "Medical fee schedule" means the 2024 Kentucky Workers' Compensation Schedule of Fees for Physicians~~[2022 Kentucky Workers' Compensation Schedule of Fees for Physicians]~~.

(2) "Physician" is defined by KRS 342.0011(32).

Section 2. Services Covered.

(1) The medical fee schedule shall govern all medical services provided to injured employees by physicians under KRS Chapter 342.

(2) The medical fee schedule shall also apply to other health care or medical services providers to whom a listed CPT, HCPCS, or Transportation code, is applicable unless:

(a) Another fee schedule of the Department of Workers' Claims applies;

(b) A lower fee is required by KRS 342.035 or a managed care plan approved by the commissioner pursuant to 803 KAR 25:110; or

(c) An insurance carrier, self-insured group, or self-insured employer has an agreement with a physician, medical bill vendor, or other medical provider to provide reimbursement of a medical bill at an amount lower than the medical fee schedule.

Section 3. Fee Computation.

(1) The appropriate fee for a procedure or item covered by the medical fee schedule shall be the Maximum Allowable Reimbursement (MAR) listed in the 2024~~[2022]~~ Kentucky Workers' Compensation Schedule of Fees for Physicians for those procedures or items for which a specific monetary amount is listed.

(2) Procedures Listed Without Specified Maximum Allowable Reimbursement Monetary Amount. The appropriate fee for a procedure or item for which no~~[a]~~ specific monetary amount is not listed shall be determined and calculated in accordance with numerical paragraph seven (7)~~[six (6)]~~ of the General Instructions of the medical fee schedule unless more specific Ground Rules are applicable to that service or item, in which case the fee shall be calculated in accordance with the applicable Ground Rules.

(3) The resulting fee shall be~~[not be more than]~~ the maximum fee allowed for the service provided.

Section 4.

(1) A physician or healthcare or medical services provider located outside the boundaries of Kentucky shall be deemed to have agreed to comply with this administrative regulation if it treats a patient who is covered under KRS Chapter 342.

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(2) Pursuant to KRS 342.035, medical fees due to an out-of-state physician or healthcare or medical services provider shall be calculated under the fee schedule in the same manner as for an in-state physician.

Section 5. Incorporation by Reference.

(1) "2024 Kentucky Workers' Compensation Schedule of Fees for Physicians", July 1, 2024 Edition [~~"2022 Kentucky Workers' Compensation Schedule of Fees for Physicians", July 1, 2022 Edition~~], is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Workers' Claims, Mayo-Underwood Building 3rd Floor, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) The fee schedule may be obtained directly from FAIR Health, Inc., at <https://orders.fairhealth.org/>. A link to FAIR Health, Inc., may be found on the Department of Workers' Claims Web site at <https://elc.ky.gov/Workers-Compensation/Pages/Medical-Services.aspx>. [This material may also be obtained from or through <https://labor.ky.gov/comp/Pages/Medical-Services.aspx#Physician-Fee-Schedule->]

This is to certify the Commissioner has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 342.260, 342.270 and 342.285.

SCOTT C. WILHOIT, Commissioner

APPROVED BY AGENCY: May 8, 2024

FILED WITH LRC: May 14, 2024 at 3:10 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 22, 2024, at 10:00 a.m. (EDT) at the Department of Workers' Claims, 500 Mero Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: B. Dale Hamblin, Jr., Assistant General Counsel, Workers' Claims Legal Division, Mayo-Underwood Building, 3rd Floor, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-4404, fax (502) 564-0681, email Dale.Hamblin@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: B. Dale Hamblin, Jr.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates the medical fee schedule for physicians and the requirements for using the fee schedule.

(b) The necessity of this administrative regulation: Pursuant to KRS 342.035, the commissioner is required to promulgate an administrative regulation regarding fee schedules.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation incorporates the extensive fee schedule for physicians and requirements for the fee schedule.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It is imperative to have fee schedules to control the medical costs of the workers' compensation system. Injured employees should receive quality medical care and physicians should be appropriately paid.

(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 medical fee schedule has been updated and will be

incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: KRS 342.035 requires the schedule of fees to be reviewed and updated every two (2) years, if appropriate.

(c) How the amendment conforms to the content of the authorizing statutes: The schedule of fees has been appropriately updated to ensure that medical fees are fair, current, and reasonable for similar treatment in the same community for general health insurance payments.

(d) How the amendment will assist in the effective administration of the statutes: The schedule of fees assists the workers' compensation program by updating fees for physicians to ensure injured employees get qualified and appropriate medical treatment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All physicians and medical providers providing services to injured employees pursuant to KRS Chapter 342, injured employees, insurance carriers, self-insurance groups, self-insured employers and third-party administrators.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Insurance carriers, self-insured groups, self-insured employers, third party administrators, and medical providers must purchase the new schedule of fees to accurately bill and pay for medical services. Other parties to workers' compensation claims are only indirectly impacted by the new fee schedule.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Insurance carriers, self-insured groups, self-insured employers or third-party administrators and medical providers can purchase the fee schedule book for \$150, a portable document format ("PDF") version for \$75 for the first user and \$60 for each user thereafter, or an electronic version for \$175 for the first user and \$60 for each user thereafter.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Medical providers will receive fair, current, and reasonable fees for services provided to injured employees. Injured employees will be treated by qualified medical providers.

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

(a) Initially: The contract for reviewing and updating the physicians fee schedule is \$85,010.

(b) On a continuing basis: No continuing costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department of Workers' Claims normal budget is the source of funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding 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 sets forth a current schedule of fees to be paid to physicians. Fees have been updated to be fair, current, and reasonable for similar treatment in the same community as paid by health insurers.

(9) TIERING: Is tiering applied? Tiering is not applied, because the updated fee schedule applies to all parties equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 342.035.

(2) Identify the promulgating agency and any other affected state

units, parts, or divisions: The promulgating agency is the Department of Workers' Claims within the Education and Labor Cabinet. Every state unit, part, or division, with one employee subject to KRS Chapter 342, is affected; specifically, this administrative regulation governs the allowable reimbursements a medical provider may charge, and a payment obligor pay, for physician services provided under KRS Chapter 342.

(a) Estimate the following for the first year:

Expenditures: The contract for reviewing and updating the physicians fee schedule is \$85,010.00.

Revenues: None

Cost Savings: While there is no direct cost savings, ensuring that charges and fees are fair, current, and reasonable for similar treatment of injured persons in the same community for like services where treatment is paid for by general health insurers, helps ensure injured employees receive treatment by qualified medical providers while maintaining premium costs.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no continuing expenditures related to the 2024 Workers' Compensation Medical Fee Schedule for Physicians; however, the Department is statutorily required to reevaluate the fee schedule every two years and additional expenditures will be required to perform these subsequent evaluations. While there is no direct cost savings, ensuring that charges and fees are fair, current, and reasonable for similar treatment of injured persons in the same community for like services where treatment is paid for by general health insurers, helps ensure injured employees receive treatment by qualified medical providers while maintaining premium costs. This administrative regulation does not generate revenue.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All local entities with one employee subject to KRS Chapter 342, is affected; specifically, this administrative regulation governs the allowable reimbursements a medical provider may charge, and a payment obligor pay, for physician services provided under KRS Chapter 342.

(a) Estimate the following for the first year:

Expenditures: The fee schedule book may be purchased for \$150, a portable document format ("PDF") version for \$75 for the first user and \$60 for each user thereafter, or an electronic version for \$175 for the first user and \$60 for each user thereafter. There may be increased medical costs for self-insured employers; however, without knowing what medical services will be required, it is not possible to estimate any increase. Employers that have obtained a workers' compensation insurance policy will not experience expenditures outside of insurance premiums.

Revenues: None

Cost Savings: While there is no direct cost savings, ensuring that charges and fees are fair, current, and reasonable for similar treatment of injured persons in the same community for like services where treatment is paid for by general health insurers, helps ensure injured employees receive treatment by qualified medical providers while maintaining premium costs.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, or cost savings in the second year; however, the Department is statutorily required to reevaluate the fee schedule every two years and additional expenditures may be required following subsequent evaluations.

(4) Identify additional regulated entities not listed in questions (2) or (3): Insurance carriers, self-insured groups, self-insured employers, third-party administrators, and medical providers.

(a) Estimate the following for the first year:

Expenditures: The fee schedule book may be purchased for \$150, a portable document format ("PDF") version for \$75 for the first user and \$60 for each user thereafter, or an electronic version for \$175 for the first user and \$60 for each user thereafter.

Revenues: None

Cost Savings: While there is no direct cost savings, ensuring that charges and fees are fair, current, and reasonable for similar treatment of injured persons in the same community for like services where treatment is paid for by general health insurers, helps ensure injured employees receive treatment by qualified medical providers

while maintaining premium costs.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no change in expenditures, revenues, or cost savings in the second year; however, the Department is statutorily required to reevaluate the fee schedule every two years and additional expenditures may be required following subsequent evaluations.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no direct fiscal impact on state or local government because the fee schedule governs the cost of medical services between medical treatment providers and payment obligors. Where an employer is self-insured and directly paying workers' compensation benefits, there may be some increased costs for medical services; however, without knowing what medical services will be required, it is not possible to estimate the fiscal impact. Employers that have obtained a workers' compensation insurance policy will not experience expenditures outside of insurance premiums.

(b) Methodology and resources used to determine the fiscal impact: This administrative regulation governs the charges and reimbursement for medical treatment provided to injured employees. The CPT codes used in the Fee Schedule were updated to 2024 standards. The Fee Schedule is based on Fair Health Commercial Database Values at the 45th percentile with no fees in the 2024 version being reduced from those in the 2022 Fee Schedule and there was a 7.5% cap on any increase in rates over those in the 2022 Fee Schedule for the same procedure code, with the exception of home health, which is designated By Report, and dental codes, which have no cap. Radiology rates were retained at the 2022 Fee Schedule rates. Fair Health benchmarks are based on actual charge data as reported on claims, which are collected and aggregated from over 60 national and regional insurers across the country. After the data is run through a vigorous validation process, charges are organized by procedure code and geographic areas. The charges are arrayed from lowest to highest and assigned a percentile. In a case where the frequency of collected data for a particular procedure code/geographic area combination is not sufficient to produce a benchmark based on the actual data for that code, a benchmark is derived for that code using a relative value and conversion factor methodology applied to charges for codes in a related procedure code group. When necessary, usual and customary rates may also be obtained from a nationally recognized source that accounts for the rural areas of Kentucky. The conversion factor for Anesthesia is \$78.53. Increases to transportation fees are based upon current CMS values. Ground transportation is assigned 145% of Medicare and air transportation is assigned 210% of Medicare. Codes were added to this fee schedule at the request of the stakeholders for ease of billing and reimbursement purposes. There are 9,137 codes in the 2024 Kentucky Workers' Compensation Schedule of Fees for Physicians. Employers that have obtained a workers' compensation insurance policy will not experience expenditures outside of insurance premiums.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) It is not anticipated that this administrative regulation will create an overall negative or adverse major economic impact to the entities identified in questions (2) - (4).

(b) The methodology and resources used to reach this conclusion: The National Council on Compensation Insurance (NCCI) has reported a loss cost decrease in the voluntary market and a favorable loss experience for Kentucky over the last three years. This NCCI report reflects the result of prior fee schedules which were created using the same methodology used to establish in the 2024 Workers' Compensation Medical Fee Schedule for Physicians.

NEW ADMINISTRATIVE REGULATIONS

Public comment periods for ordinary, non-emergency regulations are at least two months long. For other regulations with open comment periods, please also see last month's [Administrative Register of Kentucky](#).

**PUBLIC PROTECTION CABINET
Boxing and Wrestling Commission
(New Administrative Regulation)**

201 KAR 27:006. Powers and duties of inspector.

RELATES TO: KRS 229.011, 229.021, 229.041, 229.051, 229.061, 229.155, 229.171, 229.190, 229.200, 229.991, EO 2016-270

STATUTORY AUTHORITY: KRS 229.171, 229.180

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) authorizes the authority to exercise sole jurisdiction over all boxing, kickboxing, mixed martial arts, and wrestling shows, exhibitions, and licensees in the commonwealth. Executive Order 2016-270, effective May 16, 2016, abolished the Kentucky Boxing and Wrestling Authority and established the Kentucky Boxing and Wrestling Commission. This administrative regulation establishes the duties of an inspector.

Section 1.

(1) The executive director or the executive director's designee shall assign an inspector to monitor each boxing, elimination event, mixed martial arts, and kickboxing show.

(2) The executive director or the executive director's designee may assign an inspector to monitor a wrestling show based on:

- (a) The availability of an inspector;
- (b) The need to conduct periodic inspections; and
- (c) Knowledge or information that a violation or potential violation may occur.

Section 2. Inspector's Duties.

(1) Except as otherwise established in 201 KAR Chapter 27, the inspector shall exercise immediate and full supervision, control, and regulation of any show on behalf of the commission and shall be responsible directly to the commission.

(2) The inspector's powers shall include authority:

- (a) Over each contestant, licensed or unlicensed, on the premises before, during, and after a show relating to the show;
- (b) To conduct hearings and issue decisions or rulings on questions, disputes, protests, complaints, or objections relating to the show;
- (c) To enforce the provisions of KRS Chapter 229 and 201 KAR Chapter 27;
- (d) To issue violations and penalties as established in KRS Chapter 229 and 201 KAR Chapter 27;
- (e) To eject or exclude from the premises or any part thereof any person whom the inspector reasonably believes is intoxicated or under the influence of a legal or illegal drug and who may create a hazard to others or interfere with the show;
- (f) To investigate possible violations of KRS Chapter 229 or 201 KAR Chapter 27;
- (g) To examine the books and records of any person who conducts a show or exhibition;
- (h) To issue a license required by 201 KAR 27:008; and
- (i) To approve the form and sufficiency of any bond filed in accordance with KRS 229.051.

Section 3. Appeal. Any decision made pursuant to this administrative regulation may be appealed to the full commission in the manner prescribed in KRS 229.190.

MATT BYRD, Executive Director

RAY A. PERRY, Secretary

APPROVED BY AGENCY: April 12, 2024

FILED WITH LRC: May 13, 2024 at 10:40 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 29,

2024, at 1:00 p.m., at the Mayo Underwood Building, 500 Mero Street, Frankfort, Kentucky, Room 133 CE. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Doug Hardin, staff attorney, 500 Mero Street 254 CW, Frankfort, Kentucky 40601, phone (502) 782-8204, and email doug.hardin@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Doug Hardin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the powers and duties of the inspectors employed by the Kentucky Boxing and Wrestling Commission.

(b) The necessity of this administrative regulation: This regulation is necessary so that the Boxing and Wrestling commission inspectors have clearly defined authority to regulate boxing, wrestling, and other unarmed combat sporting events in Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 229.155 authorizes the Commission's executive director to employ "sufficient regulatory staff...that shall be responsible for the day-to-day operations of the commission."

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Employing inspectors with clearly defined roles will help ensure that unarmed combat events are run safely and in compliance with the 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 statutes: N/A

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Boxing & Wrestling Commission licenses and regulates over 800 licensees that will be affected by this administrative regulation, as follows: •Over 679 licensed contestants (includes boxers, kickboxers, amateur mixed martial artists, professional mixed martial artists, and wrestlers); •Over 185 licensed non-contestants (includes judges, trainers, managers, referees, timekeepers, and seconds). •Over 6 licensed medical providers (includes physicians and healthcare professionals) •Over 40 licensed promoters

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This regulation will not require licensees to take any specific action to comply.

(b) In complying with this administrative regulation or

amendment, how much will it cost each of the entities identified in question (3): There will be no cost to these licensees to comply with the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Having inspectors assigned to monitor boxing, mixed martial arts, and wrestling events will help to ensure that these events are conducted safely and in compliance with the law.

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

(a) Initially: There will be no new costs to the Commission or its licensees.

(b) On a continuing basis: There will be no new costs to the Commission or its licensees.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Commission's funding comes from license fees and the tax that promoters pay on ticket sales to unarmed combat shows.

(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 funding will be necessary to implement this regulation.

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

(9) TIERING: Is tiering applied? Tiering does not apply because there are no different classifications of inspectors.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 229.155 authorizes the Commission's executive director to employ "sufficient regulatory staff...that shall be responsible for the day-to-day operations of the commission."

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Boxing & Wrestling Commission

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This regulation is not likely to affect any local government entities.

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Commission does not anticipate any expenditures, revenue, or cost savings related to this regulation.

(4) Identify additional regulated entities not listed in questions (2) or (3): This regulation will likely impact the Commission's licensees, including contestants, physicians, promoters, referees, etc.

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Commission does not anticipate any expenditures, revenue, or cost savings related to this regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This regulation is not likely to have a significant fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: The Commission already employs inspectors. This regulation will not result in any new employee hires.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified

in questions (2) - (4). (\$500,000 or more, in aggregate) This regulation will likely have no economic impact on these entities.

(b) The methodology and resources used to reach this conclusion: The Commission already employs inspectors. This regulation will not result in any new employee hires.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. N/A

(2) State compliance standards. N/A

(3) Minimum or uniform standards contained in the federal mandate. N/A

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/A

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

PUBLIC PROTECTION CABINET Boxing and Wrestling Commission (New Administrative Regulation)

201 KAR 27:023. Drug testing for boxing, kickboxing, mixed martial arts, wrestling, and elimination event shows.

RELATES TO: KRS 229.071, 229.081, 229.091, 229.111, 229.171, 229.180, 229.200, 229.991, EO 2016-270

STATUTORY AUTHORITY: KRS 229.171, 229.180

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) authorizes the authority to exercise sole jurisdiction over all boxing, kickboxing, mixed martial arts, and wrestling shows, exhibitions, and licensees in the commonwealth. Executive Order 2016-270, effective May 16, 2016, abolished the Kentucky Boxing and Wrestling Authority and established the Kentucky Boxing and Wrestling Commission. This administrative regulation establishes the policies, procedures, and penalty guidelines associated with drug testing for participants in boxing, kickboxing, mixed martial arts, wrestling, and elimination event shows and exhibitions.

Section 1. Definitions.

(1) "In-competition" means the period commencing twelve (12) hours before the beginning of a bout, match, or exhibition of unarmed combat in which the licensee is scheduled to participate through the end of the bout, match, or exhibition and the sample collection process related to the bout match or exhibition.

(2) "Out-of-competition" means any period that is not in-competition.

(3) "Prohibited List" means the World Anti-Doping Agency Prohibited List dated January 2024.

Section 2. Applicability. This administrative regulation shall apply to all contestants, judges, and referees in boxing, kickboxing, mixed martial arts, wrestling, and elimination events.

Section 3. Prohibitions.

(1) The Prohibited List shall be used in conjunction with this administrative regulation.

(2) Except as established in Section 4 of this administrative regulation, the substances and methods listed in the following classes of the Prohibited List shall be prohibited in-competition and out-of-competition:

(a) S0. Non-approved substances;

(b) S1. Anabolic agents;

(c) S2. Peptide hormones, growth factors, and related substances and mimetics;

(d) S3. Beta-2 agonists;

(e) S4. Hormone and metabolic modulators;

(f) S5. Diuretics and masking agents;

(g) M1. Manipulation of blood and blood components;

(h) M2. Chemical and physical manipulation; and

(i) M3. Gene Doping.

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(3) Except as established in Section 4 of this administrative regulation, the following substances listed in the Prohibited List shall be prohibited only while a licensee is in-competition:

- (a) S6. Stimulants;
- (b) S7. Narcotics;
- (c) S8. Cannabinoids;
- (d) S9. Glucocorticoids; and
- (e) P1. Alcohol.

Section 4. Approved Substances. The following types of drugs or injections are approved:

- (1) Antacids, such as Maalox;
- (2) Antibiotics, antifungals, or antivirals for which the licensee has a prescription;
- (3) Antidiarrheals, such as Imodium, Kaopectate, or Pepto-Bismol;
- (4) Antihistamines for colds or allergies, such as Bromphen, Brompheniramine, Chlorpheniramine Maleate, Chlor-Trimeton, Dimetane, Hismal, PBZ, Seldane, Tavist-1, or Teldrin;
- (5) Antinauseants, such as Dramamine or Tigan;
- (6) Antipyretics, such as Tylenol;
- (7) Antitussives, such as Robitussin, if the antitussive does not contain codeine;
- (8) Antilulcer products, such as Carafate, Pepcid, Reglan, Tagamet, or Zantac;
- (9) Asthma products in aerosol form, such as Brethine, Metaproterenol (Alupent), or Salbutamol (Albuterol, Proventil, or Ventolin);
- (10) Asthma products in oral form, such as Aminophylline, Cromolyn, Nasalide, or Vanceril;
- (11) Ear products, such as Auralgan, Cerumenex, Cortisporin, Debrox, or Vosol;
- (12) Hemorrhoid products, such as Anusol-HC, Preparation H, or Nupercainal;
- (13) Laxatives, such as Correctol, Doxidan, Dulcolax, Efferyllium, Ex-Lax, Metamucil, Modane, or Milk of Magnesia;
- (14) Nasal products, such as AYR Saline, HuMist Saline, Ocean, or Salinex; and
- (15) The following decongestants and any decongestant that is pharmaceutically similar:
 - (a) Afrin; or
 - (b) Oxymetazoline HCL Nasal Spray.

Section 5. Testing Requirement. (1) A licensed boxer, kickboxer, professional mixed martial artist, amateur mixed martial artist, wrestling, or elimination event contestant, judge, or referee shall submit to a blood test, urinalysis, or chemical test at any time, in-competition or out-of-competition, if the commission or a representative of the commission directs him or her to do so.

Section 6. Violations and Penalties.

- (1) A licensee who violates any provision of this administrative regulation shall be subject to a penalty issued by the commission.
- (2) A blood test shall not be required within seven (7) days of the bout, competition, or exhibition unless directed by the commission upon finding of probable cause that a violation of Section 3 of this administrative regulation has occurred.
- (3)
 - (a) In addition to any other penalty issued by the commission, if a contestant who won or drew a bout is found to have violated the provisions of this administrative regulation, the commission may change the result of that bout to a no decision loss if the commission finds that the drug used may have affected the result.
 - (b) A note shall be placed on the contestant's record that the change in decision was the result of testing positive for a banned substance or prohibited method.
- (4) The commission shall investigate each alleged violation of this administrative regulation.

Section 7. Penalty Guidelines. The guidelines for use in determining a penalty pursuant to 201 KAR 27:105, Section 3 shall be as follows:

- (1) For cannabis or cannabinoids:
 - (a) 1st offense: six (6) month suspension and a fine of fifty (50) dollars;
 - (b) 2nd offense: twelve (12) month suspension and a \$100 fine;
 - (c) 3rd offense: twenty-four (24) month suspension and a \$250 fine; or
 - (d) 4th offense: lifetime ban and a \$500 fine;
- (2) For sedatives, muscle relaxants, sleep aids, anxiolytics, opiates, or opioids:
 - (a) 1st offense: eighteen (18) month suspension and a \$100 fine;
 - (b) 2nd offense: twenty-four (24) month suspension and a \$250 fine;
 - (c) 3rd offense: thirty-six (36) month suspension and a \$500 fine; or
 - (d) 4th offense: lifetime ban and a \$1,000 fine;
- (3) For diuretics being used to cut weight:
 - (a) 1st offense: twenty-four (24) month suspension and a \$250 fine;
 - (b) 2nd offense: thirty-six (36) month suspension and a \$500 fine; or
 - (c) 3rd offense: lifetime ban and a \$1,000 fine;
- (4) For stimulants:
 - (a) 1st offense: twenty-four (24) month suspension and a \$250 fine;
 - (b) 2nd offense: thirty-six (36) month suspension and a \$500 fine; or
 - (c) 3rd offense: lifetime ban and a \$1,000 fine;
- (5) For anabolic steroids:
 - (a) 1st offense: thirty-six (36) month suspension and a \$500 fine;
 - (b) 2nd offense: forty-eight (48) month suspension and a \$750 fine; or
 - (c) 3rd offense: lifetime ban and a \$1,000 fine; or
- (6) For avoiding or refusing testing or detection, altering or adulterating a urine or blood sample, providing a urine or blood sample not from the contestant, or using any masking agent:
 - (a) 1st offense: forty-eight (48) month suspension and a \$750 fine; or
 - (b) 2nd offense: lifetime ban and a \$1,000 fine.

Section 8. Incorporation by Reference.

- (1) "World Anti-Doping Agency Prohibited List", January 2024, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Boxing and Wrestling Commission office at 500 Mero St, 218NC, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m., and is available online at <https://www.wada-ama.org/en/resources/world-anti-doping-code-and-international-standards/prohibited-list>.

MATT BYRD, Executive Director
RAY A. PERRY, Secretary

APPROVED BY AGENCY: April 12, 2024

FILED WITH LRC: May 13, 2024 at 10:40 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 29, 2024, at 1:00 p.m., at the Mayo Underwood Building, 500 Mero Street, Frankfort, Kentucky, Room 133 CE. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Doug Hardin, staff attorney, 500 Mero Street 254 CW, Frankfort, Kentucky 40601, phone (502) 782-8204, and email doug.hardin@ky.gov.

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Doug Hardin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes definitions, procedures, and penalties related to drug testing and prohibited substances for unarmed combat events.

(b) The necessity of this administrative regulation: This regulation is necessary to have clear guidelines, procedures, and penalties for banned substances and procedures for testing to ensure that contestants are not using banned substances.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 229.171 vests the Commission with sole jurisdiction over boxing, kickboxing, mixed martial arts, and wrestling shows.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Clear testing procedures will ensure that licensees compete safely and in compliance with the 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 statutes: N/A

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Boxing & Wrestling Commission licenses and regulates over 800 licensees that will be affected by this administrative regulation, as follows: •Over 679 licensed contestants (includes boxers, kickboxers, amateur mixed martial artists, professional mixed martial artists, and wrestlers); •Over 185 licensed non-contestants (includes judges, trainers, managers, referees, timekeepers, and seconds). •Over 6 licensed medical providers (includes physicians and healthcare professionals) •Over 40 licensed promoters

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This regulation provides licensees with a list of banned substances that contestants must refrain from ingesting prior and procedures that contestants must comply with to ensure they are not using a banned substance.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to these licensees to comply with the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): A clear list of banned substances with clear testing procedures and penalties for violations will provide licensees with guidance for how to train and prepare for competitions and ensure that competitions are as fair and safe as possible.

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

(a) Initially: There will be no new costs to the Commission or its licensees.

(b) On a continuing basis: There will be no new costs to the Commission or its licensees.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Commission purchases drug testing kits as part of its ordinary operating budget, which is funded by licensee fees and the promoter tax on ticket sales to shows and events.

(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 funding will be necessary to implement this regulation.

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

(9) TIERING: Is tiering applied? Tiering does not apply because the list of banned substances testing procedures, and penalties equally apply to all licensees.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 229.171 vests the Commission with sole jurisdiction over boxing, kickboxing, mixed martial arts, and wrestling shows.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Boxing & Wrestling Commission

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This regulation is not likely to affect any local government entities.

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Commission does not anticipate any expenditures, revenue, or cost savings related to this regulation.

(4) Identify additional regulated entities not listed in questions (2) or (3): The Commission's licensees, particularly contestants and promoters, will be affected by this regulation.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Commission does not anticipate any expenditures, revenue, or cost savings related to this regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This regulation is not likely to have a significant fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: The Commission already employs inspectors. This regulation will not result in any new employee hires.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) . This regulation will likely have no economic impact on these entities.

(b) The methodology and resources used to reach this conclusion: The costs associated with drug testing are already included in the Commission's ordinary operations budget.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. N/A

(2) State compliance standards. N/A

(3) Minimum or uniform standards contained in the federal mandate. N/A

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/A

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

**PUBLIC PROTECTION CABINET
Boxing and Wrestling Commission
(New Administrative Regulation)**

201 KAR 27:041. Managers.

RELATES TO: KRS 229.021, 229.081, 229.091, 229.171, EO 2016-270

STATUTORY AUTHORITY: KRS 229.081, 229.091, 229.171, 229.180

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) authorizes the authority to exercise sole jurisdiction over all boxing, kickboxing, mixed martial arts, and wrestling shows, exhibitions, and licensees in the commonwealth. Executive Order 2016-270, effective May 16, 2016, abolished the Kentucky Boxing and Wrestling Authority and established the Kentucky Boxing and Wrestling Commission. This administrative regulation establishes standards governing the conduct of managers.

Section 1. Duties and Responsibilities.

(1) A manager shall only do business with a promoter, ring official, or contestant who holds an active license.

(2) A manager shall not act or attempt to act for a contestant unless authorized by the contestant.

(3) A contract between a manager and a contestant shall be filed with the commission as evidence of the manager's authority to act for the contestant.

(4) A manager shall keep accurate records of the receipts and expenses of the contestants under their management and control. These records shall be available to the contestants and to the commission.

MATT BYRD, Executive Director

RAY A. PERRY, Secretary

APPROVED BY AGENCY: April 12, 2024

FILED WITH LRC: May 13, 2024 at 10:40 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 29, 2024, at 1:00 p.m., at the Mayo Underwood Building, 500 Mero Street, Frankfort, Kentucky, Room 133 CE. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Doug Hardin, staff attorney, 500 Mero Street 254 CW, Frankfort, Kentucky 40601, phone (502) 782-8204, and email doug.hardin@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Doug Hardin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes the powers and duties of licensed managers in unarmed combat events and shows in Kentucky.

(b) The necessity of this administrative regulation: This regulation is necessary so that licensed managers have clearly defined responsibilities.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 229.171 vests the Commission with sole jurisdiction over boxing, kickboxing, mixed martial arts, and wrestling shows.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Employing inspectors with clearly defined roles will help ensure that unarmed

combat events are run safely and in compliance with the 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 statutes: N/A

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Boxing & Wrestling Commission licenses and regulates over 800 licensees that will be affected by this administrative regulation, as follows: •Over 679 licensed contestants (includes boxers, kickboxers, amateur mixed martial artists, professional mixed martial artists, and wrestlers); •Over 185 licensed non-contestants (includes judges, trainers, managers, referees, timekeepers, and seconds). •Over 6 licensed medical providers (includes physicians and healthcare professionals) •Over 40 licensed promoters

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This regulation will require managers to apply for a license and comply with the provisions of Section 1.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The manager license application fee is \$40, as established by 201 KAR 27:008.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This regulation establishes clear duties and responsibilities for licensed managers.

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

(a) Initially: There will be no new costs to the Commission or its licensees.

(b) On a continuing basis: There will be no new costs to the Commission or its licensees other than the existing \$40 license application fee.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding will be required to implement or enforce this regulation.

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

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

(9) TIERING: Is tiering applied? Tiering does not apply because there are no different classifications of managers.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 229.155 authorizes the Commission's executive director to employ "sufficient regulatory staff...that shall be responsible for the day-to-day operations of the commission."

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Boxing & Wrestling Commission

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in

subsequent years?

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This regulation is not likely to affect any local government entities.

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Commission does not anticipate any expenditures, revenue, or cost savings related to this regulation.

(4) Identify additional regulated entities not listed in questions (2) or (3): The Commission's licensees may be impacted by this regulation.

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Commission does not anticipate any expenditures, revenue, or cost savings related to this regulation other than the existing license application fee.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This regulation is not likely to have a significant fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: This regulation will not result in any new employee hires or any new fees for licensees.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) this regulation will likely have no economic impact on these entities.

(b) The methodology and resources used to reach this conclusion: This regulation will not result in any new employee hires or any new fees for licensees.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. N/A

(2) State compliance standards. N/A

(3) Minimum or uniform standards contained in the federal mandate. N/A

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/A

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

PUBLIC PROTECTION CABINET Boxing and Wrestling Commission (New Administrative Regulation)

201 KAR 27:106. Violations, penalties, and appeals.

RELATES TO: KRS 229.021, 229.031, 229.071, 229.091, 229.155, 229.171, 229.180, 229.190, 229.200, 229.991, EO 2016-270

STATUTORY AUTHORITY: KRS 229.071, 229.091, 229.155, 229.171, 229.180, 229.190, 229.200, 229.991

NECESSITY, FUNCTION, AND CONFORMITY: KRS 229.171(1) authorizes the authority to exercise sole jurisdiction over all boxing, kickboxing, mixed martial arts, and wrestling shows, exhibitions, and licensees in the commonwealth. Executive Order 2016-270, effective May 16, 2016, abolished the Kentucky Boxing and Wrestling Authority and established the Kentucky Boxing and Wrestling Commission. This administrative regulation provides the policies and procedures that govern the finding of a violation of KRS Chapter 229 or 201 KAR Chapter 27, the issuance of a penalty, and the appeal of a penalty.

Section 1. Violations.

(1) A person shall be guilty of a violation for any of the following actions:

(a) Violating any provision of KRS Chapter 229;

(b) Violating any provision of 201 KAR Chapter 27;

(c) Being found guilty of, pleading guilty to, pleading no contest to, or entering an Alford plea to a crime, other than a traffic violation, that is detrimental to the interests of boxing, kickboxing, mixed martial arts, or wrestling generally or to the public interest, convenience, or necessity in any jurisdiction;

(d) Being found liable in a civil action for any claim that involves fraud or dishonesty in any jurisdiction if the person is a licensed promoter, manager, referee, or judge;

(e) Violating a law related to boxing, kickboxing, mixed martial arts, elimination events, or wrestling in any jurisdiction;

(f) Placing a bet or wager on any bout or match in which the person participates or works;

(g) Serving as, or consorting or associating with any person who is, a bookmaker or illegal gambler;

(h) Participating in an unlicensed event; or

(i) Declaring bankruptcy if the person is a licensed promoter, manager, referee, or judge.

(2) A person shall be guilty of a violation if the person authorizes or ratifies any of the actions in subsection (1) of this section if the action is taken by the person's agent, employee, shareholder, member, officer, or director.

(3) A person who commits a violation shall be issued a notice of violation.

Section 2. Penalties.

(1) If the commission has reason to believe that a person has committed a violation, the commission may impose one (1) or more of the following actions:

(a) Issue a cease and desist order;

(b) Declare a contestant ineligible to compete or disqualify the contestant;

(c) Eject the person from the premises at which the show or exhibition is taking place;

(d) Issue a fine;

(e) Suspend, reprimand, revoke, probate, or refuse to renew or issue a license; or

(f) Refer the person for criminal prosecution.

(2) In issuing a penalty pursuant to subsection (1) of this section, the commission shall consider:

(a) The severity of the violation;

(b) The licensee's history of violations and penalties; and

(c) The violation's potential impact on health, safety, and the outcome of a contest; and

(d) If the penalty is for a violation of 201 KAR 27:021, the penalty guidelines established in 201 KAR 27:021, Section 7.

(3) A person whose license is currently suspended shall be prohibited from:

(a) Being present in a locker room that is used during a commission-sanctioned event; and

(b) Being located within the six (6) foot area surrounding the ring or cage at a commission-sanctioned event.

Section 3. Inspector's Authority to Issue a Violation and a Penalty.

(1) Pursuant to KRS 229.155, the commission shall authorize its inspectors to:

(a) Issue a notice of violation in accordance with Section 1 of this administrative regulation; and

(b) Issue a penalty in accordance with Section 2 of this administrative regulation.

(2) A penalty issued by an inspector shall be subject to appeal pursuant to Section 5 of this administrative regulation.

Section 4. Reciprocity of a Penalty.

(1) A licensee who is subjected to a penalty in any jurisdiction shall report to the commission within ten (10) days the date, type, and reason for the penalty given and the name of the regulatory body that ordered the penalty.

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(2) The commission shall enforce the penalty given by any other regulatory body unless the licensee shows good cause why the commission should not reciprocally enforce the penalty.

Section 5. Appeals.

(1) Any person issued a penalty may appeal the penalty to the full commission.

(a) An appeal shall be filed within twenty (20) days of the date the penalty is issued.

(b) The provisions of KRS Chapter 13B shall govern all administrative appeals.

(2) A contestant may petition the Commission to change a decision rendered at the end of a professional contest or exhibition in which he or she competed. The Commission shall not change a decision rendered at the end of any contest or exhibition unless:

(a) The Commission determines that there was collusion affecting the result of the contest or exhibition;

(b) The compilation of the scorecards of the judges discloses an error which shows that the decision was given to the wrong unarmed combatant; or

(c) As the result of an error in interpreting a provision of this chapter, the referee has rendered an incorrect decision.

Section 6. Effect of Expiration of License on Jurisdiction of the Commission. The expiration of a license shall not deprive the commission of jurisdiction to:

(1) Proceed with an investigation of the former licensee; or

(2) Issue a penalty against the former licensee.

MATT BYRD, Executive Director

RAY A. PERRY, Secretary

APPROVED BY AGENCY: May 9, 2024

FILED WITH LRC: May 13, 2024 at 10:40 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 29, 2024, at 1:00 p.m., at the Mayo Underwood Building, 500 Mero Street, Frankfort, Kentucky, Room 133 CE. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Doug Hardin, staff attorney, 500 Mero Street 254 CW, Frankfort, Kentucky 40601, phone (502) 782-8204, and email doug.hardin@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Doug Hardin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes grounds for the Commission to issue penalties to licensees, the types of penalties that may be assessed, authority for inspectors to issue administrative violations, and a process for licensees to appeal violations issued by the Commission or its employees.

(b) The necessity of this administrative regulation: This regulation is necessary so that the Boxing and Wrestling commission and its employees may take appropriate action against licensees who violate provisions of Kentucky law related to boxing, wrestling, and other unarmed combat sports.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 229.155 authorizes the Commission's executive director to employ "sufficient regulatory staff...that shall be responsible for the day-to-day operations of the commission." KRS 229.200 authorizes the Commission to impose penalties on licensees who violate provisions of KRS chapter 229 or 201 KAR Chapter 27.

(d) How this administrative regulation currently assists or will assist

in the effective administration of the statutes: This regulation establishes a process for imposing penalties on licensees who are alleged to have violated the law and gives licensees an avenue to appeal those violations.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Boxing & Wrestling Commission licenses and regulates over 800 licensees that will be affected by this administrative regulation, as follows: Over 679 licensed contestants (includes boxers, kickboxers, amateur mixed martial artists, professional mixed martial artists, and wrestlers); Over 185 licensed non-contestants (includes judges, trainers, managers, referees, timekeepers, and seconds). Over 6 licensed medical providers (includes physicians and healthcare professionals) Over 40 licensed promoters

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This regulation will not require licensees to take any specific action to comply, but it does give them a process by which they may appeal violations issued by the Commission or its inspectors.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to these licensees to comply with the regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This regulation establishes a process to provide licensees due process when they are alleged to have violated the law.

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

(a) Initially: There will be no new costs to the Commission or its licensees.

(b) On a continuing basis: There will be no new costs to the Commission or its licensees.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding will be needed to implement 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 funding will be necessary to implement this regulation.

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

(9) TIERING: Is tiering applied? Tiering does not apply because the same penalties and process established by this regulation would apply equally to all licensees.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 229.155 authorizes the Commission's executive director to employ "sufficient regulatory staff...that shall be responsible for the day-to-day operations of the commission."

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Boxing & Wrestling Commission

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This regulation is not likely to affect any local government entities.

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Commission does not anticipate any expenditures, revenue, or cost savings related to this regulation.

(4) Identify additional regulated entities not listed in questions (2) or (3):

(a) Estimate the following for the first year:

Expenditures: None

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Commission does not anticipate any expenditures, revenue, or cost savings related to this regulation other than potential fines assessed to licensees who are found to have violated the law.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This regulation is not likely to have a significant fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: The Commission already employees inspectors. This regulation will not result in any new employee hires.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This regulation will likely have no economic impact on these entities.

(b) The methodology and resources used to reach this conclusion: The Commission already employees inspectors. This regulation will not result in any new employee hires.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. N/A

(2) State compliance standards. N/A

(3) Minimum or uniform standards contained in the federal mandate. N/A

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/A

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

BOARDS AND COMMISSIONS

Board of Licensure for Occupational Therapy (New Administrative Regulation)

201 KAR 28:240. Occupational Therapy Licensure Compact.

RELATES TO: KRS 319A.310

STATUTORY AUTHORITY: KRS 319A.070(1), (3), 319A.310

NECESSITY, FUNCTION, AND CONFORMITY: KRS 319A.310, Section 15.B.1. requires the Board of Licensure for Occupational Therapy to review any rule adopted by the Occupational Therapy Compact Commission pursuant to Section 10 of the Compact within sixty (60) days of adoption for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation pursuant to KRS Chapter 13A. This administrative regulation incorporates by reference the rules adopted by the Occupational Therapy Compact Commission.

Section 1. The Board of Licensure for Occupational Therapy shall comply with all rules of the Occupational Therapy Compact, which includes the Occupational Therapy Compact Rules as of March 20, 2024.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference: "The Occupational Therapy Compact Rules", March 20, 2024, and as revised.

(a) Chapter 2. Rule on Definitions, adopted March 20, 2024; and
(b) Chapter 3. Data System Reporting Requirements, adopted March 20, 2024.

(2)

(a) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Licensure for Occupational Therapy, 500 Mero Street, 2 SC 32, Frankfort, Kentucky 40602, Monday through Friday, 8 am to 4:30 p.m.; or

(b) This material may also be obtained on the Board of Licensure for Occupational Therapy Web site at <https://ot.ky.gov/>.

(3) This material may also be obtained at:

(a) The Occupational Therapy Compact Commission, 201 Park Washington Court, Falls Church, Virginia 22046;

(b) <https://otcompact.org/ot-compact-commission/governance-documents/>.

RENEE CAUSEY-UPTON, PhD, OTD, OTR/L, CLA, FAOTA,
Chair

APPROVED BY AGENCY: May 1, 2024

FILED WITH LRC: May 14, 2024 at 4:15 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 2:00 p.m. Eastern Time, at the Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky in PPC Conference Room 127CW. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to https://ppc.ky.gov/reg_comment.aspx or the contact person.

CONTACT PERSON: Sara Boswell Janes, Staff Attorney III, Department of Professional Licensing, Office of Legal Services, 500 Mero Street, 2 NC WK#2, office phone (502) 782-2709, fax (502) 564-4818, email Sara.Janes@ky.gov, link to public comment portal: https://ppc.ky.gov/reg_comment.aspx.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation implements KRS 319A.310, the Occupational Therapy Licensure Compact.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because KRS 319A.310, Section 15.B.1. requires rules adopted by the Occupational Therapy Compact Commission to be promulgated as administrative regulations pursuant to KRS Chapter 13A.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the specific requirements of the authorizing statute, KRS 319A.310, Section 15.B.1. which requires rules adopted by the Occupational Therapy Licensure Compact to be promulgated as administrative regulations pursuant to KRS Chapter 13A.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation conforms to the content of KRS 319A.310 which requires this promulgation.

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

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

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the 4044 active and 114 inactive licensees, and will also affect new applicants for licensure.

(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 Board will have to review the information collected on licensees by and through its applications to determine if regulatory revisions to the material incorporated by reference are necessary to comport with the required data elements for the compact. If amendments are needed the Board will be required to go through the administrative regulation amendment process.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost will be limited to attorney fees for drafting administrative regulation amendments, some administrative expenses for staffing meetings under the Open Meetings Act, and per diem for board members' regulations committee work.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance, the Board will be active in the Occupational Therapy Compact which will open avenues for more access to occupational therapy in Kentucky, and also allow Kentucky occupational therapists to work across state lines providing more access to services for the public in all states.

(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 for the implementation of this administrative regulation.

(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: The board's operations are funded by fees paid by credential holders and applicants.

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

(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 applied as the changes apply to all equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 319A.070(1), (3) and KRS 319A.310. Additionally, interstate compacts are specifically authorized under the federal constitution (Article 1, Section 10, Clause 3- the Compacts Clause) and take precedence over any conflicting state law pursuant to the Compacts Clause and the Contracts Clause, U.S. Constitution, Article 1, Section 10, Clause 1.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Licensure for

Occupational Therapy is the promulgating agency and the only other affected state unit, part or division.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: Unknown.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? It will likely take more than one year for the data system and compact to become operational. There will likely be some state expenditures necessary for administering applications for compact privileges within and without the Commonwealth and which may require imposition of a fee to cover the cost of administration. However, expenditures, revenue and cost savings in subsequent years, if any, are currently indeterminable.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): None anticipated.

(a) Estimate the following for the first year:

Expenditures: None.

Revenues: None.

Cost Savings: None.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no difference in expenditures, revenues or cost savings to local entities in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): There are no other regulated entities not otherwise listed.

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no anticipated fiscal impact to this administrative regulation in the first year. It is possible there will be a fiscal impact of administering applications for compact privileges for in-state licensees who apply for the privilege to practice in another state, and for out of state licensees who apply for the privilege to practice in Kentucky. The Compact Commission is in its infancy and the work to be conducted by the state board on behalf of the compact is yet to be determined.

(b) Methodology and resources used to determine the fiscal impact: Methodology and resources are currently indeterminable since there are no known duties outlined for the state in relation to the compact.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact to the entities identified.

(b) The methodology and resources used to reach this conclusion: Methodology and resources are currently indeterminable since there are no known duties outlined for the state in relation to the compact; however, given the number of licensees, current budget and anticipated number of applications for out of state licensees to obtain the privilege to practice in Kentucky, no major economic impact is anticipated.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. There is no federal mandate.

(2) State compliance standards. N/A

(3) Minimum or uniform standards contained in the federal mandate. N/A

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? N/A

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)

501 KAR 6:021. Repeal of 501 KAR 6:020.

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470,
439.590, 439.640, 532.260

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any of its divisions. The Department of Corrections is dividing this regulation into multiple new regulations to improve its ability to change individual policies. The original policy regulation is being repealed.

Section 1. 501 KAR 6:020, Corrections policies and procedures, is hereby repealed.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals the current Department of Corrections policies and procedures administrative regulation.

(b) The necessity of this administrative regulation: The repealed administrative regulation is being replaced by multiple administrative regulations to allow changing policies to be faster and simpler. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any of its divisions.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation repeals an administrative regulation that is no longer needed. This administrative regulation complies with the promulgation authority as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It repeals an administrative regulation that is no longer needed.

(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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, visitors, volunteers and others who enter state correctional institutions, offenders on home incarceration, community offenders on probation and parole, jailers, and jail 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:

(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 need to be aware that the policies are on different administrative regulations.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An increase in cost is not anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The repeal is needed to prevent duplication and conflict with other new administrative regulations.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding is not required.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The repeal of the administrative regulation does not establish any fees or directly or indirectly increase any fees

(9) TIERING: Is tiering applied? No. Tiering is not appropriate in this administrative regulation because the administrative regulation is being repealed as to all.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 439.470, 439.590, 439.640, 532.260

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections, state correctional institutions, reentry service centers, probation and parole offices, jails

(a) Estimate the following for the first year:

Expenditures: The repealer is not expected to increase expenditures.

Revenues: The repealer does not generate revenue.

Cost Savings: Cost savings are not anticipated, since other administrative regulations replace the one being repealed.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The repealer is not expected to change expenditures, revenues, or cost savings in future years, since other administrative regulations replace the one being repealed.

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

(a) Estimate the following for the first year:

Expenditures: The repealer is not expected to increase expenditures.

Revenues: The repealer does not generate revenue.

Cost Savings: Cost savings are not anticipated, since other administrative regulations replace the one being repealed.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to

change expenditures, revenues, or cost savings in future years, since other administrative regulations replace the one being repealed.

(4) Identify additional regulated entities not listed in questions (2) or (3): Reentry service centers, jails, and inmates

(a) Estimate the following for the first year:

Expenditures: The repealer is not expected to increase expenditures.

Revenues: The repealer does not generate revenue.

Cost Savings: Cost savings are not anticipated, since other administrative regulations replace the one being repealed.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years, since other administrative regulations replace the one being repealed.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The repealer does not have a fiscal impact, since other administrative regulations replace the one being repealed.

(b) Methodology and resources used to determine the fiscal impact: The administrative regulation being repealed is being replaced by new administrative regulations.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)**

501 KAR 6:300. News media.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110, 439.470

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their deportment and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 439.470 requires the commissioner to promulgate administrative regulations for the conduct of persons placed on probation or parole but not conflict with conditions of the parole board or court. This administrative regulation establishes procedures concerning news media for the Department of Corrections.

Section 1. Definitions.

(1) "DOC" means the Department of Corrections.

(2) "News media" means a form of mass media that focuses on delivering news to the general public, but does not include broadcast programs syndicated by independent producers, television stations, networks, or others for the primary purpose of entertainment.

(3) "PIO" means public information officer.

(4) "VSB" means the Victim Services Branch.

Section 2.

(1) A news media request or inquiry shall be handled by the Division of Public Affairs at the DOC headquarters in Frankfort,

Kentucky.

(2) A request by a news media representative to visit an institution, probation and parole office, or other DOC office shall be reviewed on a case-by-case basis and a decision rendered by the Division of Public Affairs in conjunction with the warden, director, or commissioner.

(3) Credentials. A state issued photo ID shall be required to verify the identity of a news media representative. An identification card issued by the reporter's place of employment may also be required if needed to verify the credentials of a media representative. In the absence of an employee identification card, the DOC may refuse admittance if the identification is suspect.

(4) Live broadcasts including television, radio, phone, and virtual communication from inside the perimeter of an institution shall not be permitted at any time.

(5) Arrangements for interviews and visits by representatives of the media shall be made in advance to the Division of Public Affairs. A brief summary of the purpose of the visit or interview shall be provided and shall be subject to approval. Approved interviews shall primarily be conducted virtually. Private prison and community center administrators shall refer all news media inquiries concerning DOC policies, DOC inmates, or DOC clients to the Division of Public Affairs.

(6) The Division of Public Affairs staff shall make this administrative regulation available in advance of a media visit to ensure that members of the news media are aware of the requirements. Each news media representative shall sign a Corrections Media Release Form upon each visit to a DOC institution or office, indicating familiarity with this administrative regulation and agree to abide by it. Failure by a news media representative to comply with this administrative regulation may result in immediate removal from the institution or office and may constitute grounds for denying the representative or his or her agency permission to attend future media events within a DOC institution or office.

Section 3. Inmate Interviews and Photographs.

(1) Media representatives may be permitted to interview an inmate if the inmate gives written consent to be interviewed. A news media representative wishing to interview an inmate shall submit to the Division of Public Affairs a brief summary of the purpose of the interview, which is subject to approval.

(2) An approved interview by a news media representative shall include only the news media representative, the inmate, and DOC staff. There shall not be anyone else present including family members, lawyers, or others.

(3) The Division of Public Affairs may establish time limits for an interview or other media event coverage.

(4) A news media interview shall not be permitted for an inmate in a high security unit, in protective custody, on watch, or on other significant medical or mental health status. An inmate involved in an internal affairs investigation may also be prohibited from granting interviews until that case is closed.

(5) The news media shall not interview an inmate away from institutional grounds except with direct authorization from the commissioner.

(6) An inmate shall not receive compensation or anything of value, in exchange for or as a result of participating in an interview. A media representative or entity who violates this stipulation may be restricted from further access to inmate interviews.

(7) The Division of Public Affairs may grant or deny an interview request. The Division of Public Affairs may consider safety and security concerns in an interview denial. The Division of Public Affairs may terminate an interview or coverage within a DOC facility if a disruption of any type occurs.

(8) A recording device may be used by a media representative during an interview with prior approval.

(9) If an inmate interview is approved, the Victim Services Branch shall review the inmate's information to determine if the inmate has any registered victims. The VSB shall attempt to contact a registered victim to notify the victim of the interview in advance of the interview.

(10) If a media visit has been approved, the media representative may take photographs of specific parts of the correctional institution or probation and parole office with approval of the appropriate warden or director.

(a) Media shall be escorted at all times while on institutional or office grounds by the designated staff.

(b) If news media films or photographs an inmate or an offender under supervision in which the inmate or offender may be identified, a signed copy of the Corrections Release Form shall be obtained from the inmate or offender to provide written consent before the video or photo may be shown or shared.

(11) Parole hearings. Because parole hearings are considered an open proceeding, an inmate who appears may be filmed, photographed, or recorded without signing a consent form; however, the general provisions of this section shall still apply to any interview before or after the hearing. Interviews shall not be conducted outside the parole hearing without prior DOC approval and the inmate's written permission using the Corrections Release Form.

Section 4. DOC Institutional Grounds.

(1) News media wanting to video or photograph the exterior of a correctional institution shall notify the Division of Public Affairs. News media shall remain in the parking lot. Any video or photograph obtained shall not include an identifiable inmate.

(2) High security areas, control centers, control panels and any other area designated by the warden for safety or security reasons shall not be filmed or photographed.

Section 5. Dissemination of Information.

(1) Dissemination of DOC information shall be the responsibility of the Division of Public Affairs including contact from a national or international news media representative.

(2) Institutional PIOs shall assist with the announcement of an escape or other incident within an institution as needed. Every effort shall be made to notify the family of an inmate involved in the emergency prior to the release of information to the media. Names of involved staff shall not be released to the media until the designated next of kin or family is notified.

(3) Individual staff members, contractors, or volunteers shall not respond to media inquiries unless they have received prior approval from the Division of Public Affairs.

(4) The Division of Public Affairs shall be informed of all correspondence sent to or received from a news media representative.

Section 6. Release of Information.

(1) The following information about an inmate, parolee, probationer, or other releasee may be provided to the news media:

- (a) Name;
- (b) Age;
- (c) Sex;
- (d) Physical description;
- (e) Photograph;
- (f) County where crime was committed;
- (g) Crime;
- (h) Sentence;
- (i) Disciplinary information including incident and penalty;
- (j) Institutional work assignments;
- (k) Prior DOC incarceration; and
- (l) Release eligibility.

(2) Information regarding an inmate's mental health, medical, or juvenile criminal history, or substance use disorder treatment shall not be released except in compliance with KRS 610.015, 610.320, 610.340 and 635.120.

Section 7. Procedures During Emergency Conditions.

Admittance of a media representative to a correctional institution may be denied or limited during an emergency situation, including an escape, disturbance, fire, or natural disaster. However, with approval of the Deputy Commissioner of Adult Institutions and the Commissioner, the news media may be granted access to the institution once it is determined that access will not jeopardize the security or safety of any person.

(1) Media staging area. A pre-designated area shall be established for the media to use as a staging area during an emergency condition. This area shall be as close to the emergency scene as possible without inhibiting the resolution of the situation. News media representatives shall be directed to the staging area upon arrival.

(2) Press briefings. A briefing location for the media shall be established near the staging area. The news media shall be advised of developments by frequent news briefings held in the designated briefing location or press releases. A final briefing shall be held or press release provided as soon as possible after the emergency situation is resolved.

(3) Media pools. With approval of the Deputy Commissioner of Adult Institutions and the Commissioner, a media pool may be formed to enter a correctional institution, if it is determined that doing so no longer jeopardizes the security or safety of any person. Efforts shall be made to allow the media to use their equipment while serving as a pool reporter. The media pool shall be chosen from the media representatives assembled at the staging area with the selections made by the media representatives present in conjunction with DOC designated staff.

(4) Media pool agreement. Media selected for the media pool shall agree to ensure that all news material generated by the media pool will be made available to all media without right of first publication or broadcast.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Corrections Release Form", 2024; and
- (b) "Corrections Media Release Form", 2024.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures concerning news media for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035, 197.020, and 439.470 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any of its divisions.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning new media. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation establishes the procedures that govern the operations of the Department of Corrections and its institutions concerning news media. It provides direction and information to department employees, inmates, and news media concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, community offenders on probation and parole, and news media.

(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: Staff, offenders, and news media will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department, its correctional institutions, and offices.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110, 439.470

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections, its correctional institutions, and offices

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department, its correctional institutions, and offices operate but is not expected to increase expenditures.

Revenues: The administrative regulation does not generate

revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): News media entities that wish to interview inmates or participate in department news media events will have to comply with the requirements in the administrative regulation including providing signed releases.

(a) Estimate the following for the first year:

Expenditures: News media representatives will need to expend an unknown amount of time to obtain required releases for interviews and event participation. An amount for expenditures is unknown.

Revenues: The administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department, its correctional institutions, and offices operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The administrative regulation replaces in part an administrative regulation that is being repealed. The policy and procedure incorporated by reference in the administrative regulation being repealed was reviewed. A fiscal impact was not identified.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced in part by this new administrative regulation.

JUSTICE AND PUBLIC SAFETY CABINET

Department of Corrections

(New Administrative Regulation)

501 KAR 6:310. Monitoring and operation of private prisons.

RELATES TO: KRS Chapters 196, 197, KRS 197.500-197.540, Chapter 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110, 197.525

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 197.525 requires the department shall

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promulgate administrative regulations governing the standards, operation, and management of adult correctional facilities that may be contracted for pursuant to KRS 197.505. This administrative regulation establishes policies and procedures concerning personnel for the Department of Corrections. This administrative regulation establishes the procedures concerning the monitoring and operation of private prisons for the Department of Corrections.

Section 1. Definitions.

(1) "On-site contract monitor" means a Department of Corrections employee assigned on-site at the private prison that is responsible for ensuring that operations are in compliance with contract terms.

(2) "Private provider" is defined by KRS 197.500(2) and the private provider shall have a contract with the Department of Corrections to house prisoners committed to the custody of the department.

(3) The private provider shall operate the private prison in accordance with statutory requirements, contract terms, Corrections Policies and Procedures, and ACA standards to obtain or maintain accreditation.

(4) The Department of Corrections shall ensure that the requirements and terms provided by statute and the contract are monitored.

Section 2. Monitoring.

(1) One (1) on-site contract monitor shall be assigned to each private prison.

(2) An on-site contract monitor shall be a full-time position.

(3) The on-site contract monitor shall not normally carry out routine duties of the private prison including manning posts. However, the on-site contract monitor may provide support in the form of specialized training and advice or during an emergency situation, with the approval of both the warden of the private prison and the Deputy Commissioner of Adult Institutions or designee.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning personnel for the Department of Corrections. This administrative regulation establishes the procedures concerning the monitoring and operation of private prisons for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and

discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 197.525 requires the department shall promulgate administrative regulations governing the standards, operation, and management of adult correctional facilities that may be contracted for pursuant to KRS 197.505.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning the monitoring and operation of private prisons. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation establishes the policies and procedures that govern the monitoring and operations of private prisons institutions concerning the monitoring and operation of private prisons. It provides direction and information to department employees, private prison staff, and inmates concerning the monitoring and operations of the private prisons.

(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: This affects the Department of Corrections, approximately 12 department employees, 300 private prison staff, 829 inmates, visitors, volunteers, and others who enter the private correctional institution.

(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: Staff and inmates will have to change their actions to comply with monitoring and operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The procedures will assist in the effective and orderly management of private prisons.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110, 197.525

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): The department currently contracts with a single private prison to incarcerate state inmates for the department.

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the private prison operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and the private prison operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The administrative regulation replaces in part an administrative regulation that is being repealed. The policy and procedure incorporated by reference in the administrative regulation being repealed was reviewed. A fiscal impact was not identified.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced in part by this new administrative regulation.

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)**

501 KAR 6:320. Corrections policies and procedures: inmate funds.

RELATES TO: KRS Chapter 196, 196.270, Chapter 197

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and

discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, and government of the prisoners in their department and conduct. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes the policy and procedures concerning inmate funds for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 2", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 2 includes:

2.1	Inmate Canteen (5/15/24)
2.12	Abandoned Inmate Funds (4/12/18)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the policy and procedures concerning inmate funds for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, and government of the prisoners in their department and conduct. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of inmate funds. This administrative regulation complies with the requirements to promulgate administrative regulations as

stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning inmate funds. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, and 23,995 inmates.

(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: Staff and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): he operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in

subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates wishing to purchase items from the canteen or who have lost or abandoned property

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue. The canteen revenue is controlled by contract.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

JUSTICE AND PUBLIC SAFETY CABINET

Department of Corrections (New Administrative Regulation)

501 KAR 6:330. Corrections policies and procedures: personnel.

RELATES TO: KRS 18A.043, Chapter 196, 196.160, 196.230, Chapter 197, 510.120(1)(c)

STATUTORY AUTHORITY: KRS 196.035, 196.070, 196.160, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020 requires the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary and for the government and official conduct of all officials connected with the penitentiary. KRS 196.160 authorizes the commissioner to adopt, amend, or rescind administrative regulations governing dress and grooming standards of institutional uniformed officers and employees. KRS 197.110(5) authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes policies and procedures concerning personnel for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures,

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Chapter 3", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 3 includes:

3.1	Code of Ethics/Social Media Use (5/15/24)
3.9	Student Intern Placement Procedure (5/15/24)
3.10	Appearance and Dress for Nonuniformed Staff (5/15/24)
3.11	Drug Free Workplace Employee Drug Testing (5/15/24)
3.17	Uniformed Employee Dress Code (5/15/24)
3.22	Staff Sexual Offenses (12/10/13)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 11:00 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning personnel for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020 requires the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary and for the government and official conduct of all officials connected with the penitentiary. KRS 196.160 authorizes the commissioner to adopt, amend, or rescind administrative regulations governing dress and grooming standards of institutional uniformed officers and employees. KRS 197.110(5) authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning personnel. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of

the Department of Corrections and its institutions concerning personnel. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections and approximately 3,900 employees and 23,995 inmates.

(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: Staff and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 196.070, 196.160, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not

been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2)

or (3): Employees and other staff

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)**

501 KAR 6:340. Corrections policies and procedures: research and information.

RELATES TO: KRS Chapters 196, 197, 439, KRS 439.510

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110, 439.470.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes the policy and procedures concerning research and criminal justice data base use for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 5", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 5 includes:

5.1	Research, Surveys, and Data Request (5/15/24)
5.4	LINK, NCIC, and NLETS (5/15/24)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet,

Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the policy and procedure concerning research and criminal justice data base use for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning research and criminal justice data base use. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections concerning research and information. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, volunteers and others who enter state correctional institutions, offenders on home incarceration, community offenders on probation and parole.

(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: Staff and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110, 439.470

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Entities seeking to do research involving department offender populations and offenders

(a) Estimate the following for the first year:

Expenditures: Entities seeking to do research involving department offender populations will need to follow the requirements of the research policy. The research will generally cause any expenditures rather than the research policy requirements. An amount is not known.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department, its institutions, its offices, and outside researchers operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

JUSTICE AND PUBLIC SAFETY CABINET Department of Corrections (New Administrative Regulation)

501 KAR 6:350. Inmate or offender on supervision record request.

RELATES TO: KRS Chapters 61, 196, 197, 422.317, 439, 510
STATUTORY AUTHORITY: KRS 61.876, 196.035, 197.020, 197.025, 197.110, 439.470

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 197.025(2) authorizes the department to deny a request for a record from an offender who is incarcerated or on active supervision if the record does not contain a specific reference to the offender. KRS 422.317 allows the department to provide medical records to inmates. KRS 439.470 requires the commissioner to promulgate administrative regulations for the conduct of persons placed on probation or parole but not conflict with conditions of the parole board or court. This administrative regulation establishes procedures for an offender record request.

Section 1. Definitions.

(1) "Custodian" is defined by KRS 61.870(6).

(2) "Fee" means the copy cost of ten cents per page or the cost of the media used for disclosure of information and the cost to mail the records if applicable.

(3) "Information" means sharing knowledge or facts regarding a specific document, event, situation or condition.

(4) "Media" is defined by KRS 61.870(7).

(5) "Official custodian" is defined by KRS 61.870(5).

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(6) "Open records coordinator" means the individual designated by the warden at each institution, the district supervisor at each probation and parole district office, and the individual designated by the commissioner in the Department of Corrections central office to receive, date, and process open records requests.

(7) "Public agency" is defined by KRS 61.870(1).

(8) "Public record" is defined by KRS 61.870(2).

(9) "Request" means a written document that requests the opportunity to inspect or copy a public record.

(10) "Resident of the Commonwealth" is defined by KRS 61.870(10).

Section 2. Fees. The fee for each page of a copy of a record shall be ten (10) cents unless the cost to produce the page is more than ten (10) cents not including staff time. The fee and any required postage shall be paid to the custodian or designee prior to the release of a copy of the public record, unless the fee or postage is waived. If the record is requested in a non-standard form, the custodian may require the costs of staff preparation to be paid in advance.

Section 3. Requests from an Inmate to an Institution in which the Inmate is Incarcerated.

(1) An inmate housed in a jail or state or private prison may obtain a copy of a public record that contains a specific reference to him to the extent allowed by law. The inspection of a public record by an inmate incarcerated in a jail or state or private prison that contains a specific reference to him:

(a) Shall be limited to the jail or state or private prison in which the inmate is incarcerated; and

(b) Shall not include special housing areas that preclude the inmate from moving about the jail or state or private prison, including special management, restrictive housing, medical department, or infirmary.

(2) An inmate shall make a request to the open records coordinator at the institution for a public record maintained in the electronic offender management system or the electronic health record to the institution in which the inmate is incarcerated.

(3) An inmate may use the form promulgated by the Office of the Attorney General to request a record. If the form is used, the written request shall include the inmate's cell, room, or housing assignment for the address and to prevent a delay in processing the inmate's name shall include the inmate's number. If the form is not used, the request shall contain the following information:

(a) The inmate's name and inmate number;

(b) Cell, room or housing assignment;

(c) A description of the record being requested; and

(d) Signature of person making the request.

(4) The request shall be made either:

(a) By institutional mail to the open records coordinator; or

(b) By first class U.S. mail to the open records coordinator or custodian of the record.

(5) An open records request shall be mailed and shall not be hand delivered given the security requirements of a correctional institution.

(6) If a copy of a public record is requested, the inmate shall provide with his request a money authorization allowing the cost to be deducted from his inmate account on the form required by his institution to allow for payment of the cost of the copy.

(a) If the inmate does not have sufficient funds for payment of the fee, he may request the opportunity to inspect the record if it is located at his institution and he is not prohibited from inspection because of access restrictions; or

(b) The inmate may send the request again upon receipt of sufficient funds to cover payment of the fee.

Section 4. Requests from an Inmate or Offender on Active Supervision to the Department of Corrections Central Office, a Probation and Parole District Office, or an Institution in which the Inmate is Not Incarcerated.

(1) An inmate shall:

(a) Follow the requirements for a request stated in Section 3 of this administrative regulation except for the money authorization and

sending the request to the open records coordinator for the office or institution as appropriate; and

(b) Provide a check from his inmate account after being informed of the cost to obtain a copy of the record.

(2) An offender on active supervision shall provide a written request containing the following information:

(a) Name and address;

(b) A description of the public record being requested; and

(c) Signature of the person making the request.

(3) Prepayments shall not be sent unless the amount is the exact cost for the copies of the records and any necessary postage. A check or money order for the exact amount shall be sent after being informed of the cost to obtain a copy of the record.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: April 11, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning records for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020 requires the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary and for the government and official conduct of all officials connected with the penitentiary, and for the government of the prisoners in their department and conduct. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 439.470 requires the commissioner to promulgate administrative regulations for the conduct of persons placed on probation or parole except not conflict with the conditions of probation imposed by the court or conditions of release imposed by the Parole Board.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning inmate records. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation establishes the procedures that govern the operations of the Department of Corrections, its institutions, and its probation and parole offices concerning offender record requests. It provides direction and information to department employees and offenders concerning the operations of the department.

(2) If this is an amendment to an existing administrative

regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees and 23,995 inmates, state correctional institutions, offenders on home incarceration, community offenders on probation and parole, jailers, and jail 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:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and offenders will have to change their actions to comply with operational procedures. Jailers and jail employees will have to comply for state inmates housed in a jail.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department, its correctional institutions, probation and parole offices, and jails housing state inmates.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium. County budgeted funds for jail operating expenses with payments from the department.

(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.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: A fee for the cost of copies is stated and duplicates case law. An increase in cost and fees is not anticipated.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110, 439.470

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and jails that house state inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: The payment for copies covers material costs and does not cover the full cost for generating the copies including staff time and utilities.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to

change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): A jail may use provisions in its response to requests for records.

(a) Estimate the following for the first year:

Expenditures: Jail expenditures are unknown.

Revenues: The copy fees are unlikely to cover all costs of making copies.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Employees and offenders

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: The payment for copies covers material costs and does not cover the full cost for generating the copies including staff time and utilities.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The department policy and procedures were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The department policy and procedures were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

JUSTICE AND PUBLIC SAFETY CABINET

Department of Corrections (New Administrative Regulation)

501 KAR 6:360. Corrections policies and procedures: safety and critical incident notification.

RELATES TO: KRS Chapters 196, 197

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110(5) authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes policies and procedures concerning safety and notification of critical incidents for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 8", May 15, 2024, are incorporated by reference.

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Department of Corrections Policies and Procedures Chapter 8 includes:

8.2	Fire Safety (5/15/24)
8.7	Notification of Critical Incident (5/12/20)
8.10	Radiation Safety Program (5/15/24)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning safety and notification of critical incidents for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110(5) authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning safety and notification of critical incidents. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning safety and notification of critical incidents. It provides direction and information to department employees and inmates concerning the

operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, visitors, volunteers, and others who enter state correctional institutions.

(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: Staff and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that the administrative regulation will increase current costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2)

or (3): Employees and inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)**

501 KAR 6:370. Corrections policies and procedures: security and control.

RELATES TO: KRS Chapters 196, 197

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.022, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.020(1)(c) further authorizes the department to promulgate administrative regulations for the disposition of abandoned, lost, or confiscated property of prisoners. KRS 197.022(5) requires the cabinet to promulgate an administrative regulation concerning the transport of a prisoner to court for a civil action if ordered by the court. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes policies and procedures concerning security and control for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 9", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 9 includes:

9.4	Transportation of Inmates to Funerals or Bedside Visits (5/15/24)
9.6	Contraband (2/26/16)
9.8	Search Policy (5/15/24)
9.13	Transport to Court - Civil Action (7/9/07)
9.18	Informants (9/13/10)
9.19	Found, Lost or Abandoned Property (10/14/05)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning security and control for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.020(1)(c) further authorizes the department to promulgate administrative regulations for the disposition of abandoned, lost, or confiscated property of prisoners. KRS 197.022(5) requires the cabinet to promulgate an administrative regulation concerning the transport of a prisoner to court for a civil action if ordered by the court. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning security control. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

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

administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning security and control. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, visitors, volunteers, and others who enter state correctional institutions.

(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: Staff, inmates, and others will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that the administrative regulation will increase current costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: An increase in cost and fees is not anticipated.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.022, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: An inmate or his family may pay for the costs incurred to transport the inmate to a funeral or bedside visit in CPP 9.4. An exact amount for this is unknown.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Employees, inmates, inmate families

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: An inmate or his family may pay for the costs incurred to transport the inmate to a funeral or bedside visit in CPP 9.4. An exact amount for this is unknown.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

JUSTICE AND PUBLIC SAFETY CABINET Department of Corrections (New Administrative Regulation)

501 KAR 6:380. Corrections policies and procedures: special management and restrictive housing inmates, safekeepers, and contract prisoners.

RELATES TO: KRS Chapters 196, 197, KRS 441.540, 441.550

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, character of food and diet of the prisoners, preservation of the health of the prisoners, daily cleansing of the penitentiary, cleanliness of the persons of the prisoners, general sanitary government of the penitentiary and prisoners, character of the labor, quantity of food and clothing, and the length of time during which the prisoners shall be employed daily. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes policies and procedures concerning special management and restricted housing inmates,

safekeepers, and contract prisoners for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 10", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 10 includes:

10.2	Special Management and Restrictive Housing (5/15/24)
10.3	Safekeepers and Contract Prisoners (1/12/18)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning special management and restricted housing inmates, safekeepers, and contract prisoners for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, character of food and diet of the prisoners, preservation of the health of the prisoners, daily cleansing of the penitentiary, cleanliness of the persons of the prisoners, general sanitary government of the penitentiary and prisoners, character of the labor, quantity of food and clothing, and the length of time during which the prisoners shall be employed daily. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning special management and restricted housing inmates, safekeepers, and contract prisoners.

This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the department and its institutions for special management and restricted housing inmates, safekeepers, and contract prisoners. It provides direction and information to department employees, inmates, and jails concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, and an unknown number of jails.

(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: Staff and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that the administrative regulation will increase current costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections, its correctional institutions, and jails

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate

revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): A jail may be impacted by CPP 10.3 for a pretrial jail prisoner being incarcerated by the department in lieu of the jail.

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: The department on rare occasions provide services to jails by keeping a jail inmate as a safekeeper. The county reimburses the department for the cost of the safekeeper within a department institution.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates and employees

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. CPP 10.3 provides a framework but does not impact the cost to incarcerate the prisoner being held for safekeeping. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)**

501 KAR 6:390. Corrections policies and procedures: inmate diet.

RELATES TO: KRS Chapters 196, 197

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, character of food and diet of the prisoners, preservation of the health of the prisoners, cleanliness of the persons of the prisoners, general sanitary

government of the penitentiary and prisoners, character of the labor, and quantity of food and clothing. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes policies and procedures concerning inmate diet for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 11", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 11 includes:

11.2	Dietary Procedures and Compliance (1/12/17)
11.4	Alternative Dietary Patterns (5/15/24)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning inmate diet for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, character of food and diet of the prisoners, preservation of the health of the prisoners, cleanliness of the persons of the prisoners, general sanitary government of the penitentiary and prisoners, character of the labor, and quantity of food and clothing. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

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

the authorizing statutes: The administrative regulation governs the operations of the department concerning inmate diet. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the department and its institutions concerning inmate diet. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, and 23,995 inmates.

(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: Staff and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

JUSTICE AND PUBLIC SAFETY CABINET Department of Corrections (New Administrative Regulation)

501 KAR 6:400. Corrections policies and procedures: inmate health care.

RELATES TO: KRS Chapters 196, 197, KRS 311.621-311.641, 439.3405

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, preservation of the health of the prisoners, and character of the labor and length of time during which the prisoners shall be employed daily. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes policies and procedures concerning inmate health care for the Department of Corrections.

VOLUME 50, NUMBER 12– June 1, 2024

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 13", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 13 includes:

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning inmate health care for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, preservation of the health of the prisoners, and character of the labor and length of time during which the prisoners shall be employed daily. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning inmate health care. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning inmate health care. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, and 23,995 inmates.

(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: Staff and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Medical co-pays and medical equipment as created in CPP 13.2. An increase in costs and fees is not anticipated.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures. Inmate healthcare costs are largely generated by having incarcerated inmates and not from the administrative regulation. The healthcare costs for FY23 were approximately \$53,479,192.

Revenues: CPP 3.1 & 3.2 establish small co-pays for non-formulary prescriptions, non-emergency sick call visits (not for chronic care or staff-initiated visits), prosthetics, hearing aids (if not medically necessary), and eye-glasses. The co-pays are waived for indigent inmates and the amounts generated are well below the cost of the healthcare.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to

increase costs. Healthcare costs continue to increase generally and are expected to be approximately \$55 million for FY24. The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: CPP 3.1 & 3.2 establish small co-pays for non-formulary prescriptions, non-emergency sick call visits (not for chronic care or staff-initiated visits), prosthetics, hearing aids (if not medically necessary), and eye-glasses. The co-pays are waived for indigent inmates and the amounts generated are well below the cost of the healthcare.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)**

501 KAR 6:410. Corrections policies and procedures: inmate life and issues.

RELATES TO: KRS Chapters 196, 197, KRS 402.050, 402.080, 510.120(1)(b)

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, preservation of the health of the prisoners, cleanliness of the persons of the prisoners, general sanitary government of the penitentiary and prisoners, character of the labor, and quantity of clothing. KRS 197.020(1)(c) further authorizes the Department of Corrections to promulgate administrative regulations for the disposition of abandoned, lost, or confiscated property of prisoners. KRS 197.110 authorizes the

department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes policies and procedures concerning inmate life and issues for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 14", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 14 includes:

14.1	Investigation of Missing Inmate Property (5/15/24)
14.2	Personal Hygiene Items (8/20/13)
14.3	Marriage of Inmates (1/12/17)
14.4	Legal Services Program (3/14/14)
14.5	Board of Claims (5/15/24)
14.6	Inmate Grievance Procedure (5/15/24)
14.7	Sexual Abuse Prevention and Intervention Programs (5/15/24)
14.8	Lesbian, Gay, Bisexual, Transgender, and Intersex Inmates (5/15/24)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning inmate life and issues for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, preservation of the health of the prisoners, cleanliness of the persons of the prisoners, general sanitary government of the penitentiary and prisoners, character of

the labor, and quantity of clothing. KRS 197.020(1)(c) further authorizes the Department of Corrections to promulgate administrative regulations for the disposition of abandoned, lost, or confiscated property of prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning inmate life and issues. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning inmate life and issues. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, and 23,995 inmates.

(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: Staff and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its

correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

JUSTICE AND PUBLIC SAFETY CABINET

Department of Corrections

(New Administrative Regulation)

501 KAR 6:420. Corrections policies and procedures: inmate rules and discipline.

RELATES TO: KRS Chapters 196, 197, KRS 197.045

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes policies and procedures

concerning inmate rules and discipline for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 15", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 15 includes:

15.1	Hair, Grooming and ID Card Standards (5/15/24)
15.2	Rule Violations and Penalties (5/15/24)
15.3	Meritorious Good Time (1/13/20)
15.5	Restoration of Forfeited Good Time (5/12/20)
15.6	Adjustment Procedures and Programs (3/14/18)
15.7	Inmate Accounts (5/15/24)
15.8	Possession or Use of Unauthorized Substance and Substance Abuse Testing (4/12/18)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning inmate rules and discipline for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning inmate rules and discipline.

This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the department and its institutions concerning inmate rules and discipline. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, and 23,995 inmates.

(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: Staff and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department, its correctional institutions, and jails housing state inmates.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: CPP 15.1 establishes a fee for a replacement inmate ID card.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: The replacement ID card fee in CPP 15.1 covers the cost of replacing the card. An exact amount is unknown.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: The replacement inmate ID card fee in CPP 15.1 covers the cost of replacing the card. An exact amount is unknown. An inmate may be assessed restitution in the inmate disciplinary process. An exact amount is unknown.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)**

501 KAR 6:430. Corrections policies and procedures: communication, mail, and visiting.

RELATES TO: KRS Chapters 196, 197

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes policies and procedures concerning communication, mail, and visiting for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 16", May 15, 2024, are incorporated by reference.

Department of Corrections Policies and Procedures Chapter 16 includes:

16.1	Inmate Visits (5/15/24)
16.2	Inmate Correspondence (5/15/24)
16.3	Inmate Access to Telephones (10/12/12)
16.4	Inmate Packages (8/12/16)
16.5	Video Visitation (5/15/24)
16.6	Inmate Tablets (5/15/24)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning inmate communication, mail, and visiting for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning communication, mail, and visiting. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning communication, mail, and visiting. It provides direction and information to department employees and inmates concerning the

operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, and visitors.

(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: Staff, visitors, and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates and inmate families

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)**

501 KAR 6:440. Corrections policies and procedures: inmate reception, orientation, and personal property.

RELATES TO: KRS Chapters 196, 197, 454.415

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and quantity of food and clothing. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes policies and procedures concerning inmate reception, orientation, and personal property for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 17", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 17 includes:

17.1	Inmate Personal Property (5/15/24)
17.2	Assessment Center Operations (5/12/20)
17.3	Controlled Intake of Inmates (3/14/14)
17.4	Administrative Remedies: Sentence Calculations (8/12/16)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort,

VOLUME 50, NUMBER 12– June 1, 2024

Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning inmate reception, orientation, and personal property for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and quantity of food and clothing. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning inmate reception, orientation, and personal property. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning inmate reception, orientation, and personal property. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, offenders on home incarceration, jailers, and jail 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:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium. County budgeted funds for jail operating expenses with payments from the department.

(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.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections, its correctional institutions, and jails

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

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

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the jail operates in part but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(4) Identify additional regulated entities not listed in questions (2)

or (3): Inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)**

501 KAR 6:450. Corrections policies and procedures: classification.

RELATES TO: KRS Chapter 196, 196.070, 196.073, 196.173, 196.610, Chapter 197, 197.140, 439.380, 440.450, 504.150, 640.070, 640.075

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for the classification of prisoners and purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes policies and procedures concerning classification for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 18", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 18 includes:

18.1	Classification of the Inmate (5/15/24)
18.2	Central Office Classification Committee (5/15/24)
18.3	Confinement of Youthful Offenders (5/15/24)
18.5	Custody Level and Security (5/15/24)
18.7	Transfers (5/15/24)
18.9	Out-of-state Transfers (5/15/24)
18.11	Placement for Mental Health Treatment in CPTU or PCU (6/14/16)
18.12	Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill (2/15/06)

18.13	Population Categories (5/15/24)
18.15	Protective Custody (5/15/24)
18.16	Information to the Parole Board (1/13/20)
18.17	Interstate Agreement on Detainers (7/9/07)
18.18	International Transfer of Inmates (5/14/07)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning classification for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for the classification of prisoners and purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning classification. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning classification. It provides direction and information to department employees and inmates concerning the operations of the department.

(2) If this is an amendment to an existing administrative

regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, jailers, and jail 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:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and inmates will have to change their actions to comply with operational procedures. Jailers and jail employees will have to comply for state inmates housed in a jail.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department, its correctional institutions, and jails housing state inmates.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium. County budgeted funds for jail operating expenses with payments from the department.

(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.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections, its correctional institutions, and jails

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the jail operates in part but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

JUSTICE AND PUBLIC SAFETY CABINET Department of Corrections (New Administrative Regulation)

501 KAR 6:460. Corrections policies and procedures: inmate work programs.

RELATES TO: KRS Chapters 196, 197, 197.065, 197.070, 197.110, 197.120, 197.150

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.047, 197.110, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, character of the labor, and length of time during which the prisoners shall be employed daily. KRS 197.047(2) requires the department to promulgate an administrative regulation governing prisoners working on governmental services program-related projects. KRS 197.047(5) requires the department to promulgate an administrative regulation setting forth the amount of compensation a prisoner shall earn for any work-related project. KRS 197.110 requires the department to promulgate administrative regulations it deems necessary and proper for classification of prisoners, conditions of inmate work assignments, and inmate pay for work. This administrative regulation establishes policies and procedures concerning inmate work programs for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 19", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 19 includes:

19.1	Governmental Services Program (10/12/12)
19.2	Sentence Credit for Work (2/26/16)
19.3	Inmate Wage/Time Credit Program (5/15/24)
19.4	Work Release for State Inmates in Jails (4/12/18)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning inmate work programs for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, character of the labor, and length of time during which the prisoners shall be employed daily. KRS 197.047(2) requires the department to promulgate an administrative regulation governing prisoners working on governmental services program-related projects. KRS 197.047(5) requires the department to promulgate an administrative regulation setting forth the amount of compensation a prisoner shall earn for any work-related project. KRS 197.110 requires the department to promulgate administrative regulations it deems necessary and proper for classification of prisoners, conditions of inmate work assignments, and inmate pay for work.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning inmate work programs. This administrative regulation complies with the requirements to

promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning inmate work programs. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, jailers, and jail 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:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and inmates will have to change their actions to comply with operational procedures. Jailers and jail employees will have to comply for state inmates housed in a jail.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department, its correctional institutions, and jails housing state inmates.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium. County budgeted funds for jail operating expenses with payments from the department.

(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.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: CPP 19.4 addresses that a jail may charge a fee that complies with the amounts set in KRS 532.100(8)(c) for inmates participating in the work release program.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.047, 197.110, 439.590, 439.640

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections, its correctional institutions, and jails

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

The inmate pay through CPP 19.3 will cost approximately \$246,269.
 Revenues: The payments from other agencies for the GSP program reimburse the DOC for the costs to provide the inmate workers and supervising staff.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The inmate pay through CPP 19.3 is expected to continue to be approximately \$246,269. The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the jail operates in part but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures. The inmate pay through CPP 19.3 will cost approximately \$246,269.

Revenues: The payments from other agencies for the GSP program reimburse the DOC for the costs to provide the inmate workers and supervising staff.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The inmate pay through CPP 19.3 is expected to continue to be approximately \$246,269. The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

**JUSTICE AND PUBLIC SAFETY CABINET
 Department of Corrections
 (New Administrative Regulation)**

501 KAR 6:470. Corrections policies and procedures: inmate education and training.

RELATES TO: KRS Chapters 196, 197, 197.045, 439.268

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and

discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 439.268 authorizes the department to promulgate administrative regulations for the awarding of probation program credits. This administrative regulation establishes policies and procedures concerning inmate education and training for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 20", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 20 includes:

20.1	Educational Courses and Educational Sentence Credits (5/15/24)
20.2	Apprenticeship Courses (5/12/20)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning inmate education and training for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 439.268 authorizes the department to promulgate administrative

regulations for the awarding of probation program credits.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning inmate education and training. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning inmate education and training. It provides direction and information to department employees and offenders concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, community offenders on probation and parole, jailers, and jail 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:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and inmates will have to change their actions to comply with operational procedures. Jailers and jail employees will have to comply for state inmates housed in a jail.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department, its correctional institutions, jails housing state inmates, and offenders on supervision.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium. County budgeted funds for jail operating expenses with payments from the department.

(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.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation establishes a \$15 fee through CPP 20.1 for individuals requesting a live work project.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110, 439.640

(2) Identify the promulgating agency and any other affected state

units, parts, or divisions: Department of Corrections, its correctional institutions, offenders on probation and parole, and jails

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: An amount for the live work project fees is not known. The fees support the live work projects and do not cover the entire cost of the item made.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: An amount for the live work project fees is not known. The fees support the live work projects and do not cover the entire cost of the item made.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

JUSTICE AND PUBLIC SAFETY CABINET Department of Corrections (New Administrative Regulation)

501 KAR 6:480. Library services.

RELATES TO: KRS Chapters 196, 197

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, and government of the prisoners in their department and conduct. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative

regulation establishes the policy and procedures concerning library services for the Department of Corrections.

Section 1. Definition. "Librarian" means a person available to the institution who is responsible for providing assistance in coordinating and supervising library services within a specific institution and shall have a master's degree in library science, information resources, media services, or related degree who assists with coordination and supervising library research.

Section 2. Library Services.

(1) The library shall be open daily and have evening hours according to a posted schedule.

(2) A circulation program shall provide suitable materials for inmate use.

(3) The librarian shall coordinate the selection, acquisition, classification, cataloging, organization and circulation of all library materials to meet education, informational and recreational needs of inmates.

(4) Legal library. An electronic law publication database shall be maintained at all correctional institutions in compliance with Corrections Policy and Procedure 14.4 incorporated by reference in 501 KAR 6:410. The legal library shall have regular hours on a weekly basis according to a posted schedule.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the policy and procedures concerning library services for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, and government of the prisoners in their department and conduct. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning library services. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will

assist in the effective administration of the statutes: The administrative regulation establishes the procedures that govern the operations of the Department of Corrections and its institutions concerning inmate library services. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, and volunteers.

(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: Staff and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department operates but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The administrative regulation replaces in part an administrative regulation that is being repealed. The policy and procedure incorporated by reference in the administrative regulation being repealed was reviewed. A fiscal impact was not identified.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced in part by this new administrative regulation.

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)**

501 KAR 6:490. Corrections policies and procedures: inmate recreation and activities.

RELATES TO: KRS Chapters 196, 197, 439.600, 439.610

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes policies and procedures concerning inmate recreation and activities for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 22", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 22 includes:

22.1	Privilege Trips (10/14/05)
22.2	Recreation and Inmate Activities (3/14/14)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet,

Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning inmate recreation and activities for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning inmate recreation and activities. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning inmate recreation and activities. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, and 23,995 inmates.

(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: Staff and inmates will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

JUSTICE AND PUBLIC SAFETY CABINET Department of Corrections (New Administrative Regulation)

501 KAR 6:500. Religious programs.

RELATES TO: KRS Chapters 196, 197, 197.270, 197.275

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, and government of the prisoners in their department and conduct. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. This administrative regulation establishes the procedures concerning religious programs for the Department of Corrections.

Section 1. Definitions.

(1) "Chaplain" means a correctional employee or approved volunteer authorized to provide religious counsel, instruction, and advice to inmates and to provide a system of services or religious volunteers, ecclesiastical visitors, and guests for inmates.

(2) "Institutional Religious Center" or "IRC" means the designated area where religious services are conducted.

(3) "KDP" means Kosher Diet Program.

(4) "Religion Reference Manual" means the "Kentucky Department of Corrections Religion Reference Manual," incorporated by reference in 501 KAR 6:080.

(5) "Religious items" means items associated with a particular religious faith.

(6) "Religious practice" means outwardly observable manifestations of religious beliefs including:

(a) Participating in congregations and meetings;

(b) Engaging in rituals and ceremonies;

(c) Praying, chanting, singing;

(d) Wearing special items of clothing, jewelry, hairstyles, or beards;

(e) Adhering to special diets; and

(f) Participating in special activities characteristic of a particular religion or adherents of a particular religion.

Section 2. Religious Practice.

(1) An inmate may participate in practices of his religious faith. The Religion Reference Manual shall be used for religious practice questions. If a religious item or practice is not represented in the Religion Reference Manual, an inmate may request a religious item or practice by following the procedure in Section 4(10) of this administrative regulation.

(2) The religions listed in the Religion Reference Manual shall be treated in an equal manner. The institution shall assist in the research of a religion or religious practice not addressed in the Religion Reference Manual;

(3) Religious practices shall be limited only by articulated facts showing a threat to the safety of persons involved in an activity, the safety of the institution, or that the activity itself disrupts order in the institution.

(4) Religious practices shall include religious publications, religious symbols, congregational religious services, individual and group counseling, and religious study classes.

(5) The following religious practices and activities shall not be authorized:

- (a) Animal sacrifice;
- (b) Language or behavior that may reasonably be construed as a threat to safety, security, or the orderly running of the institution;
- (c) Nudity;
- (d) Self mutilation;
- (e) Use, display, or possession of a weapon or an item that may appear to be a weapon;
- (f) Paramilitary exercises;
- (g) Self-defense training;
- (h) Sexual acts;
- (i) Profanity;
- (j) Consumption of alcohol;
- (k) Ingestion of illegal substances;
- (l) Proselytizing;
- (m) Inscription;
- (n) Disparagement of other religions;
- (o) Tobacco products.

(6) An inmate shall not be allowed special services or to receive additional literature, religious icons, or other religious items at one institution that are not allowed at other institutions. Each institution shall follow the uniform requirements of this administrative regulation.

(7) An inmate shall not be coerced, harassed, or ridiculed due to religious affiliation.

Section 3. Chaplain.

(1) Each institution shall provide a chaplain who plans, directs, and coordinates all aspects of the religious program including approval and training of both lay and clergy volunteers from faiths represented by the inmate population.

(2) If the chaplaincy staff or volunteers do not include a religious leader of an inmate's faith, the chaplain shall assist the inmate in contacting a person who has the appropriate credentials from the faith judicatory. That person may minister to the inmate under the supervision of the chaplain.

(3) The chaplain shall:

- (a) Coordinate scheduling of all religious programs;
- (b) Supervise all chaplaincy students; and
- (c) Coordinate and supervise all religious volunteers in accordance with 501 KAR 6:520.

Section 4. Religious Programming.

(1) The institution shall provide space and equipment adequate for the conduct and administration of each religious program.

(2) In an institution that uses a common worship area, adequate space shall be provided for religious emblems and other items used during worship.

(3) The institution shall maintain a basic library of religious reading materials that includes required literature of faiths represented by the inmate population.

(4) Congregate religious items shall not remain outside or be a permanent structure or fixture.

(5) Services and ceremonies.

(a) Each institution shall provide religious services.

(b) A specific religious service and ceremony may be provided based upon the inmate's stated religious preference.

(6) Religious Headwear.

(a) An inmate who has expressed a religious preference listed below may wear the following religious headwear in the institution as follows:

Religion	Item Female	Item Male	Color
Jewish	scarf (45 in x 45 in)	yarmulke	White or off-white
Islam	hijab	kufi	White or off-white
Nation of Islam	scarf (45 in x 45 in)	Taqiyah	White
Rastafarian	scarf (45 in x 45 in)	crown	Crowns may contain one, some or all of the following colors: red, yellow, green or black and shall not have a bill or peak, free of any writing to include symbols and graphics. Solid color crowns shall be white in color only. Scarfs may be white or off-white only.
Bobo Ashanti	N/A	turban (45 in x 45 in scarf)	White or off-white

An inmate may have three (3) items of religious headwear.

(b) Ceremonial headwear. An inmate may have one (1) ceremonial headwear in addition to three (3) religious headwear. A headband shall be worn only in a circle covering the forehead, but not the crown of the head. An inmate who has expressed one of the following religious preferences may wear the following ceremonial headwear in the IRC only. It shall not be worn to and from the chapel or in any other area of the institution:

Religion	Item Female	Item Male	Color
Moorish Science Temple of America	scarf (45 in x 45 in)	fez	Fez shall be red in color only. Scarfs shall be white or off-white in color only.
Native American	headband	headband	Solid color only (blue, red, green, white, yellow, or black) (no beading, graphics or other ornamentation permitted)
Odinist/Asatru	N/A	hlath (hlad)	Brown or white with one or more embroidered runes or printed runes

(7) An inmate who chooses a religious preference that allows for a dress as a personal religious item may be issued the uniform dress as specified in CPP 17.1 incorporated by reference in 501 KAR 6:440.

(8) Religious objects and literature. The institution shall permit an inmate to possess items identified in the Religion Reference Manual as personal religious items. Items essential for faith practice shall be purchased through the contracted commissary provider, if available, at the inmate's expense.

(9) Religious diets.

(a) The department shall, to the extent it is feasible and within appropriate institutional resources, provide each inmate with the opportunity to satisfy the minimum dietary requirements deemed essential by the Religion Reference Manual. The department shall offer an alternate diet meal program and a Kosher diet meal program.

(b) If an inmate requests to participate in the Kosher Diet Program, the inmate shall receive counseling from the chaplain regarding the provisions of the KDP and shall sign the Kosher Diet Participation Agreement incorporated by reference in this administrative regulation. The provisions of the Kosher Diet Participation Agreement shall go into effect on the day the Agreement is signed, unless the institutional food service department does not have a Kosher meal for the newly signed up inmate. The chaplain shall notify the food service department in writing that the inmate has signed the KDP Agreement. The food service department shall immediately request adequate Kosher meals to accommodate the request.

(c) If the inmate signs the agreement at an institution that does not have a Kosher kitchen, the inmate may continue to eat the regular diet until the inmate is transferred to an institution equipped for Kosher meal preparation. If the inmate is housed in special management, he shall be required to complete any disciplinary time prior to transfer to an institution equipped for Kosher meal preparation.

(10) New religious components. If a request is made for a religious service not represented at the institution, the chaplain shall review the request with the warden or designee.

(a) If the request is in compliance with the Religion Reference Manual, it shall be implemented.

(b) If the request is for a religion or religious practice that is not represented in the Religion Reference Manual, then the following process shall be used:

1. The inmate shall submit to the chaplain a written request and include the history of the religion or practice and state any necessary personal religious items and congregate items for practice.

2. The chaplain shall review the request and submit his written recommendation along with the original request to the deputy warden.

3. The deputy warden shall review and submit his written recommendation along with all documentation to the Director of Operations or designee.

4. The Director of Operations or designee shall review all documentation submitted based on the requirements of this administrative regulation. The Director of Operations or designee shall notify all parties in writing of the decision. If the decision affects the Religion Reference Manual or Corrections Policy and Procedure, the revisions shall be made during the next review period. If the decision affects the department, the Director of Operations or designee shall notify all institutions of the approved changes to be implemented.

(c) If the request is one that is listed in Section 2(5) of this administrative regulation, a review by the Director of Operations shall not be necessary.

Section 5. Religious Funding.

(1) An IRC fund, apart from the institutional budget, may be established for the religious program and may be used for the following:

- (a) Purchase of religious literature, music, and other materials;
- (b) Purchase of equipment, including sound and music equipment, for operation and maintenance of the program; or
- (c) Funding social events or supplying refreshments for special events.

(2) Any inmate may donate to the IRC fund.

(3) A donation by a private citizen or community group may be accepted into the fund.

(4) Any request for an expenditure of IRC funds shall be submitted by the chaplain to the warden or his designee for final approval through a requisition that describes the purchase or expenditure and a brief justification.

(5) A separate checking account requiring signatures of any two

(2) of the following shall be maintained for the IRC fund:

- (a) Chaplain;
- (b) Warden; or
- (c) Deputy warden.

Section 6. Inmate Faith Group. An inmate faith group shall not engage in any fundraising activity. A ceremonial meal shall not be funded by the IRC fund, a private citizen, an inmate donation, or a community group.

Section 7. Inmate Responsibilities.

(1) Upon entry into the correctional system, an inmate's stated religious preference shall be recorded in the offender management system.

(2) An inmate may change his religious preference every six (6) months by contacting the institutional chaplain.

(3) The inmate shall seek a job or program assignment that does not conflict with his beliefs and practices.

(4) An inmate request for a special service or ceremony shall be made at least sixty (60) days prior to the requested date. This request shall be made in writing to the chaplain and shall include a statement of the reason for the request. The chaplain shall review the request following the procedure in Section 4(10)(b) of this administrative regulation.

(5) If an inmate changes his religious preference, the inmate shall surrender all sacred items related to the former religious preference listed in CPP 17.1 and the Religion Reference Manual.

(6) Institutional staff shall use a sign-up sheet for religion specific ceremonial meals and activities to determine inmate participation to properly advise the food service department to ensure the adequate amount of meals are provided. Failure to sign up in accordance with the posted sign-up sheet requirements shall result in non-participation for that meal or activity.

Section 8. Communication between an inmate and a chaplain or volunteer that presents a safety or security concern within an institution shall not be confidential.

Section 9. Training. Training shall be provided to the chaplains and religious services staff. Staff who have direct contact with inmates shall receive training concerning religious practices developed or approved by the Division of Corrections Training.

Section 10. Incorporation by Reference.

(1) "Kosher Diet Participation Agreement", 2024, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/Ircfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the policy and procedure concerning religious programs for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, and government of the prisoners in their department and conduct. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning religious programs. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation establishes the procedures that governs the operations of the Department of Corrections and its institutions concerning religious programs. It provides direction and information to department employees, inmates, and volunteers concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, and volunteers.

(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: Staff, inmates, and volunteers will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

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

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department operates but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The administrative regulation replaces in part an administrative regulation that is being repealed. The policy and procedure incorporated by reference in the administrative regulation being repealed was reviewed. A fiscal impact was not identified.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced in part by this new administrative regulation.

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)**

501 KAR 6:510. Corrections policies and procedures: release preparation and temporary release.

RELATES TO: KRS Chapters 196, 197, 197.120, 197.140, 197.170, 197.175, 421.500, 439.3110, 439.3405, 439.590, 439.600, 439.610, 440.010, 441.146, 441.148, 532.200-532.262

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110, 441.148

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 441.148(1) requires the department to promulgate administrative regulations to establish standards for the operation of reentry centers established pursuant to KRS 441.146. This administrative regulation establishes policies and procedures concerning release preparation and temporary release for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 25", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 25 includes:

25.2	Public Official Notification of Release of an Inmate (10/14/05)
25.3	Pre-release Program (11/15/06)
25.4	Inmate Furloughs (5/15/24)
25.6	Community Service Center Program and Jail Placement (11/13/18)
25.10	Administrative Release of Inmates (1/13/20)
25.11	Victim Services (8/25/09)
25.12	Home Incarceration Program (1/13/20)
25.13	Women's Medical Release: Pregnancy (11/13/18)
25.14	Reentry Center Program (11/13/18)
25.15	Early Medical Parole Review (5/15/24)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you

do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning release preparation and temporary release for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 441.148(1) requires the department to promulgate administrative regulations to establish standards for the operation of reentry centers established pursuant to KRS 441.146.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning release preparation and temporary release. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning release preparation and temporary release. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, offenders on home incarceration, community offenders on probation and parole, jailers, and jail 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:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and inmates will have to change their actions to comply with operational procedures. Jailers and jail employees will have to comply for state inmates housed in a jail.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department, its correctional institutions, and jails housing state inmates.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium. County budgeted funds for jail operating expenses with payments from the department.

(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.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110, 441.148

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections, its correctional institutions, reentry service centers, and jails

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

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

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the jails operate in part but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Reentry service centers and inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the reentry service centers operate but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The

administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

JUSTICE AND PUBLIC SAFETY CABINET Department of Corrections (New Administrative Regulation)

501 KAR 6:520. Citizen involvement, volunteer, and reentry mentor service programs.

RELATES TO: KRS Chapters 196, 197

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 439.640 requires the commissioner to recommend administrative regulations to implement the provisions of the vocational training program. This administrative regulation establishes the procedures concerning citizen involvement, volunteer, and reentry mentor service programs for the Department of Corrections.

Section 1. Definitions.

(1) "Certified volunteer" means an individual not employed by the Department of Corrections (DOC) who provides specified services to the inmate population on an on-going basis and has met the certification requirements.

(2) "DOC" means Department of Corrections.

(3) "Non-certified volunteer" means an individual not employed by the DOC who provides specified services to the inmate population and has not met the certification requirements.

(4) "Reentry mentor" means a volunteer who is affiliated with a community- or faith-based organization, which has collaborated with the Division of Reentry Services, to assist offenders in transitioning into the community from incarceration or on supervision under the Division of Probation and Parole.

(5) "Reentry Mentor Coordinator" means a person within the Division of Reentry Services who is designated by the director to facilitate reentry mentor activities.

(6) "Special event volunteer" means an individual or member of a group not employed by the DOC who is involved in a selected activity that does not occur on a regular basis.

(7) "Student volunteer" means a student enrolled in a college or university who gains unpaid work experience that may enhance their skills and abilities and encourage a career with the DOC.

(8) "Volunteer coordinator" means the person at an institution who is designated by the warden to facilitate volunteer activities.

(9) "Volunteer services" means any specified service made available to the inmate population that involves contact or interactions with an approved volunteer providing a specified

service.

Section 2. Volunteer Programs.

(1) A volunteer program shall have a stated purpose.

(2) Each correctional institution shall have a volunteer coordinator designated by the warden. The volunteer coordinator shall be responsible for recruiting volunteers and coordinating training and assignment of volunteers.

(3) Inmates at an institution shall be notified of the programs and opportunities available at the correctional institution through posted information, announcements, or other notification methods designed to reach the inmate population or eligible inmates.

Section 3. Volunteer Standards of Conduct.

(1) A volunteer shall not use employee time, facilities, equipment, or supplies of the Commonwealth for private purposes.

(2) The use of intoxicants shall not be tolerated.

(3) A volunteer shall not exchange a gift or favor with an inmate or family member of an inmate without approval of the warden or designee.

(4) A volunteer shall not become romantically involved with an inmate.

(5) A volunteer shall maintain confidentiality of records and inmate information.

(6) A volunteer may exchange information with an inmate consistent with the mission of the volunteer program.

Section 4. Volunteer Application Process.

(1) An individual may apply to become a volunteer for the DOC at any DOC correctional institution.

(2) Information about applying to be a volunteer may be obtained from the volunteer coordinator at the correctional institution. Institutional contact information may be located on the DOC Web site in the area for adult institutions.

(3) An applicant shall notify the volunteer coordinator of any criminal record and provide necessary information and authorization to obtain a background check. A criminal record shall be considered but may not necessarily preclude an individual from becoming a volunteer.

(4) The applicant may be interviewed.

(5) The applicant may be asked to submit to a drug test.

(6) The applicant shall be notified in writing if the applicant is accepted or rejected as a volunteer.

(7) The application of a volunteer shall be reviewed by the warden or designee before an applicant is rejected as a volunteer.

(8) The applicant accepted to be a volunteer shall agree to abide by the volunteer standards of conduct and all institutional policies, particularly those relating to the security and confidentiality of information and records by signing the Volunteer Confidentiality and Conduct Agreement incorporated by reference in this administrative regulation.

Section 5. Certified Volunteer.

(1) An applicant to be a certified volunteer shall:

(a) Be at least eighteen (18) years of age; and

(b) Provide all requested information when making an application to become a volunteer.

(2) A certified volunteer shall be eligible to provide services to all institutions.

(3) Certified volunteer orientation and training.

(a) The volunteer shall receive an orientation to the institution, including a tour with emphasis on the area in which the volunteer will work. A volunteer working in multiple institutions shall receive an orientation and tour of each institution.

(b) The volunteer shall complete the training program developed by the Division of Corrections Training.

(c) The volunteer shall complete annual training as required by the Division of Corrections Training. Failure to complete annual training shall result in the volunteer being removed from the volunteer list.

(4) Certified volunteer registration and identification.

(a) Upon completion of orientation and training, the certified volunteer shall be assigned an identification card. This identification

card shall be maintained at all institutions where the person volunteers.

(b) Upon entering an institution to volunteer, the certified volunteer shall present a picture ID and receive his institutional volunteer ID. The personal picture ID shall be returned to the volunteer upon surrender of the institutional volunteer ID as the volunteer exits the institution.

(c) The identification information maintained on the volunteer shall include photograph, address, current telephone number, and emergency contacts. It may include other relevant information.

(5) A certified volunteer shall submit a schedule to the volunteer coordinator.

Section 6. Non-certified and Special Event Volunteers.

(1) A non-certified or special event volunteer shall not be required to be eighteen (18) years old or complete the training required to be a certified volunteer.

(2) A non-certified or special event volunteer shall always be accompanied by a DOC staff member or a certified volunteer. The accompanying certified volunteer shall not be a student volunteer.

(3) A non-certified or special event volunteer shall be admitted to the institution in accordance with the institutional policy for visitors incorporated by reference in the administrative regulation for the applicable correctional institution in 501 KAR Chapter 6.

Section 7. Student Volunteer.

(1) A student enrolled in a college or university shall be eligible to apply to be a student volunteer.

(2) A student volunteer shall not receive compensation for the student volunteer's services.

(3) A student volunteer may earn academic credit for the student volunteer's service, if accepted by the student's college or university.

(4) Information about applying to be a student volunteer may be obtained from the Justice and Public Safety Cabinet Office of Human Resource Management.

(5) An applicant shall notify the Office of Human Resource Management of any criminal record and provide necessary information and authorization to obtain a background check. A criminal record shall be considered but may not necessarily preclude an individual from becoming a volunteer.

(6) The applicant may be interviewed.

(7) The applicant may be asked to submit to a drug test.

(8) A student volunteer shall always be accompanied by a DOC staff member or a certified volunteer. The accompanying certified volunteer shall not be a student volunteer.

Section 8. Volunteer Review and Termination.

(1) A volunteer program shall be reviewed annually by the volunteer coordinator to ensure that the program is meeting stated goals and continuing to enhance services provided to the inmate population.

(2) A volunteer shall be reviewed annually to evaluate the volunteer's participation in the volunteer program. A volunteer may be terminated for inadequate participation, security issues, or other relevant issues.

(3) Any volunteer or program deemed to threaten the security of the institution shall be discontinued or limited until the problem is resolved.

Section 9. Reentry Mentor Program.

(1) The Division of Reentry Services shall maintain a list of mentors and the mentor's affiliated organization.

(2) The director of the Division of Reentry Services shall designate a reentry mentor coordinator. The reentry mentor coordinator shall be responsible for recruiting reentry mentors and coordinating training and assignment of reentry mentors.

(3) Inmates shall be notified of the mentor services available through posted information, announcements, or other notification methods designed to reach the inmate population or eligible inmates.

(4) The Division of Reentry Services shall review and evaluate reentry-related and mentoring programs annually.

Section 10. Reentry Mentor.

(1) An applicant to be a reentry mentor shall:

(a) Be affiliated with a DOC recognized community or faith-based partner organization and have a recommendation from the leadership of that organization;

(b) Be a certified volunteer; and

(c) Be at least twenty-one (21) years of age.

(2) The applicant shall be notified in writing if the applicant is accepted or rejected as a reentry mentor.

(3) The application of a reentry mentor shall be reviewed by the director of the Division of Reentry Services or designee before an applicant is rejected as a reentry mentor. The Director of the Division of Reentry Services or designee shall review the application and the reasons for the rejection and make a final determination.

Section 11. Mentor Orientation and Training.

(1) The reentry mentor shall complete a training program developed by the Division of Corrections Training and Division of Reentry Services.

(2) The reentry mentor shall agree in writing to abide by the mentor standards of conduct and all DOC and institutional policies by signing the Mentor Confidentiality and Conduct Agreement incorporated by reference in this administrative regulation.

(3) A reentry mentor shall complete annual training and other training as required by the Division of Reentry Services. Failure to complete annual training shall result in the reentry mentor being removed from the approved reentry mentor list.

Section 12. Reentry Mentor Standards of Conduct.

(1) A reentry mentor shall not use DOC employee time, facilities, equipment, or supplies for private purposes.

(2) The use of intoxicants shall not be tolerated.

(3) A reentry mentor shall not become romantically involved with an inmate or an individual under supervision within the DOC.

(4) A reentry mentor may make electronic contact by telephone or email with an assigned mentee within reason (as outlined by the Reentry Mentor Coordinator) for reentry planning purposes.

(5) A reentry mentor shall be of the same gender as the assigned mentee.

Section 13. Reentry Mentor Review and Termination.

(1) A reentry mentor shall be reviewed annually to evaluate the reentry mentor's participation in the reentry mentor program. A reentry mentor may be terminated for inadequate participation, security issues, or other relevant issues.

(2) Any reentry mentor deemed to threaten the security of the institution shall be discontinued or limited by the warden or designee until the issue is resolved.

Section 14. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Volunteer Confidentiality and Conduct Agreement", 2024, 1 page; and

(b) "Mentor Confidentiality and Conduct Agreement", 2024, 1 page.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in

being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures concerning citizen involvement, volunteer, and reentry mentor service programs for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 439.640 requires the commissioner to recommend administrative regulations to implement the provisions of the vocational training program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning citizen involvement, volunteer, and reentry mentor service programs for the Department of Corrections. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation establishes the procedures that govern the operations of the Department of Corrections and its institutions concerning citizen involvement, volunteer, and reentry mentor service programs for the Department of Corrections. It provides direction and information to department employees, inmates, volunteers, and reentry mentors concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, volunteers, and reentry mentors.

(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: Staff, inmates, volunteers, and reentry mentors will have to change their actions to comply with operational procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department and its correctional institutions.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 439.590, 439.640

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and its correctional institutions

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Affected local entities have not been identified.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Volunteers and reentry mentors

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department operates but

is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The administrative regulation replaces in part an administrative regulation that is being repealed. The policy and procedure incorporated by reference in the administrative regulation being repealed was reviewed. A fiscal impact was not identified.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced in part by this new administrative regulation.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)

501 KAR 6:530. Corrections policies and procedures: programs and sentence credits.

RELATES TO: KRS Chapters 196, 197, 197.400 - 440, Chapter 439

STATUTORY AUTHORITY: KRS 196.035, 196.111, 197.020, 197.110, 439.3101, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 196.111 requires the Department of Corrections to promulgate administrative regulations for an evidence-based practices review process. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 439.3101 requires the department to promulgate administrative regulations that require the supervision and treatment of supervised individuals in accordance with evidence-based practices. KRS 439.640 requires the department to promulgate administrative regulations to implement the provisions of the vocational training program for inmates in the last ninety days of confinement. This administrative regulation establishes policies and procedures concerning programs and sentence credits for the Department of Corrections.

Section 1. Incorporation by Reference.

(1) "Department of Corrections Policies and Procedures, Chapter 30", May 15, 2024, are incorporated by reference. Department of Corrections Policies and Procedures Chapter 30 includes:

30.1	Program Approval Process, Evaluation, and Measurement (5/15/24)
30.2	Program Credit (5/15/24)
30.3	Risk and Needs Assessment and Reentry Programming Training and Quality Assurance (5/15/24)
30.4	Probation Program Credit (5/15/24)
30.5	Sex Offender Treatment Program (5/15/24)
30.6	Division of Addiction Services Substance Abuse Program (5/15/24)
30.7	DOC Approved Substance Abuse Program Parole Compliance Credits and Probation Program Credits (5/15/24)
30.8	Pretrial Substance Abuse Program (PSAP) (5/15/24)
30.9	Supporting Others in Active Recovery (SOAR) Program (5/15/24)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Corrections Web site in the policies and procedures area at <https://corrections.ky.gov/About/cpp/Pages/default.aspx> or the regulation filing area at <https://corrections.ky.gov/about/pages/lrcfilings.aspx>.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: March 4, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes policies and procedures concerning programs and sentence credits for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 196.111 requires the Department of Corrections to promulgate administrative regulations for an evidence-based practices review process. KRS 197.020(1)(a) and (b) require the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary, government and official conduct of all officials connected with the penitentiary, government of the prisoners in their department and conduct, and preservation of the health of the prisoners. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 439.3101 requires the department to promulgate administrative regulations that require the supervision and treatment of supervised individuals in accordance with evidence-based practices. KRS 439.640 requires the department to promulgate administrative regulations to implement the provisions of the vocational training program for inmates in the last ninety days of confinement.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning programs and sentence credits. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation and material incorporated by reference establish the policies and procedures that govern the operations of the Department of Corrections and its institutions concerning programs and sentence credits. It provides direction and information to department employees and inmates concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees, 23,995 inmates, volunteers, others who enter its correctional institutions, offenders on home incarceration, jailers, and jail 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:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and offenders will have to change their actions to comply with operational procedures. Jailers and jail employees will have to comply for state inmates housed in a jail.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department, its correctional institutions, probation and parole offices, and jails housing state inmates.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium. County budgeted funds for jail operating expenses with payments from the department.

(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.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: An offender in the community Sex Offender Treatment Program may be charged a fee for assessment and treatment pursuant to KRS 532.045(5) as stated in CPP 30.5. The fee may be adjusted based on ability to pay.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 196.111, 197.020, 197.110, 439.3101, 439.640

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections, its correctional institutions, probation and parole offices, reentry service centers, and jails

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to

change expenditures, revenues, or cost savings in future years.

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

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the jails operate but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Reentry service centers and inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the reentry service centers operate but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The policies and procedures incorporated by reference were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The administrative regulation being repealed is being replaced by new administrative regulations.

**JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(New Administrative Regulation)**

501 KAR 6:540. Inmate record.

RELATES TO: KRS Chapters 196, 197

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.110, 439.470

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020 requires the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary and for the government and official conduct of all officials connected with the penitentiary, and for the government of the prisoners in their department and conduct. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 439.470 requires the commissioner to promulgate administrative regulations for the conduct of persons placed on probation or parole except not conflict with the conditions of probation imposed by the court or conditions of release imposed by the Parole Board. This administrative regulation establishes procedures concerning the inmate record for the Department of Corrections.

Section 1. Definitions.

(1) "Access" means the ability to view the contents of an inmate record.

(2) "Committed name" means an inmate's name, as it appears on the court order committing the inmate to department's custody, at the time of the inmate's initial commitment to the custody of the Department of Corrections.

(3) "Inmate record" means the official record maintained within the offender management system for an inmate committed to the Department of Corrections for service of a felony sentence.

Section 2. Inmate Record.

(1) The official inmate record shall be maintained in the electronic offender management system for an inmate committed to the Department of Corrections. If an inmate does not exist in the offender management system, the inmate shall be entered into the offender management system upon notice of commitment and sentencing to create an electronic inmate record for the inmate.

(2) The inmate record, along with all official documents retained within the inmate record, shall use the inmate's committed name. Any other names used by an inmate shall be considered an alias and documented as an alias within the inmate record.

(3) The inmate record shall be securely maintained and access limited to authorized users. The contents of the inmate record shall be confidential unless release is required by law, including KRS 61.870 – 61.884. Prior to release authorized by KRS 61.870 – 61.884, information contained in the inmate record shall be carefully evaluated to ensure the release of information will not endanger either the inmate or others and is not prohibited by law. Exemptions to KRS 61.870 – 61.884 may apply.

(4) All judgments, pre-sentence investigations, and risk assessments performed by the department shall be retained as part of the inmate's electronic inmate record in the offender management system. The following records to the extent that they exist for an inmate shall be maintained in the inmate record:

(a) Classification:

1. Forty-eight (48) hour notice;
2. Classification appeal;
3. Conflict questionnaire;
4. Conflict resolution;
5. Correctional Psychiatric Treatment Unit segregation contract;
6. CPTU treatment plan;
7. CPTU voluntary form;
8. Criminal history;
9. Custody classification form signed;
10. General classification correspondence;
11. Good time restoration;
12. Inmate family emergency notification form;
13. Risk assessment score/plan;
14. Miscellaneous (classification);
15. On-the job training form;
16. Orientation;
17. Protective custody form;
18. Protective custody refusal;
19. Receipt of handbook;
20. Request for special reclass;
21. Transfer authorization form; and
22. Waiver of forty-eight (48) hour notice;

(b) Judgments/Detainers/Legal:

1. Administrative remedy request/response;
2. Central office records (required in writing by commissioner or designee);
3. Court orders (other);
4. Court orders (sentencing);
5. Detainer;
6. Documentation of time custody sheet;
7. Executive clemency;
8. General correspondence (Offender Information Services);
9. Hold;
10. Inmate grievance;
11. Institution records(required in writing by warden or designee);
12. Miscellaneous (other);

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13. Miscellaneous (Offender Information Services);
14. Open records request/response;
15. Orders for appearance; and
16. Warrant;
- (c) Parole/Release:
 1. Classification appeal;
 2. General services psychological evaluations;
 3. Home incarceration application;
 4. Mandatory reentry supervision;
 5. Miscellaneous (parole/release);
 6. Notice of discharge;
 7. Parole Board correspondence;
 8. Parole Board reading material;
 9. Parole Board vote sheets;
 10. Parole certificate;
 11. Parole risk assessment;
 12. Pre parole progress report;
 13. Presumptive parole;
 14. PSI;
 15. Sex offender conditional discharge plan;
 16. Supervision risk assessment score/plan;
 17. Victim impact statement/letter; and
 18. Victim notification letter;
- (d) Programs:
 1. College diploma;
 2. Educational good time form;
 3. GED;
 4. General correspondence (Programs);
 5. Miscellaneous (Programs);
 6. Pathfinders;
 7. Prerelease program;
 8. Substance Abuse Program acceptance;
 9. SAP appeal;
 10. SAP completion;
 11. SAP non-acceptance;
 12. SAP termination;
 13. Sex offender treatment program report;
 14. SOTP acceptance;
 15. SOTP appeal;
 16. SOTP completion;
 17. SOTP non-acceptance;
 18. SOTP termination; and
 19. Vocational diploma;
- (e) Security:
 1. Forty-eight (48) hour notice;
 2. Authorization to delete visitor form;
 3. Behavioral control report;
 4. Bedside/funeral visit;
 5. Controlled work assignment form;
 6. Detention order;
 7. Emergency notification;
 8. Extraordinary occurrence report;
 9. Jail report for disciplinary violation;
 10. Media release form;
 11. Miscellaneous (security);
 12. Occurrence report;
 13. Removal of visitation restriction;
 14. Request for special reclass;
 15. Transportation alert review;
 16. Visitation restriction;
 17. Visiting information form;
- (f) Offender Standard Forms:
 1. Affidavit to revoke;
 2. Client profile report;
 3. Conditions of supervision;
 4. Custody classification form signed;
 5. Custody time credit;
 6. Detention order;
 7. Disciplinary report - part I;
 8. Disciplinary report - part I (prior);
 9. Disciplinary report - part II;
 10. Disciplinary report - part II (prior);
 11. Escape notice flyer;

12. Final disposition hearing note;
13. Final parole revocation hearing note;
14. Grievance acknowledgement letter;
15. Grievance investigation worksheet;
16. Grievance warden response letter;
17. Initial custody classification;
18. Interstate transfer request;
19. Interstate compact investigation request;
20. Mandatory reentry supervision results of final revocation hearing;
21. MRS revocation hearing note;
22. MRS violation warrant;
23. Parole Board assessment summary;
24. Parole denied order;
25. Parole recommended order;
26. Parole violation warrant;
27. Pre-parole progress form;
28. Pre/post-sentence investigation;
29. Prisoner status change;
30. Probation revocation PSI update;
31. Postincarceration supervision results of final revocation hearing;
32. PS revocation hearing note;
33. PS violation warrant;
34. Re-classification custody;
35. Reply to interstate compact transfer investigation request;
36. Request for reduction in custody;
37. Results of final disposition hearing;
38. Results of parole revocation hearing;
39. Sex offender conditional discharge results of final revocation hearing;
40. SOCD revocation hearing note;
41. SOCD violation warrant;
42. Sex offender postincarceration supervision results of final revocation hearing;
43. SOPS revocation hearing note;
44. SOPS violation warrant;
45. Special supervision report;
46. Supplemental investigation (PSI);
47. Transfer authority;
48. Transfer request (in-state P&P);
49. Travel permit;
50. Victim notification; and
51. Violation of supervision report.

Section 3. Use of Committed Name and Name Change.

(1) If an inmate obtains a legal name change by court order or other valid legal process after commitment to the DOC, the inmate may provide a copy of the name change order or other valid legal process to the Offender Information Services Office at his institution to register the name as an alias in the inmate record. The inmate shall continue to use the original committed name and inmate number on all forms for or correspondence with the department but may also use the legally changed name as well.

(2) An inmate may use an alias on documents to and for the department if the committed name and number are used first.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: April 11, 2024

FILED WITH LRC: May 15, 2024 at 10:30 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 23, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through July 31, 2024. 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: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures concerning an inmate record for the Department of Corrections.

(b) The necessity of this administrative regulation: KRS 196.035 authorizes the secretary to promulgate administrative regulations deemed necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 197.020 requires the Department of Corrections to promulgate administrative regulations for the government and discipline of the penitentiary and for the government and official conduct of all officials connected with the penitentiary, and for the government of the prisoners in their department and conduct. KRS 197.110 authorizes the department to promulgate administrative regulations for purposes as the department deems necessary and proper for carrying out the intent of KRS Chapter 197. KRS 439.470 requires the commissioner to promulgate administrative regulations for the conduct of persons placed on probation or parole except not conflict with the conditions of probation imposed by the court or conditions of release imposed by the Parole Board.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation governs the operations of the department concerning an inmate record. This administrative regulation complies with the requirements to promulgate administrative regulations as stated in (b).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation establishes the procedures that govern the operations of the Department of Corrections, its institutions, and its probation and parole offices concerning an inmate record. It provides direction and information to department employees and offenders concerning the operations of the department.

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

(a) How the amendment will change this existing administrative regulation: 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: This affects the Department of Corrections, approximately 3,900 employees and 23,995 inmates, state correctional institutions, offenders on home incarceration, community offenders on probation and parole, jailers, and jail 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:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Staff and offenders will have to change their actions to comply with operational procedures. Jailers and jail employees will have to comply for state inmates housed in a jail.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): An exact cost of compliance is unknown, but it is not anticipated that current costs will increase.

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

entities identified in question (3): The operational procedures will assist in the effective and orderly management of the department, its correctional institutions, probation and parole offices, and jails housing state inmates.

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

(a) Initially: An increase in cost is not anticipated.

(b) On a continuing basis: An increase in cost is not anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Corrections budgeted funds for the biennium. County budgeted funds for jail operating expenses with payments from the department.

(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.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: An increase in cost and fees is not anticipated.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.110, 439.470

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department of Corrections and jails that house state inmates

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): A jail has limited obligations concerning inmate records for state inmates incarcerated by the jail.

(a) Estimate the following for the first year:

Expenditures: The jail record requirements are limited and expenditures are unknown.

Revenues: This administrative regulation does not generate revenue for a jail.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Employees and offenders

(a) Estimate the following for the first year:

Expenditures: The administrative regulation impacts how the department operates but is not expected to increase expenditures.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: Cost savings are not anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The administrative regulation is not expected to change expenditures, revenues, or cost savings in future years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation impacts how the department and its institutions operate but is not expected to have a fiscal impact. The administrative regulation replaces in part an administrative regulation that is being repealed.

(b) Methodology and resources used to determine the fiscal impact: The procedures were reviewed and a fiscal impact was not

identified. It replaces in part an administrative regulation that is being repealed.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) An overall negative or adverse major economic impact is not anticipated.

(b) The methodology and resources used to reach this conclusion: The procedures were reviewed and a fiscal impact was not identified. It replaces in part an administrative regulation that is being repealed.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(New Administrative Regulation)

902 KAR 45:001. Definitions for hemp-derived cannabinoid products.

RELATES TO: KRS Chapter 13B, 217.015, 217.025, 217.035, 217.037, 217.039, 260.850, 438.305(4), 2023 Ky Acts ch. 78

STATUTORY AUTHORITY: KRS 217.125, 217.135

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. This administrative regulation establishes the definitions applicable to hemp-derived cannabinoid products.

Section 1. Definitions.

(1) "Adult-use cannabinoid" means a product with intoxicating properties that changes the function of the nervous system and results in alterations of perception, cognition, or behavior.

(2) "Approved source" means:

(a) A Kentucky hemp grower or handler licensed by the Kentucky Department of Agriculture, or an out-of-state hemp grower or handler who is duly authorized to produce hemp under the laws of the applicable jurisdiction;

(b) A hemp product manufacturer or processor permitted by the Kentucky Department for Public Health or

(c) A manufacturer or processor permitted by another state regulatory authority for hemp-derived cannabinoid products if that state has been approved by the department as having equivalent state standards for processing, laboratory testing, and labeling requirements.

(3) "Cabinet" is defined by KRS 217.015(3).

(4) "Cannabidiol" or "CBD" is defined by KRS 217.039(1)(a).

(5) "Cannabinoid" means a compound found in the hemp plant *Cannabis sativa* L from a United States Department of Agriculture sanctioned domestic hemp production program and does not include cannabinoids derived from any other substance.

(6) "Cannabinoid product class" means a group of cannabinoid products that:

(a) Have all ingredients in common; and

(b) Are produced by or for the same company.

(7) "Cartoon" means any drawing or other depiction of an object, person, animal, creature or any similar caricature that satisfies any of the following criteria:

(a) The use of comically exaggerated features;

(b) The attribution of human characteristics to animals, plants or other objects, or the similar use of anthropomorphic technique; or

(c) The attribution of unnatural or extra-human abilities, such as imperviousness to pain or injury, X-ray vision, tunneling at very high speeds or transformation.

(8) "Child-resistant" means packaging that is:

(a) Designed or constructed to be significantly difficult for children under five (5) years of age to open and not difficult for adults to use properly; and

(b) Resealable to maintain this effectiveness for children through multiple openings for any product intended for more than a single use or containing multiple servings.

(9) "Cosmetic" is defined by KRS 217.015(7).

(10) "Direct supervision" means the continuous, on-site observation of an employee with the supervisor physically present.

(11) "Food service establishment" is defined by KRS 217.015(21).

(12) "Hemp" is defined by KRS 260.850(5).

(13) "Hemp-derived cannabinoid" means an ingestible, inhalable, or cosmetic product that is processed or derived from hemp.

(14) "Home-based processor" is defined by KRS 217.015(56).

(15) "Hydrogenation" means the chemical reaction between molecular hydrogen (H₂) and another compound or element.

(16) "Imminent health hazard" is defined by KRS 217.015(24).

(17) "Infused" means adding a cannabinoid ingredient to an ingestible cannabinoid product.

(18) "Non-intoxicating cannabinoid" means a product with non-psychoactive properties that does not change the function of the nervous system and does not result in alteration of perception, cognition, or behavior.

(19) "Person" is defined by KRS 217.015(32).

(20) "Proof of age" is defined by KRS 438.305(4).

(21) "Revocation" means the permit to operate is cancelled by the department.

(22) "Serious adverse event" means a medical occurrence associated with the use of a cannabinoid product that results in one (1) or more of the following:

(a) Death;

(b) A life-threatening event;

(c) Inpatient hospitalization, or prolongation of an existing hospitalization;

(d) A persistent or significant incapacity, or substantial disruption in the ability to conduct normal life functions; or

(e) A congenital anomaly or birth defect.

(23) "Tentatively identified compounds" or "TIC" means compounds detected in a sample that are not among the target analytes.

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 22, 2024

FILED WITH LRC: April 24, 2024 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 22, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by July 15, 2024, 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 virtually 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 July 31, 2024. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Julie Brooks

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the terms used for hemp-derived cannabinoid product sampling and testing requirements, cannabinoid processing and manufacturing, and retail sales including sells at food service establishments.

(b) The necessity of this administrative regulation: Many hemp-derived cannabinoid products sold in Kentucky continue to be unregulated. This administrative regulation is necessary to ensure a consistent understanding of the terms related to cannabinoid processing, manufacturing, sampling and testing, and retail sales.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures a consistent understanding of the terms used in the processing, manufacturing, sampling, testing, and retail sales of hemp-derived cannabinoid products.

(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 currently thirty-eight (38) manufacturers of cannabinoid products registered with the department. The department is unclear of the number of retail establishments that sell cannabinoid products. The department does not permit the testing facilities and has no method to determine the number of facilities in the commonwealth.

(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: Cannabinoid processor and manufacturers, testing laboratories, and retail establishments will need to be aware of the defined terms.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Compliance with this new administrative regulation will not add to the cost for the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All entities will have a consistent understanding of the terms related to cannabinoid products.

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

(a) Initially: The current budget for the food manufacturing permitting and inspection program is \$1,080,900. The increase in required permitting and inspection processes to implement this administrative regulation will cost the department an additional \$1,551,397 in the first year.

(b) On a continuing basis: The department will continue to need an additional \$1,551,397, at a minimum, in subsequent years.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding to implement and enforce this administrative regulation will be from a mix of fees paid to the department and state general fund dollars.

(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 establishes any fees or directly or indirectly increases any fees: This administrative regulation does not contain fees.

(9) TIERING: Is tiering applied? Tiering is not applied. The terms defined in this administrative regulation are applicable to all regulated entities.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 217.125 and 217.155.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department for Public Health, Division of Public Health Protection and Safety is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: Expenditures to the department to implement this administrative regulation will be approximately \$1,551,397 per year.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation will not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures for the Department for Public Health may be impacted by changes in salary, fringe benefits and travel cost for state and local health department employees. These changes cannot be determined at this time.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.

(a) Estimate the following for the first year:

Expenditures:

Revenues:

Cost Savings:

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities are processors and manufacturers of hemp-derived cannabinoid products, testing facilities, and retail establishments including food service establishments.

(a) Estimate the following for the first year:

Expenditures: This administrative regulation does not impact the expenditures of the regulated entities.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no difference in subsequent years.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation does not have a significant fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: This administrative regulation is a definitions-only regulation.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion: This administrative regulation is a definitions-only regulation.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(New Administrative Regulation)

902 KAR 45:012. Hemp-derived cannabinoid product retail and food service establishment requirements.

RELATES TO: KRS Chapter 13B, 217.015, 217.025, 217.035, 217.037, 217.039, 217.992, 2023 Ky Acts ch. 78

STATUTORY AUTHORITY: KRS 217.125, 217.127, 217.135, 217.155

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.125(2) requires the secretary to provide by administrative regulation a schedule of fees for permits to operate and for inspection activities carried out by the cabinet pursuant to KRS 217.025 through 217.390. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspection any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale. This administrative regulation establishes the requirements for retail sale of hemp-derived cannabinoid products, including the permit fee, and methods for use of hemp-derived cannabinoid as an additive to food products. Retail establishments registered with the department prior to the effective date of this administrative regulation shall be exempted from the permit fee requirement until the annual renewal date. In accordance with 2023 Ky. Act ch 78, in order to limit the ability of minor children accessing adult-use hemp-derived cannabinoid use products, this administrative regulation prohibits the sale of adult-use products within 1,000 feet of an elementary, middle, or high school. Retail establishments registered with the department prior to the effective date of this administrative regulation shall be exempted from this location requirement.

Section 1. Retail Establishment and Food Service Establishment Registration.

(1)

(a) Only approved cannabinoid products or class of products in accordance with 902 KAR 45:021 may be sold in retail and food service establishments. All other cannabinoid products or class of products shall be prohibited.

(b) Adult-use cannabinoid products or class of products shall be registered in accordance with 902 KAR 45:021, Section 1(4).

(c) A retailer shall ensure that all cannabinoid products sold are properly registered with the department.

(d) A retailer may register a product in lieu of the processor or manufacturer.

(2) Retail establishments and food service establishments offering adult-use cannabinoid products shall be permitted by the cabinet in accordance with this administrative regulation.

(3) The permit shall be:

(a) Completed online at <https://redcap.chfs.ky.gov/surveys/?s=C8AHC9AYMP74REEM>;

(b) Nontransferable in regard to person or address;

(c) Renewed annually; and

(d) Include a \$2,000 annual permit fee.

(4) All retail establishments registered with the department prior to April 27, 2024, shall have the fee required by subsection (3)(d) of this section waived until the date of the next annual renewal.

(5) A retailer shall ensure all locations are permitted by the cabinet.

(6) Retail establishments and food service establishments offering adult-use cannabinoid products at a temporary event or festival shall:

(a) Register with the cabinet at <https://redcap.chfs.ky.gov/surveys/?s=C8AHC9AYMP74REEM>; and

(b) Include a \$250 temporary event registration fee.

(7) Retail establishments offering adult-use cannabinoid products shall not be located within 1,000 feet of an elementary, middle, or high school. Retail establishments registered with the department prior to April 27, 2024, shall be exempted from the location requirements.

(8) A business that distributes, sells, or serves adult-use hemp-derived cannabinoid products shall not employ any person who is under twenty-one (21) years of age, unless the person employed is at least eighteen (18) years of age and under the direct supervision of a person twenty-one (21) years of age or older.

Section 2. Retail Sale of Cannabinoid Products.

(1) All cannabinoid products sold in a retail establishment shall:

(a) Be from an approved source;

(b) Be packaged and labeled in accordance with 902 KAR 45:021, Section 3; and

(c) Have a valid certificate of analysis available upon request.

(2) Cannabinoid retailers shall maintain records of wholesale cannabinoid product purchase, including the name and address of the cannabinoid processor or manufacturer, and the wholesaler or distributor.

(3) The following hemp-derived products shall not be marketed, sold, or distributed to any person in the commonwealth:

(a) Whole hemp buds;

(b) Ground hemp floral material;

(c) Ground hemp leaf material; and

(d) Any hemp product with a delta-9-THC concentration in excess of zero and three-tenths (0.3) percent.

(4) All adult-use cannabinoid products shall:

(a) Be secured in the retail setting to prevent theft or other access to persons under the age of twenty-one (21); and

(b) Not be sold, gifted, or otherwise transferred to any person under the age of twenty-one (21).

(5)

(a) Any person who sells adult-use cannabinoid products at retail shall require proof of age of the buyer to verify the buyer is age twenty-one (21) years or older; and

(b) May deliver or ship adult-use cannabinoid products to consumers over twenty-one (21) years of age in packages clearly marked "Adult-use only".

(6) All persons located in another state or country who deliver, ship, or cause to be delivered or shipped cannabinoid products directly to any Kentucky consumer shall hold a valid hemp cannabinoid wholesaler or distributor permit issued by the Commonwealth.

Section 3. Ingestible Cannabinoid Products at Food Service Establishments.

(1) Only registered, pre-packaged adult-use ingestible cannabinoid products may be offered as ready-to-consume or for direct consumption at food service establishments.

(2) Adult-use cannabinoids shall not be added to an ingestible food product at a food service establishment.

(3) Non-intoxicating cannabinoids may be added to an ingestible product prior to retail sale at a food service establishment.

(4) The non-intoxicating cannabinoid shall be obtained from an approved source.

(5) The food service establishment shall obtain a valid certificate of analysis from the approved source and provide a copy upon inspection.

(6) A food service establishment offering non-intoxicating cannabinoid products in a finished food product shall provide to consumers upon request:

(a) The common name of the product; and

(b) The manufacturer or distributor of the product.

(7) A food service establishment shall notify the cabinet within twenty-four (24) hours of becoming aware or within twenty-four (24) hours of when the food service establishment should have been aware of any serious adverse event to a hemp-derived cannabinoid

product sold by the establishment.

Section 4. Inspection and Enforcement.

(1)

(a) Retail establishments offering adult-use cannabinoid products shall be inspected by the cabinet or its duly authorized agent; and

(b) Retail establishments offering only non-intoxicating cannabinoid products may be inspected by the cabinet or its duly authorized agent upon complaint, receipt of a report of a serious adverse event, or at the discretion of the cabinet.

(2) The location of the permitted establishment, all general business records, including employee records, and vehicles utilized to transport products are subject to reasonable inspection.

(3) All cannabinoid establishments, whether permitted or not, shall cooperate with the cabinet or its duly authorized agent during any inspections, complaint investigation, requests for information or data, in order to verify compliance with this administrative regulation.

(4) Products not in compliance with this administrative regulation shall be seized and destroyed by the cabinet or its duly authorized agent.

(5) The permit holder shall take immediate steps to correct conditions that have caused an imminent health hazard.

(6)

(a) The permit holder shall notify the cabinet within twenty-four (24) hours of the knowledge of an imminent health hazard that cannot be controlled by immediate corrective action or if product, product packaging, cosmetic, or cosmetic packaging has become contaminated because of an imminent health hazard.

(b) Notification to the cabinet shall be made by:

1. Email to food.safety@ky.gov; or

2. Phone to (502) 564-7181.

(7) If the cabinet has evidence that a permit holder has failed to act to correct an imminent health hazard:

(a) The permit shall be suspended immediately; and

(b) The permit holder may request an administrative hearing in accordance with KRS Chapter 13B.

(8) A permit holder shall notify the cabinet within one (1) business day of becoming aware of any serious adverse event to a cannabinoid product sold or transferred by the permit holder.

(9) In all other instances of violation of this administrative regulation, the cabinet shall serve the permit holder with a written notice specifying the violation and afford the holder an opportunity to correct.

(10) If a permit holder has failed to comply with the written notice within the timeframe granted, the cabinet shall issue a notice of intent to suspend the permit.

(11)

(a) The notice in subsection (11) of this section shall include notification that the permit shall be suspended at the end of ten (10) days following service of the notice, unless a written request for an administrative hearing is filed with the cabinet by the permit holder within the ten (10) day period; and

(b) The administrative hearing shall be conducted in accordance with KRS 13B.080.

(12) For a permitted establishment that has had a suspended permit two (2) or more times within a five (5) year period, the cabinet shall initiate permit revocation proceedings. Prior to this action, the cabinet shall notify the permit holder in writing, stating the reasons for which the permit revocation is being sought and advising that the permit shall be permanently revoked at the end of ten (10) days following service of the notice, unless a request for an administrative hearing is filed with the cabinet pursuant to KRS Chapter 13B by the permit holder within the ten (10) day period.

(13) Any person who knowingly violates any provision of this administrative regulation may be fined, found guilty or a criminal offense, or both pursuant to KRS 217.992.

(14) State and local law enforcement officers shall have concurrent jurisdiction to enforce violations of this section.

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

FILED WITH LRC: April 24, 2024 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 22, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by July 15, 2024, 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 virtually 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 July 31, 2024. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Julie Brooks

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for retail sale of hemp-derived cannabinoid products, and methods for use of hemp-derived cannabinoid as an additive to food products.

(b) The necessity of this administrative regulation: This new administrative regulation is necessary because many hemp-derived cannabinoid products sold in Kentucky remain unregulated by both the state and the federal Food and Drug Administration. Some products containing hemp-derived cannabinoids have concentrations that produce a psychoactive effect and are unsafe if consumed in large quantities. This administrative regulation is necessary to ensure that all hemp-derived cannabinoid products produced and sold in the state are safe for human consumption, and are not targeted for sale to persons under the age of twenty-one (21).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.125(2) requires the secretary to provide by administrative regulation a schedule of fees for permits to operate and for inspection activities carried out by the cabinet pursuant to KRS 217.025 through 217.390. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspection any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This new administrative regulation will ensure proper oversight of the sale of hemp-derived cannabinoids and will help to ensure these products are safe for human consumption.

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

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(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The department is unsure of the total number of retail establishments offering hemp-derived cannabinoids for sale at this time.

(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: Retail establishments and food service establishments will need to be aware of the registration requirements, will need to ensure the products are properly labeled and registered with the department, will need to obtain the required paperwork, and will need to take the necessary precautions to limit the sale of adult use products to individuals under the age of twenty-one (21).

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Retail establishments that offer adult-use cannabinoid products will pay a \$2,000 permit fee. The retail establishment has the option of registering the product for the processor or manufacturer and may have a cost associated with that process.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Retail establishments and food service establishments will be able to ensure the products offered to consumers are safe for human consumption.

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

(a) Initially: The current budget for the food manufacturing permitting and inspection program is \$1,080,900. The increase in required permitting and inspection processes to implement this emergency administrative regulation will cost the department an additional \$1,551,397 in the first year.

(b) On a continuing basis: The department will continue to need an additional \$1,551,397, at a minimum, in subsequent years. An increase in permitted facilities will result in increased costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general fund dollars and revenue received from permitting and product registration are the sources of funding for this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees and funding is necessary to implement the registration, permitting and inspection requirements of this new administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This new administrative regulation does establish a new fee for retail establishments that offer adult-use cannabinoid products for sale. This increase is necessary to help offset the costs associated with the registration, permitting, and inspection processes.

(9) TIERING: Is tiering applied? Tiering is applied. Only retail establishments that offer adult-use cannabinoid products are required to register with the department. However, all products sold are to be in compliance with this administrative regulation.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 217.125, 217.127, 217.135, and

217.155.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department for Public Health, Division of Public Health Protection and Safety is the promulgating agency. The department has coordinated with the Department of Alcoholic Beverage Control in the Public Protection Cabinet for retail inspection activities.

(a) Estimate the following for the first year:

Expenditures: Expenditures for the department to implement this administrative regulation will be approximately \$1,551,397 per year.

Revenues: The amount of revenue cannot be determined. While retail establishments are required to register with the department, they are not assessed a fee at this time and less than 100 stores are registered.

Cost Savings: This administrative regulation does not generate cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures in subsequent years will be dependent on changes in the salary, fringe, and benefit cost. Changes in revenue cost in subsequent years will be dependent on the number of permits issued and the number of products registered.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local law enforcement entities may be affected by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: The department is not able to calculate the expenditures for affected local entities at this time.

Revenues: This administrative regulation will not generate revenue for affected local entities.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department is not able to determine changes in expenditures, revenues or cost savings for affected local entities.

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities include retail establishments and food service establishments that offer cannabinoid products for sale.

(a) Estimate the following for the first year:

Expenditures: The expenditure for retail establishments that sell adult-use cannabinoid products will be \$2,000 per year to obtain a permit from the department. Food service establishments will pay the permit fee according to 902 KAR 45:110.

Revenues: The total revenue for retail establishments and food service establishments cannot be determined.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The expenditures will not change in subsequent years without an amendment to this administrative regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation may generate between \$38,000 and \$114,000 in revenue. Additional revenue will be generated by the product registration fee, but that total cannot be determined at this time. The cost to the department to administer this administrative regulation is \$1,551,397.

(b) Methodology and resources used to determine the fiscal impact:

Positions	Personnel Classification	Grade	Annual Salary + 5% Probationary Increase	Fringe Benefits - FICA - Retirement - HtH/Life Ins.	Total Annual Salary and Fringe Benefits	Number of Employees	Total Amount	
Administrative Clerk	Program Coordinator	Gr. 14	\$ 59,213.70	\$ 53,711.55	\$ 112,925.25	1	\$ 112,926.25	
Retail Inspectors	Program Evaluator	Gr. 14	\$ 59,213.70	\$ 53,711.55	\$ 112,925.25	5	\$ 564,626.27	
Processor/manufacturing Inspectors, Enforcement staff, and Supervisors	Program Administrator	Gr. 15	\$ 65,135.20	\$ 58,082.80	\$ 123,218.00	6	\$ 739,307.99	
Manager	Branch Manager	Gr. 16	\$ 71,646.12	\$ 62,889.17	\$ 134,535.29	1	\$ 134,536.29	
TOTAL							13	\$ 1,551,396.79

The total range for the potential revenue was calculated by multiplying the current number of permitted facilities times the lowest and highest permit fee amounts, which is 38X1,000 and 38X3,000 respectively. The total expenditure was calculated based on the need for thirteen (13) additional environmental management staff to oversee the permitting and inspection activities. The thirteen (13) additional staff include a branch manager, administrative support

staff, two (2) supervisors, two (2) processing/manufacturing inspectors, five (5) retail inspectors, and two (2) enforcement staff. The breakdown of expenditures is as follows: -- Administrative Clerk: Program Coordinator (Grade 14); Annual Salary + 5% Probationary increase: \$59,213.70; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$53,711.55; Total Annual Salary and Fringe Benefits: \$112,925.25 x 1 Employee = Total Amount: \$112,926.25 ---- Retail Inspectors: Program Evaluator (Grade 14); Annual Salary + 5% Probationary increase: \$59,213.70; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$53,711.55; Total Annual Salary and Fringe Benefits: \$112,925.25 x 5 Employees = Total Amount: \$564,626.27 ---- Processor/manufacturing Inspectors, Enforcement staff, and Supervisors: Program Administrator (Grade 15); Annual Salary + 5% Probationary increase: \$65,135.20; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$58,082.80; Total Annual Salary and Fringe Benefits: \$123,218.00 x 6 Employees = Total Amount: \$739,307.99 ---- Manager: Branch Manager (Grade 16); Annual Salary + 5% Probationary increase: \$71,646.12; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$62,889.17; Total Annual Salary and Fringe Benefits: \$134,535.29 x 1 Employee = Total Amount: \$134,535.29 ---- TOTAL AMOUNT = \$1,551,396.79

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The expenditures for the department will exceed \$1,000,000, resulting in an overall negative or adverse major economic impact. The overall economic impact for the regulated entities cannot be determined. While these entities will have expenditures associated with the permit and product registration, these will be offset by the revenue received in product sells.

(b) The methodology and resources used to reach this conclusion: Legislation has delegated new authority to the Kentucky Department for Public Health (KDPH) to regulate recreational adult-use products, such as delta-8 THC, for the safety of Kentuckians. These products, which may only be sold to adults aged 21 years or older, are increasingly complex, diverse, and evolving. An estimated 1,000-1,500 retailers and 40 manufacturers of recreational adult-use drugs are believed to be operating in Kentucky. Manufacturers of hemp THC products use complex chemistry conversion methods to process distillates, which increases the technical training required for inspection. Due to the intricacies involved, the successful oversight and regulation of these products in Kentucky will require additional staffing and the use of a hybrid approach that blends the traditional roles of the Department of Alcoholic Beverage Control, such as the enforcement of laws and age verification, with the expertise of the Food and Drug Administration (FDA). In order to adequately oversee the manufacture and retail sale of these products, the department would propose establishing a new branch with specialized staff. An estimated additional thirteen (13) staff will be needed to carry out the following activities: Regulatory Oversight: Establish and enforce standards for product manufacturing, packaging, and labeling for human consumption; Establish and enforce distribution controls to consumers to prohibit and prevent sales of adult-use products to individuals under 21 years of age; Prohibit the manufacture and sale of unallowable products; Protect consumers from harmful exposure to chemicals, contaminants, and adulterants that would have an adverse impact on human health; Evaluate the use of chemicals when added to products, such as food ingredients and substances that come into contact with food through food processing, manufacturing, packaging, storage, or other handling to ensure these uses are safe; Monitor products for contaminants and take action when the level of a contaminant causes a product to be unsafe. Licensing and Inspections: Administer licensure and registration for processors, manufacturers, distributors, and retailers and conduct regular inspections to ensure compliance with regulatory requirements. Surveillance and Monitoring: Collect and analyze data on adverse events and product quality to guide decision-making and interventions. Collaboration and Partnerships: Collaborate with federal/state agencies, professional organizations, academic institutions, and industry stakeholders to exchange information, share best practices, and coordinate efforts to address common challenges.

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(New Administrative Regulation)**

902 KAR 45:021. Hemp-derived cannabinoid products registration, processing, manufacturing, storage and distribution requirements.

RELATES TO: KRS Chapter 13B, 217.015, 217.025, 217.035, 217.037, 217.039, 217.992, 2023 Ky Acts ch. 78

STATUTORY AUTHORITY: KRS 217.125, 217.127, 217.135, 217.155

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.125(12) requires the secretary to provide by administrative regulation a schedule of fees for permits to operate and for inspection activities carried out by the cabinet pursuant to KRS 217.025 through 217.390. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspecting any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale. This administrative regulation establishes the product registration, the processing and manufacturing procedures for hemp-derived cannabinoid products, including the permit fee, and the labeling and packaging requirements for products containing hemp-derived cannabinoids. Establishments permitted with the department prior to the effective date of this administrative regulation shall be exempted from the permit fee requirement until the annual renewal date.

Section 1. Permit and Product Registration.

(1) In-state permit.

(a) A person located in Kentucky seeking to process, manufacture, store, or distribute hemp-derived cannabinoid products shall be permitted by the cabinet.

(b) The permit shall be:

1. Nontransferable in regard to person or address;
2. Posted in a conspicuous place in the facility;
3. Renewed annually; and
4. Include the fee paid in accordance with:
 - a. For a hemp processing permit, the fee is \$3,000.
 - b. For a hemp manufacturing permit, the fee is \$1,000.
 - c. For a hemp cannabinoid wholesale warehouse and distributor permit, the fee is \$1,000.
 - d. For a hemp cosmetic permit, the fee is \$200.

5. Include the product registration fee required by subsection (4) of this section.

(2) The permit fee established pursuant to subsection (1)(b)4. of this section shall be waived for all facilities permitted as of April 27, 2024, and such facilities shall pay the permit fee at next annual renewal date.

(3)

(a) All out-of-state processors and manufacturers of hemp-derived cannabinoid products available for distribution in Kentucky shall submit an annual registration to the department.

(b) The registration for an out-of-state processor or manufacturer shall:

1. Be renewed annually by December 31 each year; and
2. Include:
 - a. A copy of the current, valid permit to process or manufacture hemp-derived cannabinoids issued from the state regulatory authority;
 - b. A copy of the state regulation pertaining to the production of hemp-derived cannabinoid products; and
 - c. The product registration fee required by subsection (5) of this section.

(4) Cannabinoids requiring registration:

(a) Adult-use cannabinoids shall include:

Cannabinoid	CAS Number
Delta-10-tetrahydrocannabinol (Delta-10-THC)	95543-62-7
Delta-9-tetrahydrocannabinol (THC) with three tenths of one percent (0.3%) or less Total THC	1972-08-3
Delta-8-tetrahydrocannabinol (Delta-8-THC)	5957-75-5
Delta-9-tetrahydrocannabinolic acid A (THCA-A) with three tenths of one percent (0.3%) or less Total THC	23978-85-0
Delta-9-tetrahydrocannabivarin (THCV)	31262-37-0
Delta-9-tetrahydrocannabivarinic acid (THCVA)	39986-26-0
Delta-6-tetrahydrocannabinol (Delta 6)	95720-02-8
Hexahydrocannabinol (HHC)(-)	6692-85-9
Tetrahydrocannabiphorol (THCp)	54763-99-4
Tetrahydrocannabinol methyl ether (THCM)	36403-68-6

(b) Non-intoxicating cannabinoids shall include:

Cannabinoid	CAS Number
Cannabidiol (CBD)	13956-29-1
Cannabidiolic acid (CBDA)	1244-58-2
Cannabidivarin (CBDV)	24274-48-4
Cannabidivarinic acid (CBDVA)	31992-13-5
Cannabichromene (CBC)	20675-51-8
Cannabichromenic acid (CBCA)	185505-15-1
Cannabigerolic acid (CBGA)	25555-57-1
Cannabigerol (CBG)	25654-31-3
Cannabinol (CBN)	521-35-7
Cannabitriol (CBT)	11003-36-4

(c) All other cannabinoids are prohibited for sale in Kentucky unless pre-approved by the cabinet.

(5) Product registration fee.

(a) A product registration fee of \$200 shall be paid for each cannabinoid product or cannabinoid product class sold in Kentucky.

(b) The fee shall be paid to the cabinet by check or money order made payable to the Kentucky State Treasurer.

(6) A new product registration shall be required for changes:

(a) In the chemical composition or formula of the cannabinoid product;

(b) To the serving size or directions for use.

(7) All in-state processors and manufacturers permitted by the cabinet, and all out-of-state processors and manufacturers registering with the cabinet shall submit:

(a) The name and address of the applicant;

(b) The name and address of the brand or company whose name shall appear on the label, if other than the applicant's;

(c) The name of the product;

(d) The name and address of the origin of the adult-use cannabinoid product with which the final product was manufactured;

(e) A complete copy of the front and back of the label that will appear on the product; and

(f) A certificate of analysis from an accredited third-party laboratory for the lot for each product.

(8) A new in-state processor or manufacturer permit, or out-of-state registration shall be required for any changes to the requirements of subsection (7) of this section.

Section 2. Processing, Manufacture, Storage, or Distribution of Hemp-derived Cannabinoid Products.

(1) All processors and manufacturers shall meet:

(a) The applicable requirements of 902 KAR 45:160 Section 2(1)(u); and

(b) The requirements of 902 KAR 45:160, Sections 4, 5, 6, 7, 8, 9, 10, 11, and 14.

(2) Cannabinoid products shall not be manufactured, marketed, sold, or distributed by a home-based processor.

(3) The following hemp-derived products shall not be manufactured:

(a) Hemp cigarettes;

(b) Hemp cigars;

(c) Chew, dip, or other smokeless material consisting of hemp leaf material or hemp floral material; and

(d) Hemp leaf material or floral material teas.

(4) A business that processes, manufactures, warehouses, distributes, sells, or serves adult-use hemp-derived cannabinoid products shall not employ any person who is under twenty-one (21) years of age, unless the person employed is at least eighteen (18) years of age and under the direct supervision of a person twenty-one (21) years of age or older.

(5) Non-intoxicating cannabinoid products shall:

(a) Have at least a fifteen (15) non-intoxicating cannabinoid to one (1) adult-use cannabinoid ratio; and

(b) Contain two and five-tenths (2.5) milligrams or less of adult-use cannabinoid per serving.

(6) The serving size of an ingestible cannabinoid product shall be:

(a) As a whole unit where one (1) unit equals one (1) serving;

(b) Equal the maximum amount recommended, as appropriate, on the label for consumption per occasion in whole units; and

(c) Based on the amount typically consumed.

(7) A hemp-derived cannabinoid processing or manufacturing facility shall not treat or otherwise adulterate a cannabinoid product with:

(a) Any non-cannabinoid additive that increases toxicity or addictive potential, excluding caffeine;

(b) Alcohol;

(c) Nicotine; or

(d) Other chemicals that may increase carcinogenicity or cardiac effects.

(8) All products shall be homogenized to ensure uniform distribution of cannabinoids throughout the product.

(9) Only permitted hemp-derived cannabinoid processing facilities shall perform cannabinoid extraction, conversion, catalyzation, distillation, hydrogenation, or other refinement processes.

(10) A hemp-derived cannabinoid processor or manufacturer shall only use the following solvents: water, glycerin, vegetable oils, animal fats, butane, propane, carbon dioxide, ethanol, isopropanol, acetone, heptane, ethyl acetate, and pentane. The use of any other solvent is expressly prohibited unless pre-approved by the cabinet.

(11) A hemp-derived cannabinoid processor using hydrocarbon-based solvents shall use only such solvents of ninety-nine (99) percent or better purity. Nonhydrocarbon-based solvents shall be food grade.

(12)

(a) A current copy of safety data sheets and a receipt of purchase for all solvents used or to be used in an extraction process shall be kept on file;

(b) The processor shall retain in its facility a certificate of analysis (COA) from the original manufacturer with purity and impurity limits and results for all solvents used; and

(c) Certificates shall be retained for two (2) years.

(13)

(a) Solvents shall be collected and stored in food-grade containers to maintain purity; and

(b) Solvent containers shall be replaced or safely purged, cleaned, and sanitized periodically.

(14) Extraction processes shall take place in an environment properly ventilated to control all sources of ignition where a flammable atmosphere is, or could be, present.

(15) Cannabinoid processing facilities shall not use pressurized canned flammable fuel, such as butane intended for use in outdoor activities, handheld torch devices, and refillable cigarette lighters.

(16) Cannabinoid processing facilities using carbon dioxide shall have equipment and facilities approved by local fire code officials, if applicable.

(17) Processes using flammable gas or flammable liquid shall have leak or gas detection measures, or both.

(18) A permittee shall not use dimethylsulfoxide (DMSO) in the manufacture of hemp-derived cannabinoid products, and possession upon the permitted premises is prohibited.

(19)

(a) A hemp-derived cannabinoid manufacturer may use terpenes or other hemp essential oil but shall not use non-cannabinoid derived inactive ingredients not listed in the federal

Food and Drug Administration inactive ingredient database at <https://www.accessdata.fda.gov/scripts/cder/iig/index.cfm> in the manufacture of inhalable hemp-derived cannabinoid product and distillate intended for use through a vaporizer delivery device or pressurized metered dose inhaler; and

(b) Any non-cannabinoid derived inactive ingredients used shall be less than or equal to the concentration listed in the database.

(20) The following substances shall be prohibited in hemp-derived cannabinoid extraction intended for inhalation:

- (a) Acetates;
- (b) Medium-chain triglycerides (MCT);
- (c) Polyethylene glycol (PEG);
- (d) Propylene glycol (PG or PPG);
- (e) Diketones:
 - 1. 2,3-butanedione (Diacetyl);
 - 2. 2,3-pentanedione (acetylpropionyl); and
 - 3. 3-hydroxybutanone (acetoin);
- (f) Myclobutanil;
- (g) Artificial food coloring; and
- (h) Benzoic acid.

(21) Hazard analysis and risk-based preventive controls.

(a) Processing facilities shall conduct a hazard analysis in accordance with 902 KAR 45:160 Section 2(1)(u) to identify and evaluate, based on experience, illness data, scientific report, and other information known, or reasonably foreseeable hazards associated with each type of cannabinoid product produced by extraction, conversion, catalyzation, or distillation, hydrogenation, or other refinement processes, and shall include:

- 1. Processing reagents or catalysis;
- 2. Processing by-products or compounds; and
- 3. Tentatively identified compounds.

(b) The hazard analysis shall include an evaluation of the hazards identified to assess the severity of illness or injury from the hazard and the probability that the hazard will occur in the absence of preventive controls.

(c) A processing facility shall identify and implement preventive controls to provide assurances that any hazards requiring a preventive control shall be significantly minimized or prevented, and the hemp-derived cannabinoid product not adulterated.

(d) The cabinet may initiate an investigation of a processing facility as a result of a by-product or compound with no toxicity study or a TICs report from a testing facility and may require a processing or manufacturing facility to submit samples for additional testing, including testing for analytes that are not required by this administrative regulation, at the processing or manufacturing facility's expense.

Section 3. Record Keeping.

(1) A master formulation record shall be prepared and maintained for each unique hemp-derived cannabinoid product.

(2) The master formulation record shall include at least the following information:

- (a) Name of the cannabinoid product;
- (b) Ingredient identities and amounts;
- (c) Specifications on the delivery device (if applicable);
- (d) Complete instructions for preparing the cannabinoid product, including equipment, supplies, and description of the manufacturing steps;

(e) Process controls and procedures; and

(f) Any other information needed to describe the production and ensure its repeatability.

(3) A batch or process lot manufacturing record shall be created for each production batch of cannabinoid product.

(4) The batch manufacturing record shall include at the least the following information:

- (a) Name of the cannabinoid product;
- (b) Master formulation record reference for the cannabinoid product;
- (c) Date and time of preparation of the cannabinoid product;
- (d) Production batch number;
- (e) Signature or initials of individuals involved in each manufacturing step;
- (f) Name, vendor, or manufacturer, production batch number,

and expiration date of each ingredient;

(g) Weight or measurement of each ingredient;

(h) Documentation of process controls;

(i) Any deviations from the master formulation record, and any problems or errors experienced during the manufacture, and corrective actions; and

(j) Total quantity of the cannabinoid product manufactured.

Section 4. Product Packaging and Labeling.

(1) Each cannabinoid product manufactured, marketed, sold, or distributed in the commonwealth shall be packaged and labeled in accordance with KRS 217.037, HB 544, 2023 Ky. Acts ch. 78, and this administrative regulation.

(2) Each container of adult-use cannabinoid product shall:

(a) Have a tamper-evident seal; and

(b) Be in child-resistant packaging.

(3) Each container of non-intoxicating cannabinoid product or cosmetic shall have a tamper-evident seal.

(4) Cannabinoid product packaging shall not include:

(a) Any cartoon images;

(b) Likeness to images, characters, or phrases that are popularly used to advertise to children;

(c) Likeness to or imitation of any commercially available candy, snack, baked good, or beverage packaging or labeling;

(d) The terms "candy" or "candies", or any variation in the spelling of these words; or

(e) The logo of the department or cabinet, or any seal, flag, crest, coat of arms, or other insignia that could reasonably mislead any person to believe the product has been endorsed, manufactured, or used by any state, county, or municipality or any agency thereof, excluding the use of seals associated with state or federal programs used in accordance with state or federal law and regulations.

(5) The total amount of hemp-derived cannabinoid per serving and the total amount per container shall accurately reflect testing results and shall not contain less than eighty (80) percent or more than 120% of the concentration of total cannabinoid content as listed on the product label:

(a) For hemp-derived cannabinoid ingestible and inhalable products, potency shall be labeled as milligrams per serving for total tetrahydrocannabinol and the primary cannabinoid marketed, as applicable; and milligrams per package for total tetrahydrocannabinol and the primary cannabinoids marketed; and

(b) Other hemp-derived cannabinoids labeled milligrams per gram (mg/g) per serving, excluding cosmetics, and milligrams per package, if listed on the label.

(6) Adult-use hemp-derived cannabinoid products shall include the following warning label statements:

(a) "Warning: Contains THC."

(b) "This product is intended for use by adults 21 years and older. Keep out of reach of children."

(c) "There may be health risks associated with the consumption of this product."

(d) "There may be additional health risks associated with the consumption of this product for those who are pregnant, nursing, or plan to become pregnant."

(e) "The intoxicating effects of this product may be delayed by two or more hours."

(f) "May cause drowsiness or impairment. Do not drive a motor vehicle or operate machinery while using this product."

(g) "Use of this product may result in a positive drug screen."

(7) A quick response or QR code may be used as a link to the warning statements required by subsection (6) of this section. The QR code shall be labeled as "Warning Statements" directly above or below the code and shall be large enough to be smart-phone readable.

Section 5. Inspection and Enforcement.

(1) The cabinet or its duly authorized agent shall conduct an onsite inspection of all permitted cannabinoid processing and manufacturing establishments, storage warehouses and distribution centers.

(2) The location of the permitted establishment, all general business records, including employee records, and vehicles utilized

to transport products are subject to reasonable inspection.

(3) All cannabinoid establishments, whether permitted or not, shall cooperate with the cabinet or its duly authorized agent during any inspections, complaint investigation, and requests for information or data, in order to verify compliance with this administrative regulation.

(4) All products not in compliance with this administrative regulation may be seized and destroyed by the cabinet or its duly authorized agent.

(5) The permit holder shall take immediate steps to correct conditions that have caused an imminent health hazard.

(6)

(a) The permit holder shall notify the cabinet within twenty-four (24) hours of the knowledge of an imminent health hazard that cannot be controlled by immediate corrective action or if product, product packaging, cosmetic, or cosmetic packaging has become contaminated because of an imminent health hazard.

(b) Notification to the cabinet shall be made by:

1. Email to food.safety@ky.gov; or
2. Phone to (502)564-7181.

(7) If the cabinet has evidence that a permit holder has failed to act to correct an imminent health hazard, the following enforcement provisions shall be initiated:

(a) Suspend the permit without an administrative hearing; or

(b) Suspend that portion of the operation affected by the imminent health hazard without an administrative hearing.

(8) If a permit suspension is due to an imminent health hazard, the permit holder may submit a request for an administrative hearing to the cabinet in accordance with KRS Chapter 13B.

(9) A permit holder shall notify the cabinet within twenty-four (24) hours of becoming aware of any serious adverse event to a hemp-derived cannabinoid product sold or transferred by the permit holder.

(10) In all other instances of violation of this administrative regulation, the cabinet shall serve the permit holder with a written notice specifying the violation and afford the holder an opportunity to correct.

(11) If a permit holder has failed to comply with the written notice within the timeframe granted, the cabinet shall issue a notice of intent to suspend the permit.

(12)

(a) The notice in subsection (11) of this section shall include notification that the permit shall be suspended at the end of ten (10) days following service of the notice, unless a written request for an administrative hearing is filed with the cabinet by the permit holder within the ten (10) day period; and

(b) The administrative hearing shall be conducted in accordance with KRS 13B.080.

(13) For a permitted facility that has had a suspended permit two (2) or more times within a five (5) year period, the cabinet shall initiate permit revocation proceedings. Prior to this action, the cabinet shall notify the permit holder in writing, stating the reasons for which the permit revocation is being sought and advising that the permit shall be permanently revoked at the end of ten (10) days following service of the notice, unless a request for an administrative hearing is filed with the cabinet pursuant to KRS Chapter 13B by the permit holder within the ten (10) day period.

(14) Any person who violates any provision of this administrative regulation may be fined, found guilty of a criminal offense, or both pursuant to KRS 217.992.

(15) State and local law enforcement officers shall have concurrent jurisdiction to enforce violations of this section.

STEVEN J. STACK, MD, MBA, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 22, 2024

FILED WITH LRC: April 24, 2024 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 22, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by July 15, 2024, 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 virtually 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 July 31, 2024. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFRegs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Julie Brooks

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the registration, processing, and manufacturing procedures for hemp-derived cannabinoid products, and the labeling and packaging requirements for products containing hemp-derived cannabinoids.

(b) The necessity of this administrative regulation: Many hemp-derived cannabinoid products sold in Kentucky remain unregulated. This administrative regulation is necessary to ensure that all hemp-derived cannabinoid products produced, manufactured and sold in the state are safe for human consumption.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.125(2) requires the secretary to provide by administrative regulation a schedule of fees for permits to operate and for inspection activities carried out by the cabinet pursuant to KRS 217.025 through 217.390. KRS 217.135 authorizes the secretary to establish food standards by administrative regulation including a reasonable definition, standard of identity, and designation of optional ingredients that shall be named on the label. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspection any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale. This administrative regulation establishes the product registration, the processing and manufacturing procedures for hemp-derived cannabinoid products, including the permit fee, and the labeling and packaging requirements for products containing hemp-derived cannabinoids. Establishments permitted with the department prior to the effective date of this administrative regulation shall be exempted from the permit fee requirement until the annual renewal date.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures all hemp-derived cannabinoid products manufactured, processed, distributed, or sold are safe for human consumption, and are labeled in a manner that allows the end user to understand the effects of the products.

(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

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administrative regulation: There are currently thirty-eight (38) manufacturers of cannabidiol (CBD) products registered with the department.

(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 requirements of this administrative regulation are not new requirements for processors and manufacturers. Processors and manufacturers will need to make sure their products comply with the requirements of this 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 permit will cost processors \$3,000 plus \$200 per registered product or product class. The permit for manufacturers is \$1,000 plus \$200 per registered product or product class. The permit for warehouses is \$1,000. The permit for cosmetic manufacturers is \$200. Out-of-state processors and manufacturer will pay \$200 per to register products or product class shipped into the commonwealth.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Producers and manufacturers will be able to offer products that are safe for human consumption.

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

(a) Initially: The current budget for the food manufacturing permitting and inspection program is \$1,080,900. The increase in required permitting and inspection processes to implement this emergency administrative regulation will cost the department an additional \$1,551,397 in the first year.

(b) On a continuing basis: The department will continue to need an additional \$1,551,397, at a minimum, in subsequent years. An increase in permitted facilities will result in increased costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general fund dollars and revenue received from permitting and product registration are the sources of funding for this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Processors and manufacturers currently pay between a \$125 and \$1,000 fee depending on the size of the facility and level of risk of the products produced. The fees established in this administrative regulation are necessary to offset the cost associated with implementing this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does establish permitting and project registration fees. The proposed fee structure is an increase from the current assessed fee. The current fee structure references the fee structure for food manufacturing and processors and manufacturers may pay between a \$125 and \$1,000 fee depending on the size of the facility. It is not appropriate to regulate cannabinoid products as food products. Products that contain cannabinoids should be regulated under their own classification. This includes the permit and product registration fee structure.

(9) TIERING: Is tiering applied? Tiering is applied. The fee for all processors and manufacturers currently permitted by the department on the effective date of this administrative regulation will be waived until the date of the next annual renewal. All new applications for a permit will be assessed the fee upon initial filing.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, (or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 217.125, 217.127, 217.135, and 217.155.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department for Public Health, Division of Public Health Protection and Safety is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: Expenditures for the department to implement this administrative regulation will be approximately \$1,551,397 per year.

Revenues: Revenues for the permitting of processors and manufacturers in this administrative regulation can range between \$38,000 to \$114,000. The revenue for product registration cannot be determined at this time.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures for the Department for Public Health may be impacted by changes in salary, fringe benefits, and travel cost for state and local health department employees. These changes cannot be determined at this time. Expenditures for regulated entities will not change without an amendment to this administrative regulation.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local law enforcement entities may be affected by this administrative regulation.

(a) Estimate the following for the first year:

Expenditures: The department is not able to calculate the expenditures for affected local entities at this time.

Revenues: This administrative regulation will not generate revenue for affected local entities.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department is not able to determine changes in expenditures, revenues or cost savings for affected local entities.

(4) Identify additional regulated entities not listed in questions (2) or (3): This administrative regulation will impact all cannabinoid processors, manufacturers, storage warehouses, and distributors. Currently there are thirty-eight (38) entities permitted by the department.

(a) Estimate the following for the first year:

Expenditures: Expenditures will range from \$200 for cosmetic manufacturers to \$3,000 for processors and manufacturers who produce adult-use cannabinoid products.

Revenues: Revenues for the affected entities will be dependent on product sales.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures will not change in subsequent years without an amendment to this administrative regulation. Revenues can change depending on product sales.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation may generate between \$38,000 and \$114,000 in revenue. Additional revenue will be generated by the product registration fee, but that total cannot be determined at this time. The cost to the department to administer this administrative regulation is \$1,551,397.

(b) Methodology and resources used to determine the fiscal impact:

Positions	Personnel Classified	Grad	Annual Salary + 5% Probationary Increase	Fringe Benefits - FICA - Retirement - HltH/Life Ins.	Total Annual Salary and Fringe Benefits	Number of Employees	Total Amount	
Administrative Clerk	Program Coordinator	Gr. 14	\$ 59,213.70	\$ 53,711.55	\$ 112,925.25	1	\$ 112,926.25	
Retail Inspectors	Program Evaluator	Gr. 14	\$ 59,213.70	\$ 53,711.55	\$ 112,925.25	5	\$ 564,626.27	
Processor/manufacturing Inspectors, Enforcement staff, and Supervisors	Program Administrator	Gr. 15	\$ 65,135.20	\$ 58,082.80	\$ 123,218.00	6	\$ 739,307.99	
Manager	Branch Manager	Gr. 16	\$ 71,646.12	\$ 62,889.17	\$ 134,535.29	1	\$ 134,536.29	
TOTAL								\$ 1,551,396.79

The total range for the potential revenue was calculated by multiplying the current number of permitted facilities times the lowest and highest permit fee amounts, which is 38X1,000 and 38X3,000 respectively. The total expenditure was calculated based on the need for thirteen (13) additional environmental management staff to oversee the permitting and inspection activities. The thirteen (13) additional staff include a branch manager, administrative support staff, two (2) supervisors, two (2) processing/manufacturing inspectors, five (5) retail inspectors, and two (2) enforcement staff. The breakdown of expenditures is as follows: -- Administrative Clerk:

Program Coordinator (Grade 14); Annual Salary + 5% Probationary increase: \$59,213.70; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$53,711.55; Total Annual Salary and Fringe Benefits: \$112,925.25 x 1 Employee = Total Amount: \$112,926.25 ---- Retail Inspectors: Program Evaluator (Grade 14); Annual Salary + 5% Probationary increase: \$59,213.70; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$53,711.55; Total Annual Salary and Fringe Benefits: \$112,925.25 x 5 Employees = Total Amount: \$564,626.27 ---- Processor/manufacturing Inspectors, Enforcement staff, and Supervisors: Program Administrator (Grade 15); Annual Salary + 5% Probationary increase: \$71,135.20; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$58,082.80; Total Annual Salary and Fringe Benefits: \$123,218.00 x 6 Employees = Total Amount: \$739,307.99 ---- Manager: Branch Manager (Grade 16); Annual Salary + 5% Probationary increase: \$71,646.12; Fringe Benefits - FICA - Retirement - Hlth/Life Ins: \$62,889.17; Total Annual Salary and Fringe Benefits: \$134,535.29 x 1 Employee = Total Amount: \$134,535.29 ---- TOTAL AMOUNT = \$1,551,396.79

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The expenditures for the department will exceed \$1,000,000, resulting in an overall negative or adverse major economic impact. The overall economic impact for the regulated entities cannot be determined. While these entities will have expenditures associated with the permit and product registration, these will be offset by the revenue received in product sells.

(b) The methodology and resources used to reach this conclusion: Legislation has delegated new authority to the Kentucky Department for Public Health (KDPH) to regulate recreational adult-use products, such as delta-8 THC, for the safety of Kentuckians. These products, which may only be sold to adults aged 21 years or older, are increasingly complex, diverse, and evolving. An estimated 1,000-1,500 retailers and 40 manufacturers of recreational adult-use drugs are believed to be operating in Kentucky. Manufacturers of hemp THC products use complex chemistry conversion methods to process distillates, which increases the technical training required for inspection. Due to the intricacies involved, the successful oversight and regulation of these products in Kentucky will require additional staffing and the use of a hybrid approach that blends the traditional roles of the Department of Alcoholic Beverage Control, such as the enforcement of laws and age verification, with the expertise of the Food and Drug Administration (FDA). In order to adequately oversee the manufacture and retail sale of these products, the department would propose establishing a new branch with specialized staff. An estimated additional thirteen (13) staff will be needed to carry out the following activities: Regulatory Oversight: Establish and enforce standards for product manufacturing, packaging, and labeling for human consumption; Establish and enforce distribution controls to consumers to prohibit and prevent sales of adult-use products to individuals under 21 years of age; Prohibit the manufacture and sale of unallowable products; Protect consumers from harmful exposure to chemicals, contaminants, and adulterants that would have an adverse impact on human health; Evaluate the use of chemicals when added to products, such as food ingredients and substances that come into contact with food through food processing, manufacturing, packaging, storage, or other handling to ensure these uses are safe; Monitor products for contaminants and take action when the level of a contaminant causes a product to be unsafe. Licensing and Inspections: Administer licensure and registration for processors, manufacturers, distributors, and retailers and conduct regular inspections to ensure compliance with regulatory requirements. Surveillance and Monitoring: Collect and analyze data on adverse events and product quality to guide decision-making and interventions. Collaboration and Partnerships: Collaborate with federal/state agencies, professional organizations, academic institutions, and industry stakeholders to exchange information, share best practices, and coordinate efforts to address common challenges.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(New Administrative Regulation)

902 KAR 45:031. Hemp-derived cannabinoid product sampling and testing requirements.

RELATES TO: KRS Chapter 13B, 217.015, 217.025, 217.035, 217.037, 217.039, 260.850, 438.305(4), 2023 Ky Acts ch. 78

STATUTORY AUTHORITY: KRS 217.125, 217.155

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215. KRS 217.155 allows the cabinet or its duly authorized agent free access at reasonable times for the purpose of inspection any factory, warehouse, or establishment where foods, drugs, devices, or cosmetics are manufactured or held for sale. This administrative regulation establishes the hemp-derived cannabinoid product sampling and testing requirements.

Section 1. Product Sampling and Testing Requirements.

(1) Sampling and testing for all cannabinoid products shall be:

- (a) Done for each batch or process lot; and
- (b) Conducted with representative samples to ensure:
 1. All batches or process lots are adequately assessed for contaminants; and
 2. The cannabinoid profile is consistent throughout.

(2) Testing shall only be performed on the final product equivalent to what will be consumed.

(3) Samples shall be collected using appropriate aseptic techniques.

(4) A cannabinoid processing or manufacturing facility shall assign each batch or process lot a unique batch or lot number that shall be:

- (a) Documented and maintained in the processing and manufacturing facility for at least two (2) years and available to the department upon request;
 - (b) Provided to the individual responsible for taking samples; and
 - (c) Included on the product label.
- (5) Sample size, handling, storage, and disposal.

(a) Cannabinoid products samples shall consist of enough material from the batch or process lot to ensure that the required attributes in the products are homogenous and consistent with the testing facility's accredited sampling policies and procedures.

(b) A cannabinoid processing or manufacturing permittee shall prepare sampling policies and procedures that contain the information necessary for collecting and transporting samples from cannabinoid products in a manner that does not endanger the integrity of the sample for any analysis required by this administrative regulation.

(6) Reserve samples.

(a) Processors and manufacturers shall collect and hold reserve samples of each batch or process lot of packaged and labeled product.

(b) The reserve samples shall:

1. Be held using the same container-closure system that the packaged and labeled product is distributed, or if distributing to be packaged and labeled, using a container-closure system that provides the same characteristics to protect against contamination or deterioration;
2. Be identified with the batch or process number;
3. Be retained for the shelf-life date, as applicable, or for two (2) years from the date of distribution of the last batch or process lot of the product associated with the reserve sample; and
4. Consist of at least twice the quantity necessary for all tests or examinations to determine if the product meets specifications.

(7) Laboratory requirements.

(a) Testing facilities used by the cannabinoid processing or manufacturing facility shall be an independent third-party, fully accredited to the standard established by International Organization

for Standardization (ISO) 17025 by an International Laboratory Accreditation Cooperation recognized accreditation body.

(b) The testing facility shall:

1. Maintain ISO 17025 accreditation; and
2. Comply with all required analytes standards for the relevant test methods of:

test methods of:

- a. Cannabinoids;
- b. Microbial impurities;
- c. Mycotoxins;
- d. Residual pesticides;
- e. Heavy metals; and
- f. Residual solvents, if applicable.

(c) Cannabinoid processing or manufacturing facilities shall maintain on file proof of a valid certificate of accreditation for the laboratory completing product testing that:

1. Is issued by an accreditation organization; and
2. Attests to the laboratory's competence to perform testing, including all the required analytes for the relevant test methods required.

(8) Testing requirements.

(a) A processing or manufacturing facility shall test every batch or process lot of cannabinoid product for sale or distribution prior to sell or transfer.

(b) Test shall be performed using cannabinoid quantification technique with a high enough specificity and sensitivity to differentiate between cannabinoids and isomers of cannabinoids.

(c) Cannabinoid products shall be tested for:

1. Cannabinoids, which shall include all cannabinoids specified in 902 KAR 45:021, Section 1(3)(a);

2. Microbial impurities;
3. Mycotoxins;
4. Residual pesticides;
5. Heavy metals; and
6. Residual solvents, if applicable.

(d) Infused cannabinoid products may not require additional testing for microbial impurities, mycotoxins, residual pesticides, heavy metals, or residual solvents, as applicable, if the cannabinoid distillate used to make an infused product was:

1. Tested for microbial impurities, mycotoxins, residual pesticides, heavy metals, or residual solvents in compliance with this administrative regulation; and

2. Test results indicate the batch or process lot was within established limits.

(e) An infused cannabinoid product shall be tested if the addition of ingredients or processing practice create a reasonable or foreseeable microbial impurity, mycotoxin, residual pesticide, heavy metals, or residual solvents hazard.

(f) All vaporizer delivery device or pressurized metered dose inhaler cartridge batches or process lots shall be tested for Acetates.

(g) In accordance with KRS 217.039, all applicable certificates of analysis shall accompany the final product.

Section 2. Standards for Cannabinoid Testing.

(1) A testing facility shall establish a limit of quantitation of one (1) milligram per gram (mg/g) or lower for all adult-use cannabinoids analyzed and reported.

(2) A testing facility shall report the result of the cannabinoid testing on the certificate of analysis, that includes at minimum:

(a) Total tetrahydrocannabinol concentration, calculated in accordance with subsection (3) of this section and reported in percentages;

(b) Tetrahydrocannabinol-A concentration;

(c) Milligrams per serving for total tetrahydrocannabinol and the primary cannabinoid marketed, excluding cosmetics, as applicable;

(d) Milligrams per package for total tetrahydrocannabinol and the primary cannabinoid marketed, excluding cosmetics, as applicable; and

(e) The results of all other hemp-derived cannabinoids analyzed on the COA both as a percentage and milligrams per gram (mg/g).

(3) The following calculation shall be used for calculating total tetrahydrocannabinol concentration expressed in weight: Total cannabinoid concentration (mg/g) = (cannabinoid acid form concentration (mg/g) x 0.877) + cannabinoid concentration (mg/g).

(4) For cannabinoid infused products, excluding cosmetics, potency shall be reported as milligrams of total tetrahydrocannabinol and the primary cannabinoid marketed, excluding cosmetics per gram.

(5) Cannabinoid products shall not contain a delta-9 tetrahydrocannabinol concentration of more than three-tenths of one percent (0.3) on a dry weigh basis.

(6) The serving size from a vaporizer delivery device or pressurized metered dose inhaler shall not exceed one (1) inhalation lasting two (2) seconds per serving.

Section 3. Standards for Microbial Impurities.

(1) Cannabinoid products shall be tested by a testing facility for the presence of microbial impurities.

(2) The sample of inhalable cannabinoid products shall be deemed to have passed the microbial impurities testing if the following conditions are met:

(a) Total *Escherichia coli* is not detected above 100 colony forming units/gram;

(b) Shiga toxin-producing *Escherichia coli* is not detected in one (1) gram;

(c) *Salmonella* spp. is not detected in one (1) gram;

(d) Pathogenic *Aspergillus* species *A. fumigatus*, *A. flavus*, *A. niger*, and *A. terreus* are not detected in one (1) gram;

(e) *Listeria* Spp. is not detected in one (1) gram; and

(f) A total combined yeast and mold do not exceed 100,000 colony forming units per gram.

(3) The sample of ingestible or cosmetic cannabinoid products shall be deemed to have passed the microbial impurities testing if the following conditions are met:

(a) Total *Escherichia coli* is not detected above 100 colony forming units/gram;

(b) Shiga toxin-producing *Escherichia coli* is not detected in one (1) gram;

(c) *Salmonella* spp. is not detected in one (1) gram;

(d) *Listeria* Spp. is not detected in one (1) gram; and

(e) A total combined yeast and mold do not exceed 100,000 colony forming units per gram.

(4) If the sample fails microbial impurities testing, the batch or process lot from which the sample was collected shall not be released for retail sale.

(5) If a sample from a batch or process lot of a cannabinoid product fails microbiological contaminant testing, the batch may be further processed if the processing method effectively sterilizes the batch.

(6) A batch or process lot that is sterilized in accordance with subsection (5) of this section shall be sampled and tested in accordance with this administrative regulation, if not otherwise required for that product, for microbiological contaminants, and residual solvents.

(7) A batch or process lot that fails microbiological contaminant testing after undergoing a sterilization process in accordance with subsection (5) of this section shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

Section 4. Standards for Mycotoxin Testing.

(1) Cannabinoid products shall be tested by a testing facility for the following mycotoxins: aflatoxin B1, B2, G1, and G2 ochratoxin A.

(2) A batch or process lot shall be deemed to have passed mycotoxin testing if the following conditions are met:

(a) Total of aflatoxin B1, B2, G1, and G2 does not exceed twenty (20) microgram per kilogram ($\mu\text{g}/\text{kg}$) of substance; and

(b) Ochratoxin A does not exceed twenty (20) $\mu\text{g}/\text{kg}$ of substance.

(3) A batch or process lot that fails mycotoxin testing in accordance with this subsection shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

Section 5. Standards for Testing Residual Pesticides.

(1) Cannabinoid products shall be tested by a testing facility for the following residual pesticides and shall not exceed the maximum allowable concentration for each:

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Residual pesticide	Chemical Abstract Service (CAS) assigned number	Maximum allowable concentration stated in parts per million (ppm)
Abamectin	71751-41-2	0.5 ppm
Acephate	30560-19-1	0.4 ppm
Acequinocyl	57960-19-7	2.0 ppm
Acetamiprid	135410-20-7	0.2 ppm
Aldicarb	116-06-3	0.4 ppm
Azoxystrobin	131860-33-8	0.2 ppm
Bifenazate	149877-41-8	0.2 ppm
Bifenthrin	82657-04-3	0.2 ppm
Boscalid	188425-85-6	0.4 ppm
Carbaryl	63-25-2	0.2 ppm
Carbofuran	1563-66-2	0.2 ppm
Chlorantraniliprole	500008-45-7	0.2 ppm
Chlorfenapyr	122453-73-0	1.0 ppm
Chloromequat chloride	7003-89-6	0.2 ppm
Chlorpyrifos	2921-88-2	0.2 ppm
Clofentezine	74115-24-5	0.2 ppm
Cyfluthrin	68359-37-5	1.0 ppm
Cypermethrin	52315-07-8	1.0 ppm
Daminozide	1596-84-5	1.0 ppm
DDVP (Dichlorvos)	62-73-7	0.1 ppm
Diazinon	333-41-5	0.2 ppm
Dimethoate	60-51-5	0.2 ppm
Ethoprophos	13194-48-4	0.2 ppm
Etofenprox	80844-07-1	0.4 ppm
Etoxazole	153233-91-1	0.2 ppm
Fenoxycarb	72490-01-8	0.2 ppm
Fenpyroximate	134098-61-6	0.4 ppm
Fipronil	120068-37-3	0.4 ppm
Fonicamid	158062-67-0	1.0 ppm
Fludioxonil	131341-86-1	0.4 ppm
Hexythiazox	78587-05-0	1.0 ppm
Imazalil	35554-44-0	0.2 ppm
Imidacloprid	138261-41-3	0.4 ppm
Kresoxim-methy	143390-89-0	0.4 ppm
Malathion	121-75-5	0.2 ppm
Metalaxyl	57837-19-1	0.2 ppm
Methiocarb	2032-65-7	0.2 ppm
Methomyl	16752-77-5	0.4 ppm
Methyl parathion	298-00-0	0.2 ppm
Myclobutanil,	88671-89-0	0.2 ppm (prohibited at any concentration for inhalation)
Naled	300-76-5	0.5 ppm
Oxamyl	23135-22-0	1.0 ppm
Paclobutrazol	76738-62-0	0.4 ppm
Permethrins (measured as the cumulative residue of cis- and trans-isomers)	52645-531 (54774-45-7 and 51877-74-8)	0.2 ppm
Phosmet	732-11-6	0.2 ppm
Piperonyl butoxide	51-03-6	2.0 ppm
Prallethrin	23031-36-9	0.2 ppm
Propiconazole	60207-90-1	0.4 ppm
Propoxur	114-26-1	0.2 ppm
Pyrethrins (measured as the cumulative residue of pyrethrin 1, cinerin 1 and jasmolin 1)	8003-34-7(121-21-1, 25402-06-6 and 4466-14-2)	1.0 ppm
Pyridaben	96489-71-3	0.2 ppm
Spinosad	168316-95-8	0.2 ppm
Spiromesifen	283594-90-1	0.2 ppm
Spirotetramat	203313-25-1	0.2 ppm
Spiroxamine	118134-30-8	0.4 ppm

Tebuconazole	107534-96-3	0.4 ppm
Thiacloprid	111988-49-9	0.2 ppm
Thiamethoxam	153719-23-4	0.2 ppm
Trifloxystrobin	141517-21-7	0.2 ppm

(2) A batch or process lot that fails residual pesticide testing in accordance with this section shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

Section 6. Standards for Testing for Heavy Metals.

(1) Cannabinoid products shall be tested by a testing facility for the following metals and shall not exceed the maximum allowable concentration for each:

(a) Arsenic, maximum allowable concentration: one and five-tenths (1.5) ppm;

(b) Cadmium, maximum allowable concentration: zero and four-tenths (0.4) ppm;

(c) Lead, maximum allowable concentration: one (1) ppm; and

(d) Mercury, maximum allowable concentration: one and two-tenths (1.2) ppm.

(2) Cannabinoid distillate intended for inhalable products shall be tested by a testing facility for the following metals and shall not exceed the maximum allowable concentration for each:

(a) Arsenic, maximum allowable concentration: zero and two-tenths (0.2) ppm;

(b) Cadmium, maximum allowable concentration: zero and two-tenths (0.2) ppm;

(c) Lead, maximum allowable concentration: zero and five-tenths (0.5) ppm; and

(d) Mercury, maximum allowable concentration: zero and one-tenths (0.1) ppm.

(3) A batch or process lot that fails heavy metals testing in accordance with this section shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

Section 7. Standards for Testing Residual Solvents.

(1) Cannabinoid products shall be tested by a testing facility for residual solvents, as appropriate, and shall not exceed the maximum allowable concentration for each solvent used according to the table below:

Solvent	CAS assigned number	Maximum allowable concentration stated in parts per million (ppm)
Acetone	67-64-1	1,000 ppm
Benzene	71-43-2	2 ppm
Butanes, (measured as the cumulative residue of n-butane and iso-butane),	106-97-8 and 75-28-5	1,000 ppm
Ethanol	64-17-5	5,000 ppm
Ethyl Acetate	141-78-6	1,000 ppm
Heptane	142-82-5	1,000 ppm
Hexanes (measured as the cumulative residue of n-hexane, 2-methylpentane, 3-methylpentane, 2,2-dimethylbutane, and 2,3-dimethylbutane)	110-54-3, 107-83-5 and 79-29-8	60 ppm
Methanol	67-56-1	600 ppm
Pentanes (measured as the cumulative residue of n-pentane, iso-pentane, and neo-pentane)	109-66-0, 78-78-4 and 463-82-1	1,000 ppm
2-Propanol (IPA)	67-63-0	1,000 ppm
Propane	74-98-6	1,000 ppm
Toluene*	108-88-3	180 ppm
Total Xylenes* (measured as the cumulative residue of 1,2-dimethylbenzene, 1,3-dimethylbenzene, and 1,4-dimethylbenzene, and the non-xylene, ethylbenzene),	1330-20-7 (95-47-6, 108-38-3 and 106-42-3 and 100-41-4)	430 ppm

*Note: These solvents are not approved for use. Due to their possible presence in the solvents approved for use, limits have been listed here accordingly.

(2) A processing or manufacturing facility shall be exempt from testing for solvents if the facility:

(a) Did not use any solvent listed in subsection (1) of this section;
 (b) Used a mechanical extraction process to separate cannabinoids; or

(c) Used only water, animal fat, or vegetable oil as a solvent to separate the cannabinoids.

(3) If a sample from a batch or process lot fails solvent testing, the batch or process lot may be remediated using procedures that would reduce the concentration of solvents to less than the action level.

(4) A batch or process lot that is remediated in accordance with subsection (3) of this section shall be:

(a) Sampled and tested in accordance with this administrative regulation; and

(b) Tested for solvents if not otherwise required for that product under this administrative regulation.

(5) A batch or process lot that fails solvent testing that is not remediated or that if remediated fails testing shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

Section 8. Standards for Water Activity.

(1) Plant material, such as flower, shake, and plant trim, used to process and manufacture hemp-derived cannabinoid products shall have a water activity (Aw) rate of less than 0.65.

(2) If the plant material sample fails testing for water activity, the batch from which the sample was taken may:

(a) Be used to make a cannabinoid distillate; or

(b) Continue to dry or cure.

(3) Plant material that undergoes additional drying or curing as described in subsection (2)(b) of this section shall be re-sampled and tested in accordance with this section.

Section 9. Failed Testing and Remediation.

(1) A sample that fails any initial testing may be reanalyzed by the testing facility.

(2) If the reanalyzed sample passes, the processing or manufacturing facility shall resample the batch or process lot using another accredited testing facility to confirm the result in order for the batch or process lot to pass testing.

(3) A batch or process lot shall fail testing if the testing facility detects the presence of a contaminant in a sample above any limit of detection (LOD) established in this administrative regulation:

(a) During an initial test where no reanalysis is requested; or

(b) Upon reanalysis as described in this subsection.

(4) If a sample fails a test or a reanalysis, the batch or process lot:

(a) May be remediated or sterilized in accordance with this administrative regulation; or

(b) If it cannot be remediated or sterilized in accordance with this administrative regulation, it shall be destroyed in a manner that renders the batch or process lot denatured and unusable.

(5) A hemp-derived cannabinoid product batch or process lot shall only be remediated twice. If the batch or process lot fails after a second remediation attempt and the second retesting, the entire batch or process lot shall be destroyed in a manner approved by the cabinet.

(6) A hemp-derived cannabinoid product from a batch or process lot that failed testing shall not be combined with another batch or process lot. Mixed products shall be considered adulterated, regardless of the LOD or defect level of the final product.

Section 10. Certificate of Analysis.

(1) The testing facility shall:

(a) Generate a certificate of analysis (COA) for each representative sample that the testing facility analyzes; and

(b) Ensure the COA contains the results of all required analyses performed for the representative sample.

(2) The COA shall contain, at minimum:

(a) The testing facility's name, premises address, and license number, processor's or manufacturer's name, and premises address;

(b) Batch or lot number of the batch or process lot from which the sample was obtained. For products that are already packaged at the time of sampling, the labeled batch or lot number on the packaged hemp-derived cannabinoid products shall match the batch or lot number on the COA;

(c) Sample identifying information, including matrix type and unique sample identifiers;

(d) Sample history, including the date collected, the date received by the testing facility, and the date of all sample analyses and corresponding testing results;

(e) The analytical methods, analytical instrumentation used, and corresponding LOD and limits of quantitation (LOQ);

(f) Analytes detected during the analyses of the sample that are unknown, unidentified, or injurious to human health if consumed, if any; and

(g) A chromatograph of the cannabinoid test results.

(3) The testing facility shall report test results for each representative sample on the COA as an overall "pass" or "fail" for the entire batch:

(a) When reporting qualitative results for each analyte, the testing facility shall indicate "pass" or "fail";

(b) When reporting quantitative results for each analyte, the testing facility shall use the appropriate units of measurement as required in accordance with this administrative regulation;

(c) When reporting results for each test method, the testing facility shall indicate "pass" or "fail";

(d) When reporting results for any analytes that were detected below the analytical method LOQ, indicate "<LOQ", notwithstanding cannabinoid results;

(e) When reporting results for any analytes that were not detected or detected below the LOD, indicate "ND"; and

(f) Indicate "NT" for any test that the testing facility did not perform.

(4)

(a) In accordance with 2023 Ky. Acts ch. 78, a cannabinoid manufacturer or processor that ships adult-use products out of state for use or sale outside the Commonwealth of Kentucky:

1. Shall abide by the testing and labeling requirements of this administrative regulation if the receiving state or jurisdiction does not have testing and labeling requirements; or

2. May defer to the receiving state's testing requirements if that state has equivalent testing requirements.

3. Products intended for out-of-state sale shall be stored separately from in-state products and shall have signage indicating the products are for out-of-state sale.

(b) Batch number of the batch from which the sample was obtained shall be on the COA for all products shipped out of state.

STEVEN J. STACK, MD, MBA, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 22, 2024

FILED WITH LRC: April 24, 2024 at 12:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 22, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by July 15, 2024, 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 virtually 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 July 31, 2024. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Julie Brooks

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the hemp-derived cannabinoid product sampling and testing requirements.

(b) The necessity of this administrative regulation: Many hemp-derived cannabinoid products sold in Kentucky continue to be unregulated. This administrative regulation is necessary to ensure that all hemp-derived cannabinoid products produced and sold in the state are safe for human consumption.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 217.125(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations for the efficient administration and enforcement of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 through 217.215.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures all hemp-derived cannabinoid products manufactured, processed, distributed, or sold are safe for human consumption.

(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 currently thirty-eight (38) manufacturers of cannabidiol (CBD) products registered with the department.

(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: Cannabinoid processor and manufacturers are currently in compliance with the requirements of 902 KAR 45:190E. This new administrative regulation does not require any additional actions for compliance with product sampling and testing requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Compliance with this new administrative regulation will not add to the cost for the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Producers and manufacturers will be able to ensure products offered are of the highest quality and are safe for human consumption.

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

(a) Initially: The current budget for the food manufacturing permitting and inspection program is \$1,080,900. The increase in required permitting and inspection processes to implement this administrative regulation will cost the department an additional \$1,551,397 in the first year.

(b) On a continuing basis: The department will continue to need

an additional \$1,551,397, at a minimum, in subsequent years.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funding to implement and enforce this administrative regulation will be from a mix of fees paid to the department and state general fund dollars.

(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 establishes any fees or directly or indirectly increases any fees: This administrative regulation does not contain fees.

(9) TIERING: Is tiering applied? Tiering is applied. Testing for solvents is only required when they are used in the manufacturing or processing procedures.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 217.125 and 217.155.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Department for Public Health, Division of Public Health Protection and Safety is the promulgating agency.

(a) Estimate the following for the first year:

Expenditures: Expenditures to the department to implement this administrative regulation will be approximately \$1,551,397 per year.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation will not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures for the Department for Public Health may be impacted by changes in salary, fringe benefits and travel cost for state and local health department employees. These changes cannot be determined at this time.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): There are no affected local entities.

(a) Estimate the following for the first year:

Expenditures: Not applicable

Revenues: Not applicable

Cost Savings: Not applicable

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities are processors and manufacturers of hemp-derived cannabinoid products, and testing facilities.

(a) Estimate the following for the first year:

Expenditures: Expenditures for the additional regulated entities will be associated with the sampling and testing requirements of this administrative regulation.

Revenues: This administrative regulation does not generate revenue.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The department is not able to determine changes in expenditures in subsequent years at this time.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation does not have a significant fiscal impact. The department does not permit or inspect the testing facilities. Producers and manufacturers of cannabinoid products are responsible for covering the costs associated with the testing.

(b) Methodology and resources used to determine the fiscal impact: The department does not permit or inspect the testing facilities. The increased expenditures listed in question (2) are the overall expenditures needed to increase the workforce to oversee the permitting and inspecting for processing and manufacturing

facilities, and retail establishments.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion: The department does not permit or inspect the testing facilities.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of the Secretary
(New Administrative Regulation)

915 KAR 1:010. Initial and renewal applications for cannabis business licenses.

RELATES TO: KRS Chapter 13B, Chapter 218B, 523.100

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing initial application and renewal procedures for cannabis business licenses. This administrative regulation establishes those procedures.

Section 1. Types of Applications for Cannabis Business Licenses.

(1) The cabinet shall accept the following types of applications for cannabis business licenses:

- (a) Initial application; and
- (b) Renewal application.

(2) By submitting an initial or renewal application to the cabinet, an applicant consents to any investigation of the applicant's ability to meet the requirements of KRS Chapter 218B and 915 KAR Chapter 1.

(3) An application for an initial license or renewal license is not complete and shall be rejected by the cabinet unless:

- (a) The payment of the applicable fee provided in Section 2 or Section 4 is submitted with the application; and
- (b) All required information for each section of the application, including attachments and any supplemental information requested by the cabinet, is submitted to the cabinet within the allowable time period.

(4) An application submitted under this administrative regulation shall contain the following statement acknowledged by the applicant: "A false statement made in this application is punishable under the applicable provisions of KRS 523.100."

Section 2. Initial License Application Fees. An applicant for an initial cannabis business license shall pay the applicable application fee by credit card or automated clearing house (ACH) transfer at the time of application submission to the cabinet. The initial application fee is nonrefundable except as indicated below in Section 3(6) of this administrative regulation. The initial license application fees shall be:

- (1) Tier I cultivator: \$3,000;
- (2) Tier II cultivator: \$10,000;
- (3) Tier III cultivator: \$20,000;
- (4) Tier IV cultivator: \$30,000;
- (5) Processor: \$5,000;
- (6) Producer: \$5,000 plus the applicable cultivator tier application fee;
- (7) Dispensary: \$5,000; and
- (8) Safety Compliance Facility: \$3,000.

Section 3. Initial Applications for Cannabis Business Licenses.

(1) An initial license is valid for one (1) year from the date of issuance shown on the license. The cabinet shall publish notice of initial license application availability on the Web site for the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>, including the time frame during which initial license applications shall be

accepted. This notice shall also state the category and number of cannabis business licenses available for issuance at the close of the application period.

(2) An applicant shall only use the initial license application form prescribed by the cabinet and made available through the Web site for the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(3) An applicant shall submit an initial license application to the cabinet in the manner prescribed by the application instructions.

(4) An applicant shall apply for a separate license for each location where it intends to operate a cannabis business. During an initial license application availability period, an applicant shall only apply for a license in one (1) cannabis business license type (cultivator, processor, producer, dispensary, or safety compliance facility) being offered at that time. An applicant may submit multiple applications for a license within one (1) cannabis business license type so long as the following criteria is met:

(a) Each application contains a separate and distinct physical address where the applicant proposes to conduct cannabis business activities;

(b) Each application contains documentation of sufficient capital in accordance with subsection (5)(q) of this section and the applicant shall not use the same capital for more than one (1) application;

(c) For the four (4) cannabis cultivator tiers, an applicant shall only submit one (1) application per cultivation tier; and

(d) For dispensaries, an applicant shall only submit one (1) application per medicinal cannabis region as identified in 915 KAR 1:020, Section 3 and shown on the map published on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(5) The applicant shall submit the following in the initial license application:

(a) The legal name, business type, any trade or doing business as (DBA) name, mailing address, federal tax identification number, Web site (if any), email address, and phone number of the proposed cannabis business and confirmation that the entity is registered with the Kentucky Secretary of State in good standing and authorized to do business in Kentucky;

(b) The type of cannabis business license requested;

(c) Business entity formation documents such as articles of incorporation, articles of organization, or bylaws;

(d) Proposed location of cannabis business activities, including the physical address of the proposed cannabis business and the global positioning system (GPS) coordinates for any proposed cannabis business activities as well as:

- 1. Documentation such as a contingent agreement for property sale or lease or an existing deed or lease that shows the applicant has the authority to use the proposed location as a cannabis business for, at a minimum, the term of the license; and
- 2. A site plan for the proposed cannabis business.

(e) The name, address, date of birth, and curricula vitae or resume of each principal officer and board member of the proposed cannabis business as well as any additional information required by the cabinet;

(f) Disclosure of any individual or business entity with an ownership interest of at least ten (10) percent equity or similar interest in the proposed cannabis business and each identified individual or entity's ownership percentage as well as any additional information required by the cabinet;

(g) Disclosure of any parent company or parent individual that has an ownership interest in the proposed cannabis business and each identified individual or entity's ownership percentage as well as any additional information required by the cabinet;

(h) A document showing the ownership organizational structure of the proposed cannabis business;

(i) The name and address of any individual or entity providing financial support to the proposed cannabis business that are not involved in the day-to-day operations beyond providing financial resources as well as any additional information required by the cabinet;

(j) The name and address of any physician or advanced practice registered nurse that has an ownership or investment interest in or compensation agreement with the proposed cannabis business as

well as any additional information required by the cabinet;

(k) Disclosure of whether any principal officer or board member of the applicant has been convicted of a felony criminal offense, and if so, a description of each felony offense;

(l) Disclosure of any instances in which a business or not-for-profit entity that any of the applicant's board members managed or served on the board of was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding;

(m) If applicable, documentation that the applicant is capable of successfully establishing and operating a cannabis business in the Commonwealth, including:

1. Demonstrated experience establishing and operating a for-profit or nonprofit organization or other business within Kentucky or any other jurisdiction, and the nature of the business conducted by the organization;

2. Any history relating to receipt of a similar license or other authorization in other jurisdictions, including provisional licenses, suspensions, revocations, or disciplinary actions to include civil monetary fines or warnings; and

3. Any history of response to suspensions, revocations, disciplinary actions, civil monetary fines, or warnings imposed relating to any similar license or other authorization in another jurisdiction, and the plans of correction or other responses made to those actions.

(n) A description of the duties, responsibilities, and roles of each principal officer, board member, employee, and any other individual or entity with a financial interest in the proposed cannabis business who are not involved in the day-to-day operations of the business;

(o) A timeline showing the steps and estimated amount of time the applicant shall take to begin cannabis business activities in the Commonwealth;

(p) Financial plan for the proposed cannabis business, including budget and cash flow planning and debt management;

(q) Documentation of sufficient capital available to the applicant, either on deposit or through extension of credit from one (1) or more financial institutions, in the following amounts as applicable:

1. Tier I cultivator: \$50,000;
2. Tier II cultivator: \$200,000;
3. Tier III cultivator: \$500,000;
4. Tier IV cultivator: \$1,000,000;
5. Processor: \$150,000;
6. Producer: \$150,000 plus the applicable cultivator tier amount;
7. Dispensary: \$150,000; or
8. Safety compliance facility: \$150,000

(r) A summary of the intended plan of operation that describes, at a minimum, how the applicant's proposed cannabis business operations shall address:

1. Security;
2. Employee qualifications, supervision, and training;
3. Transportation of medicinal cannabis;
4. Storage and labeling of medicinal cannabis;
5. Inventory management;
6. Recordkeeping;
7. Preventing unlawful diversion of medicinal cannabis; and
8. Workforce development and job creation.

(s) The name, mailing address, business title, phone number, and email address of the primary contact for the application as well as the name, address, and email address of any entity or individual who assisted the applicant with preparing the application;

(t) Documentation of any management service agreement in place for the proposed cannabis business;

(u) A notarized signature page signed by the applicant; and

(v) An attestation that:

1. The site of the proposed cannabis business is not within 1,000 feet of an existing elementary or secondary school or a daycare center. For the purpose of this administrative regulation, 1,000 feet shall be measured in a straight line from the nearest property line of an existing elementary school, secondary school, or daycare center to the nearest property line of the applicant's proposed place of business;

2. The applicant can continuously maintain sufficient capital for operations of its proposed cannabis business for, at a minimum, the

term of the initial license;

3. The applicant can continuously maintain effective security, surveillance, and accounting control measures to prevent diversion, abuse, and other illegal conduct regarding medicinal cannabis;

4. The applicant shall comply with KRS Chapter 218B and 915 KAR Chapter 1;

5. The applicant consents to the cabinet verifying information provided in the application with any relevant governmental agency or third party;

6. If issued a license, the applicant shall pay the applicable license fee within fifteen (15) calendar days of notification in a manner prescribed by the cabinet.

7. If issued a license, the applicant shall conduct a criminal background check into the criminal history of each person seeking to be a principal officer, board member, agent, volunteer, or employee of the cannabis business before that person begins work and shall not employ, take on as a volunteer, or have as a board member, principal officer, or agent any person who was convicted of a disqualifying felony offense or is younger than twenty-one (21) years of age;

8. The applicant consents to reasonable inspections, examinations, searches, and seizures as contemplated by KRS Chapter 218B and 915 KAR Chapter 1;

9. The applicant shall obtain and maintain workers' compensation insurance for all employees in the Commonwealth and shall pay all required employer contributions to the Kentucky Office of Unemployment Insurance;

10. The applicant shall obtain and maintain commercial general liability insurance for \$1,000,000 per occurrence and \$2,000,000 per aggregate and commercial automobile insurance for any vehicle used to transport medicinal cannabis or medicinal cannabis products;

11. The applicant shall complete all trainings required by the cabinet for the proposed cannabis business's principals, agents, employees, and volunteers;

12. The applicant shall establish any standard operating procedures required by KRS Chapter 218B and 915 KAR Chapter 1 prior to the first date of cannabis business activities in the Commonwealth, including those specific to its cannabis business category. The standard operating procedures that apply to cannabis businesses include:

- a. Security;
- b. Recordkeeping;
- c. Employee qualifications, supervision, and training;
- d. Quality assurance;
- e. Adverse event reporting and recall;
- f. Waste disposal and sanitation;
- g. Transportation of medicinal cannabis;
- h. Inventory management, including storage and labeling of medicinal cannabis;
- i. Cash management and anti-fraud procedures; and
- j. Preventing unlawful diversion of medicinal cannabis.

13. For an applicant seeking a safety compliance facility license, one (1) or more of its prospective principal officers or board members shall not be a principal officer or board member of a cultivator, processor, producer, or dispensary applying to operate in the Commonwealth;

14. For an applicant seeking a cultivator, processor, producer, or dispensary license, one (1) or more of its prospective principal officers or board members shall not be a principal officer or board member of a safety compliance facility applying to operate in the Commonwealth;

15. The applicant consents to sharing medicinal cannabis sales data with law enforcement;

16. The applicant shall use the Commonwealth's designated electronic monitoring system and seed to sale tracking system required by KRS 218B.140 in the manner prescribed by the cabinet;

17. The applicant has disclosed all individuals and entities with an ownership interest of at least ten (10) percent equity or similar interest in the proposed cannabis business as well as any parent companies and parent company individuals with an ownership interest in its proposed cannabis business; and

18. The applicant swears and affirms that all information and

documentation provided with the initial license application is true and correct.

(6) An initial license application received after the submission time frame stated in the published notice of initial license application availability shall be rejected by the cabinet without further consideration along with the return of the initial application fee.

(7) The cabinet shall acknowledge receipt of an initial application for a cannabis business license within fifteen (15) calendar days of submission by the applicant. The cabinet shall review each application to determine whether the application is complete. The cabinet shall provide written notice to an applicant when it has determined the application is complete. If the cabinet determines an application is not complete, the cabinet shall provide written notice to the applicant of the identified deficiencies in the application. The applicant shall have ten (10) calendar days from the date of the deficiency notification to cure the identified deficiencies and provide any missing information or documentation to the cabinet in the manner prescribed by the cabinet. If the applicant fails to cure any deficiency within ten (10) calendar days from the date of the deficiency notification, the cabinet shall reject the application as incomplete.

(8) The cabinet shall provide notification to applicants as to whether an application for a license has been approved or denied within forty-five (45) calendar days of receiving an application and determining its complete. Any application denials shall be done in accordance with KRS 218B.090(2) and (4), including providing written notice to the applicant that he or she may file a written request for an administrative hearing on the application within thirty (30) calendar days after the mailing date of the notice. Any hearing resulting from the applicant's written request shall be conducted in accordance with KRS Chapter 13B.

Section 4. License Renewal Fees. An applicant for renewal of a cannabis business license shall pay the applicable annual renewal fee by credit card or ACH transfer at the time of application submission to the cabinet. The annual renewal fee is refundable if the renewal application is denied. The annual renewal fees are:

- (1) Tier I cultivator: \$12,000;
- (2) Tier II cultivator: \$25,000;
- (3) Tier III cultivator: \$50,000;
- (4) Tier IV cultivator: \$100,000;
- (5) Processor: \$15,000;
- (6) Producer: \$15,000 plus the applicable cultivator tier annual renewal fee;
- (7) Dispensary: \$15,000; and
- (8) Safety compliance facility: \$12,000.

Section 5. Renewal Applications for Cannabis Business Licenses.

(1) A renewal license is valid for one (1) year from the date of issuance shown on the license. The requirements that a licensed cannabis business shall meet to receive an initial license are continuing requirements to maintain the license. A cannabis business shall continuously comply with the licensing requirements of KRS Chapter 218B and 915 KAR Chapter 1 during the initial licensure period and any subsequent renewal period.

(2) The cabinet shall notify each licensee at least ninety (90) calendar days prior to the date the license expires to allow the licensee to begin the renewal process if the licensee so chooses.

(3) A licensee shall only use the license renewal application form prescribed by the cabinet and made available through the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(4) A license renewal application shall be submitted to the cabinet at least sixty (60) calendar days prior to the expiration of the license. The cabinet shall reject a license renewal application if it is not submitted at least sixty (60) calendar days prior to the expiration of the license and shall return the annual renewal fee to the licensee along with written notice of the rejection.

(5) A licensee shall submit a license renewal application to the cabinet in the manner prescribed by the application instructions.

(6) A licensee shall include the following information with a license renewal application:

(a) Information regarding any charge, or any initiated, pending, or concluded investigation or proceeding, during the period of the initial license or prior renewal period, by any governmental or administrative agency, including an investigation or proceeding involving theft, loss, or possible diversion of medicinal cannabis by the licensee or from the licensee's facility;

(b) Information regarding the licensee's ability to continue with licensed activities, including any staffing issues, delays, medicinal cannabis shortages, medicinal cannabis product recalls, location issues, and financial issues that occurred since the license was issued;

(c) The licensee's history of compliance with KRS Chapter 218B and 915 KAR Chapter 1, including a summary of any noncompliance and corrective action taken during the current and any previous licensing period or a statement indicating that the licensee has not violated KRS Chapter 218B or 915 KAR Chapter 1 as of the date the renewal application is submitted; and

(d) Any additional information required by the cabinet.

(7) The cabinet shall acknowledge receipt of a renewal license application within fifteen (15) calendar days of submission by the applicant. The cabinet shall review each application to determine whether the application is complete. If the cabinet determines an application is not complete, the cabinet shall provide written notice to the applicant of the identified deficiencies in the application. The applicant shall have ten (10) calendar days from the date of the deficiency notification to cure the identified deficiencies and provide any missing information or documentation to the cabinet in the manner prescribed by the cabinet. If the applicant fails to cure any deficiency within ten (10) calendar days from the date of the deficiency notification, the cabinet shall reject the application as incomplete.

(8) If the cabinet determines that a license renewal application is lacking sufficient information upon which to make a renewal determination, the cabinet shall notify the licensee in writing of the factors that require additional information and documentation. The licensee shall have ten (10) calendar days from the date of the notice to provide the requested information and documentation to the cabinet. A licensee's failure to provide the requested information to the cabinet by the deadline shall be grounds for denial of the license renewal application.

(9) The cabinet may conduct an onsite inspection of the licensee's facilities and records to assist with determining continuing compliance with KRS Chapter 218B and 915 KAR Chapter 1.

(10) An existing cannabis business license is immediately invalid upon expiration if the licensee has not filed a license renewal application and paid the required renewal fee in accordance with Section 4 of this administrative regulation. If a licensee properly submits a timely renewal application with applicable renewal fee, the cabinet may extend its existing license from the date the existing license expires until the cabinet can complete its renewal application review and issue a determination.

Section 6. Minimum Performance Standards for License Renewal.

(1) Pursuant to KRS 218B.080(5)(b), the renewal of a cannabis business license shall be contingent upon successful achievement of minimal performance standards established by the cabinet. The minimum performance standards for licensees participating in the Kentucky Medical Cannabis Program are:

(a) The licensee has, and is likely to continue to maintain, effective controls against diversion of medicinal cannabis at its facility;

(b) The licensee has not made false or misleading statements in:

1. A renewal application or any other application submitted to the cabinet;
2. Any document or written communication submitted to the cabinet; or
3. Any verbal communication to the cabinet.

(c) The licensee has a documented history of compliance with the licensee requirements in KRS Chapter 218B and 915 KAR Chapter 1;

(d) The licensee has effectively addressed any identified

compliance issues through corrective action;

(e) The licensee has shown it has the ability to continue to comply with all state and local laws and administrative regulations applicable to the activities in which it may engage under the license, if renewed;

(f) The licensee has a documented history of successfully addressing and mitigating any quality or safety issues with its medicinal cannabis or medicinal cannabis products;

(g) The licensee timely completes all reporting required by KRS Chapter 218B and 915 KAR Chapter 1; and

(h) The licensee participates in surveys distributed by the cabinet and provides full, complete, and timely responses.

(2) The cabinet shall deny a renewal application for a cannabis business license if it determines the licensee has failed to:

(a) Meet one (1) or more of the minimum performance standards established in this section; or

(b) Any additional basis provided in KRS 218B.090.

(3) The cabinet shall provide written notification to a licensee as to whether its renewal application has been approved or denied within forty-five (45) calendar days of receiving an application and determining its complete. Any renewal application denials shall be done in accordance with KRS 218B.090(4), including providing written notice to the applicant that he or she may file a written request for an administrative hearing on the application within thirty (30) calendar days after the mailing date of the notice. Any hearing resulting from the applicant's written request shall be conducted in accordance with KRS Chapter 13B.

Section 7. Duty to Report. During the application process, an applicant for an initial cannabis business license or renewal license shall, upon discovery of any change in facts or circumstances reflected in the initial application or renewal application submitted to the cabinet, notify the cabinet in writing of the change or any newly discovered fact or circumstance that would have been included in the application if known at the time the application was submitted. The notification required under this section shall be sent via electronic mail to kymedcanreporting@ky.gov within twenty-four (24) hours of discovery. Failure to timely notify the cabinet of a change or newly discovered facts or circumstances may result in denial of the application.

SAM FLYNN, Executive Director

ERIC FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 9, 2024

FILED WITH LRC: April 18, 2024 at 11:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 22, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by July 15, 2024, 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 virtually 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 July 31, 2024. 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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Oran S. McFarlan, III

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes initial application and renewal procedures for cannabis business licenses.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140(1)(c)(3).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing initial application and renewal procedures for cannabis business licenses. This administrative regulation establishes those procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the procedures for initial and renewal applications for cannabis business licenses.

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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: This administrative regulation affects cannabis businesses that desire to apply for and subsequently renew licenses to conduct cannabis business activities in the commonwealth.

(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: Cannabis businesses that desire to operate in Kentucky must follow the initial and renewal application procedures and requirements identified in this administrative regulation in order to be eligible to receive an initial license or renew an existing license.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The initial license application fees vary by cannabis business category and range from \$3,000 to \$35,000 for each submitted initial application. The annual renewal license fees also vary by cannabis business category and range from \$12,000 to \$115,000 for each submitted renewal application.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The cannabis businesses that receive a license from the Cabinet for Health and Family Services are authorized to conduct cannabis business activities in the commonwealth for the term of the license (i.e., one (1) year from the date of license issuance).

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

(a) Initially: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(b) On a continuing basis: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic

monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds provided by the commonwealth.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer the cannabis business license application process.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Yes, this administrative regulation establishes initial license application fees and annual renewal license fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All cannabis businesses will be treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.015, 218B.080, 218B.085, 218B.090, 218B.095, 218B.100, 218B.140, 523.100, Chapter 13B.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398.

Revenues: The commonwealth will receive initial license application fees paid by proposed cannabis businesses during the first year. The initial license application fees vary by cannabis business category and range from \$3,000 to \$35,000 for each submitted initial application. At this time, it is not known how many proposed cannabis businesses will apply for licenses and pay the attendant fees.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. The commonwealth will receive annual renewal license fees from licensed cannabis businesses that desire to continue operating in the commonwealth following the expiration of their existing license. The commonwealth may also receive additional initial license application fees if the Cabinet for Health and Family Services determines additional licenses should be issued in a given year based on criteria provided in 915 KAR Chapter 1. The annual renewal license fees vary by cannabis business category and range from \$12,000 to \$115,000 for each submitted renewal application.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): If its application is approved, a proposed cannabis will locate within a city or county in the commonwealth.

(a) Estimate the following for the first year:

Expenditures: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130

Revenues: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction

as allowed by KRS 218B.130.

(4) Identify additional regulated entities not listed in questions (2) or (3): Proposed cannabis businesses.

(a) Estimate the following for the first year:

Expenditures: A proposed cannabis business is required to pay the applicable initial license application fee at the time of initial application submission.

Revenues: Once operational, approved applicants will generate revenue through cannabis business activities. At this time, it is unknown how much revenue will be generated by those cannabis businesses.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Cannabis businesses are required to pay the applicable annual renewal license fee at the time of renewal application submission. This renewal license fee is refundable if the renewal application is denied.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. It is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 1 related to cannabis businesses.

(b) Methodology and resources used to determine the fiscal impact: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services, and it is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 1 related to cannabis businesses.

(b) The methodology and resources used to reach this conclusion: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.

CABINET FOR HEALTH AND FAMILY SERVICES Office of the Secretary (New Administrative Regulation)

915 KAR 1:020. Cannabis business licenses.

RELATES TO: KRS Chapter 13B, Chapter 218B, 304.39-110, 523.100

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses. This administrative regulation establishes those procedures.

Section 1. General Requirements for Cannabis Business Licenses.

(1) The cabinet shall issue a license, by name and address, to a cannabis business only for the specific location identified by the cannabis business during the application and issuance process. A license is only valid for the person or entity named in the license and only for the activity and location specified in the license.

(2) A licensed cannabis business shall conspicuously display its license within the premises of the cannabis business in a manner that is visible to visitors upon initial entry into its facility.

(3) A license shall not be issued to a cannabis business for operation within a personal residence or any other location where the cabinet or its authorized agents or law enforcement have limited access.

(4) A license shall not be issued to a cannabis business for a site or facility located on lands owned by the United States of America or the Commonwealth of Kentucky.

(5) A license is valid for one (1) year from the date of issuance as shown on the license.

Section 2. License Fees for Cannabis Businesses.

(1) A cannabis business shall pay the applicable license fee by credit card or automated clearing house (ACH) transfer to the cabinet within fifteen (15) calendar days of receipt of the invoice from the cabinet. The cabinet shall not issue a license to a cannabis business that fails to timely pay the applicable license fee.

(2) The initial nonrefundable license fees shall be:

- (a) Tier I cultivator: \$12,000;
- (b) Tier II cultivator: \$25,000;
- (c) Tier III cultivator: \$50,000;
- (d) Tier IV cultivator: \$100,000;
- (e) Processor: \$25,000;
- (f) Producer: \$25,000 plus the applicable cultivator tier initial license fee;

- (g) Dispensary: \$30,000; and
- (h) Safety compliance facility: \$12,000.

(3) The annual renewal license fees, which are refundable if the renewal application is denied, shall be:

- (a) Tier I cultivator: \$12,000;
- (b) Tier II cultivator: \$25,000;
- (c) Tier III cultivator: \$50,000;
- (d) Tier IV cultivator: \$100,000;
- (e) Processor: \$15,000;
- (f) Producer: \$15,000 plus the applicable cultivator tier renewal license fee;
- (g) Dispensary: \$15,000; and
- (h) Safety compliance facility: \$12,000.

Section 3. Initial Licensure of Cannabis Businesses and Use of Lottery.

(1) The cabinet shall publish notice of the number and category of cannabis business licenses available for distribution at the close of an initial license application period and provide the time frame during which initial license applications shall be accepted by the cabinet. This notice shall be published on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

(2) In order to promote patient access to medicinal cannabis across the Commonwealth, the cabinet shall issue dispensary licenses within designated regions. The cabinet shall publish a map clearly identifying the medicinal cannabis regions on the Web site of the Kentucky Medical Cannabis Program. The eleven (11) medicinal cannabis regions in the Commonwealth are:

(a) Region 1 (Bluegrass): The geographical region comprised of the counties of Anderson, Bourbon, Boyle, Clark, Fayette, Franklin, Garrard, Harrison, Jessamine, Madison, Mercer, Scott, and Woodford;

(b) Region 2 (Kentuckiana): The geographical region comprised of the counties of Bullitt, Henry, Jefferson, Oldham, Shelby, Spencer, and Trimble;

(c) Region 3 (Northeast): The geographical region comprised of the counties of Bath, Boyd, Carter, Elliott, Fleming, Greenup, Lewis, Mason, Menifee, Montgomery, Morgan, Nicholas, Robertson, and Rowan;

(d) Region 4 (South Central): The geographical region comprised of the counties of Allen, Barren, Butler, Edmonson, Logan, Metcalfe, Monroe, Simpson, and Warren;

(e) Region 5 (Cumberland): The geographical region comprised of the counties of Bell, Casey, Clinton, Cumberland, Harlan, Knox, Laurel, Lincoln, McCreary, Pulaski, Rockcastle, Russell, Wayne, and Whitley;

(f) Region 6 (Mountain): The geographical region comprised of the counties of Breathitt, Clay, Estill, Floyd, Jackson, Johnson, Knott, Lawrence, Lee, Leslie, Letcher, Magoffin, Martin, Owsley, Perry, Pike, Powell, and Wolfe;

(g) Region 7 (Pennyrile): The geographical region comprised of the counties of Caldwell, Christian, Hopkins, Lyon, Muhlenberg, Todd, and Trigg;

(h) Region 8 (West Kentucky): The geographical region comprised of the counties of Ballard, Calloway, Carlisle, Crittenden, Fulton, Graves, Hickman, Livingston, McCracken, and Marshall;

(i) Region 9 (Lincoln Trail): The geographical region comprised of the counties of Adair, Breckinridge, Grayson, Green, Hardin, Hart, Larue, Marion, Meade, Nelson, Taylor, and Washington;

(j) Region 10 (Northern Kentucky): The geographical region comprised of the counties of Boone, Bracken, Campbell, Carroll, Gallatin, Grant, Kenton, Owen, and Pendleton; and

(k) Region 11 (Green River): The geographical region comprised of the counties of Daviess, Hancock, Henderson, McLean, Ohio, Union, and Webster.

(3) The cabinet shall issue at least four (4) dispensary licenses per medicinal cannabis region. For regions containing an urban-county government or a consolidated local government, the cabinet shall issue at least six (6) dispensary licenses, two (2) of which shall be issued to eligible cannabis businesses that physically locate their dispensary in the counties with an urban-county government or a consolidated local government. For all counties without an urban-county government or a consolidated local government, there shall be no more than one (1) dispensary per county.

(4) A dispensary licensee shall not change its retail location to another location within the same region without prior cabinet approval. A dispensary licensee shall not change its retail location to outside of the region where it was initially licensed.

(5) The licenses for cultivators, processors, producers, and safety compliance facilities are not subject to regional restrictions within the Commonwealth, and those licensees shall operate at the physical address identified on their respective licenses.

(6) Applicants for initial cannabis business licenses who comply with all application requirements contained in KRS Chapter 218B and 915 KAR 1:010, and whose applications are deemed complete by the cabinet, shall be eligible to receive the license requested. If the number of eligible applications does not exceed the maximum number of licenses available within a cannabis business category following the close of an initial license application period, the cabinet shall provide written notice to the eligible applicants that a license shall be issued to them upon timely payment of the applicable license fee. When an eligible applicant timely pays the applicable license fee, the cabinet shall issue a copy of the license to the applicant that contains the cannabis business's name, license number, physical location, issue date, and expiration date.

(7) If the number of eligible applications exceeds the maximum number of licenses available within a cannabis business category following the close of an initial license application period, the cabinet shall conduct a lottery to issue the licenses for that cannabis business category. The cabinet shall notify the eligible applicants of their entry into the lottery and publicly announce the date, time, and manner of randomly selecting eligible applicants for the requested license. A lottery to select the licensees in each cannabis business category, as needed, shall be held in a manner that can be observed by the public.

(8) The cabinet may consult or contract with a third-party lottery operator or other public agencies with relevant expertise in conducting lotteries. The entity selected to conduct the lottery shall conduct an independent lottery for each cannabis business category where the number of eligible applicants exceeds the number of available licenses. The cabinet shall assign a number to each eligible applicant in each license lottery and maintain the

confidentiality of the list(s) containing the eligible applicants and their assigned numbers until after the random drawings have occurred.

(9) The cabinet shall provide written notice to the eligible applicants selected through the lottery process that a license shall be issued to them upon timely payment of the applicable license fee. When an eligible applicant timely pays the applicable license fee, the cabinet shall issue a copy of the license to the applicant that contains the cannabis business's name, license number, physical location, issue date, and expiration date.

(10) The cabinet shall provide written notice to eligible applicants that were not selected through the lottery process informing them of the same.

(11) If at the conclusion of the lottery selection process an eligible applicant declines the license or fails to pay its license fee within the required timeframe, the cabinet may conduct supplemental license lotteries as needed until all available cannabis business licenses have been issued and initial license fees paid. For any supplemental lottery for a license within a cannabis business category, eligible applicants who were not previously issued a license through the lottery process for that cannabis business category shall be entered into the supplemental lottery if their selection would comply with any applicable geographic restrictions contained in this administrative regulation.

Section 4. Requirements for Licensees Prior to First Day of Cannabis Business Activities.

(1) Prior to its first day of cannabis business activities in the Commonwealth, a licensee shall provide written confirmation to the cabinet that:

(a) The licensee has complied and will continue to comply with all applicable requirements of KRS Chapter 218B, including KRS 218B.095 and 915 KAR Chapter 1, and shall make available all records and documentation verifying such compliance upon the request of the cabinet;

(b) The licensee has submitted its complete physical address and the global positioning system (GPS) coordinates for any cannabis business activities to the cabinet and confirmed its business is not located within 1,000 feet of an existing elementary or secondary school or a daycare center. For the purpose of this administrative regulation, 1,000 feet shall be measured in a straight line from the nearest property line of an existing elementary school, secondary school, or daycare center to the nearest property line of the licensee's place of business. The cabinet shall have an opportunity to inspect the location prior to the first day of cannabis business activities at that location in order to identify any deficiencies for correction;

(c) The licensee has conducted and shall continue to conduct criminal background checks of each person seeking to be a principal officer, board member, agent, volunteer, or employee of the cannabis business before that person begins work and shall not employ, take on as a volunteer, or have as a board member, principal officer, or agent any person who was convicted of a disqualifying felony offense or is younger than twenty-one (21) years of age. The licensee shall maintain records of these background checks and provide same to the cabinet during subsequent inspections or upon request;

(d) The licensee has obtained and shall maintain workers compensation insurance for all employees in the Commonwealth and shall pay all required employer contributions to the Kentucky Office of Unemployment Insurance;

(e) The licensee has obtained and shall maintain, at a minimum, commercial general liability insurance for \$1,000,000 per occurrence and \$2,000,000 per aggregate and commercial automobile insurance as required by Kentucky law, specifically KRS 304.39-110, for any vehicle used to transport medicinal cannabis or medicinal cannabis products;

(f) The licensee has established written standard operating procedures required by KRS Chapter 218B and 915 KAR Chapter 1, including those specific to its cannabis business category, and shall provide written or electronic copies of the procedures to the cabinet during inspections or upon request. The standard operating procedures that apply to cannabis businesses include:

1. Security;

2. Recordkeeping;
3. Employee qualifications, supervision, and training;
4. Quality assurance;
5. Adverse event reporting and recall;
6. Waste disposal and sanitation;
7. Transportation of medicinal cannabis;
8. Inventory management, including storage and labeling of medicinal cannabis;
9. Cash management and anti-fraud procedures;
10. Preventing unlawful diversion of medicinal cannabis; and
11. Incident reporting procedures to notify the cabinet;
(g) The licensee continues to maintain sufficient capital for operations of its cannabis business for, at a minimum, the term of the license;

(h) The licensee has implemented appropriate security measures to deter and prevent theft of medicinal cannabis and unauthorized entrance into areas containing medicinal cannabis;

(i) The licensee has and shall continue to display its license at all times in a conspicuous location within the premises of the cannabis business in a manner that is visible to visitors upon initial entry into its facility;

(j) The licensee's principals, agents, employees, and volunteers have completed all trainings required by the cabinet to be completed prior to its first day of cannabis business activities in the Commonwealth;

(k) The licensee understands how to properly use the Commonwealth's designated electronic monitoring system and seed to sale tracking system for medicinal cannabis and shall use those systems as required throughout the entirety of its licensure period;

(l) The licensee consents to reasonable inspections, examinations, searches, and seizures; and

(m) The licensee swears and affirms that all information and documentation provided to the cabinet is true and correct and that any false statement made to the cabinet by the licensee is punishable under the applicable provisions of KRS 523.100.

(2) A licensee shall also provide the cabinet with thirty (30) calendar days advance notice of its intended first day of cannabis business activities in the Commonwealth and allow the cabinet an opportunity to inspect the licensee's site and facility prior to the first day of cannabis business activities. The licensee shall promptly correct any deficiencies identified by the cabinet during this inspection and shall not commence operations until deficiencies are corrected and approved by the cabinet. If the licensee fails to provide the notice required under this section or fails to correct identified deficiencies, the cabinet may take one (1) or more of the actions described in Section 12 of this administrative regulation.

(3) Once a cultivator or producer has received approval from the cabinet to commence operations, the cultivator or producer shall:

(a) Bring a start-up inventory of medicinal cannabis seeds, seedlings, and plants into its facility;

(b) Submit a written request to the cabinet via electronic mail to kymedcanreporting@ky.gov requesting that the cabinet open a window in the state's designated seed to sale tracking system for the cultivator or producer to enter its start-up inventory of medicinal cannabis seeds, seedlings, and plants into the system. This written request shall include the number and strain of all medicinal cannabis seeds, seedlings, and plants brought into the facility;

(c) Have fourteen (14) calendar days from receipt of the cabinet's approval of the cultivator or producer's written request in which to enter its start-up inventory into the state's designated seed to sale tracking system. A cultivator or producer shall enter its start-up inventory into the state's designated seed to sale tracking system as follows:

1. Seeds shall be entered into the system as a package;
2. Seedlings and plants shall be entered into the system as a batch; and

(d) Notify the cabinet in writing via electronic mail to kymedcanreporting@ky.gov when all its start-up inventory has been fully and accurately entered into the state's designated seed to sale tracking system and confirm the number and strain of medicinal cannabis seeds, seedlings, and plants brought into the facility.

(4) Following acquisition of its start-up inventory, a cultivator or producer may submit a written request to the cabinet via electronic

mail to kymedcanreporting@ky.gov requesting that the cabinet open a window in the state's designated seed to sale tracking system for the cultivator or producer to enter new medicinal cannabis seeds, seedlings, or plants into the system. This written request shall:

(a) State the proposed date to bring new inventory into the facility; and

(b) Provide the number and strain of all new medicinal cannabis seeds, seedlings, and plants that the cultivator or producer requests to bring into the facility.

(5) Upon receipt of the cabinet's approval of a written request made pursuant to subsection (4) of this section, the cultivator or producer shall have seven (7) calendar days to enter its new inventory into the state's designated seed to sale tracking system. A cultivator or producer shall enter its new inventory into the state's designated seed to sale tracking system as described in subsection (3)(c) of this section. A cultivator or producer shall notify the cabinet in writing via electronic mail to kymedcanreporting@ky.gov when all new inventory has been fully and accurately entered into the state's designated seed to sale tracking system and confirm the number and strain of medicinal cannabis seeds, seedlings, and plants brought into the facility.

Section 5. Requirements for Licensees During Licensure Period.

(1) A licensee shall only hold licenses in one (1) cannabis business category at any given time, except as provided in Section 10(4) of this administrative regulation. A licensee may hold multiple licenses in the same cannabis business category as long as each license contains a separate and distinct physical address where the cannabis business conducts licensed cannabis activities and the licensee is otherwise in compliance with the requirements of KRS Chapter 218B and 915 KAR Chapter 1, including any geographic restrictions contained in this administrative regulation.

(2) Duty to report.

(a) During the licensure period, a licensee shall notify the cabinet in writing of any change in facts or circumstances reflected in the initial license application, supplemental written confirmations, or any license renewal application submitted to the cabinet, or any newly discovered fact or circumstance which would have been included in the application or information provided to the cabinet if known at the time the information was submitted. This duty to report includes:

1. Notifying the cabinet of any physical change, alteration, or modification to a licensed facility that materially or substantially alters the facility or its usage, including an increase or decrease in the total square footage of the facility;

2. Significant electrical modifications that require inspection by local authorities; and

3. Sealing off, creation of, or relocation of a common entryway, doorway, passage, or other means of ingress or egress when the common entryway, doorway, or passage alters or changes limited access areas.

(b) During the licensure period, a licensee shall notify the cabinet following knowledge or discovery of the following events:

1. Inventory discrepancies;

2. Diversion, theft, or loss of any medicinal cannabis or medicinal cannabis product;

3. Unauthorized destruction of medicinal cannabis;

4. Any criminal proceeding involving the licensee's owners, principal officers, board members, employees, volunteers, financial backers, or agents arising out of actions taken on the licensee's premises or while using licensee property;

5. Security alarm activation or other event that requires response by law enforcement or security personnel;

6. Any loss, unauthorized dissemination, or unauthorized alteration of records related to medicinal cannabis, cardholders, employees, volunteers, or agents;

7. Accidents involving transport vehicles that occur while the licensee is transporting or delivering medicinal cannabis;

8. Any act involving cultivating, processing, producing, testing, transporting, or dispensing medicinal cannabis by any person that may create a health or safety risk to cardholders or the general public;

9. A dispensary declines the sale of medicinal cannabis to a cardholder; and

10. A dispensary desires to prohibit a cardholder from entering its premises.

(c) The notifications required under this subsection shall be:

1. Provided on a form prescribed by the cabinet and available on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>, that includes time and date of the event, individuals involved, and a detailed description of the event; and

2. Sent via electronic mail to kymedcanreporting@ky.gov within twenty-four (24) hours of discovery or knowledge of the event.

(d) If the licensee fails to provide the notice required under this section, the cabinet may take one (1) or more of the actions described in Section 12 of this administrative regulation.

(e) In the event a local government prohibits all cannabis business operations within its territory in accordance with KRS 218B.130, a licensee located within the affected territory shall notify the cabinet in writing via electronic mail to kymedcanreporting@ky.gov within twenty-four (24) hours of notification or discovery of this prohibition, including all information known regarding the prohibition, and may make a written request to the cabinet to change its cannabis business location in accordance with Section 9 of this administrative regulation.

(3) Inspection and investigation.

(a) The cabinet may conduct announced or unannounced inspections or investigations to determine the licensee's compliance with KRS Chapter 218B and 915 KAR Chapter 1. These investigations and inspections may occur during regular working hours and at other reasonable times in order to inspect the licensee's place of business, question privately any such principal officer, board member, agent, employee, or employee's representative, and investigate such facts, conditions, practices, or other matters deemed appropriate to determine whether the licensee is operating in compliance with KRS Chapter 218B and 915 KAR Chapter 1. If a licensee refuses such entry onto its premises, the cabinet may apply to the circuit court in the county in which the licensee is located for an order to enforce the right of entry.

(b) Following completion of an inspection or investigation, the cabinet shall have the authority to confiscate, possess, transport, and destroy any medicinal cannabis that has been deemed noncompliant with the standards established by KRS Chapter 218B and 915 KAR Chapter 1.

(c) The cabinet's authorized representatives shall also have the authority to:

1. Administer oaths;

2. Examine witnesses under oath;

3. Take depositions;

4. Certify to official acts;

5. Review records and accounts;

6. Take photographs;

7. Secure any other evidence deemed necessary to evaluate compliance with KRS Chapter 218B and 915 KAR Chapter 1; and

8. Issue subpoenas to compel the attendance of witnesses and parties and the production of books, accounts, correspondence, memoranda, and other records considered necessary and relevant to the matter under investigation by the cabinet.

(d) When a witness or party fails to comply with a subpoena issued by the cabinet, the circuit court in the county in which the witness or party is located may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena or order issued from such court or a refusal to testify therein, and may adjudge such person guilty of contempt of court and punish him or her as provided by law in other contempt cases. In any proceeding brought under this paragraph, a circuit court may modify or set aside the subpoena.

(e) An investigation or inspection may include:

1. Inspection of a licensee's site, facility, vehicles, equipment, books, records, papers, documents, data, and other physical or electronic information;

2. Interviews of licensee's principal officers, board members, agents, employees, volunteers, or employee representatives;

3. Interviews of licensee's former principal officers, board members, agents, employees, volunteers, or employee representatives; and

4. Inspection of equipment, instruments, tools, machinery, and

vehicles that are used to grow, process, package, transport, and test medicinal cannabis.

(f) The cabinet and its authorized agents shall have free access to review and, if necessary, make copies of books, records, papers, documents, data, or other physical or electronic information that relates to the business of the licensee, including financial data, sales data, shipping data, pricing data, and employee data.

(g) Failure of a licensee to provide the cabinet and its authorized agents immediate access to any part of a licensee's site or facility, requested material, physical or electronic information, or individual as part of an inspection or investigation may result in the imposition of a civil monetary fine, suspension, or revocation of its license, or an immediate cessation of operations pursuant to a cease-and-desist order issued by the cabinet if continued operations would present a risk to the health, safety, or welfare of cardholders or the public.

(h) The cabinet and its authorized agents shall have access to any area within a licensee's site or facility, including any area being used to store medicinal cannabis, and are authorized to collect samples and test samples for testing.

(4) Training.

(a) Every principal, agent, employee, and volunteer of a licensee who has direct contact with cardholders, or physically handles cannabis seeds, seedlings, mature cannabis plants, medicinal cannabis, or medicinal cannabis products, shall complete applicable training required by the cabinet, which may include trainings for cultivating, processing, testing, and retail sale of medicinal cannabis and usage of the Commonwealth's designated electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The cabinet shall provide written notice to licensees of the availability of any required training and the frequency to complete the training.

(b) The cabinet shall publish a Guide to Worker Safety and Health in the Kentucky Medical Cannabis Industry on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>. Licensees shall maintain a physical copy of the Guide to Worker Safety and Health in the Kentucky Medical Cannabis Industry in their facility in a manner that is readily accessible to its employees or agents and ensure that employees receive annual training on the contents of the guide.

(c) A licensee shall train its principals, agents, employees, and volunteers on its established standard operating procedures within thirty (30) days of starting employment and once every calendar year thereafter.

(d) A licensee shall retain any training participation records of its principals, agents, employees, and volunteers and make them available for inspection by the cabinet upon request for a period of five (5) years.

(5) Insurance requirements.

(a) A licensee shall obtain and maintain commercial general liability insurance for, at a minimum, \$1,000,000 per occurrence and \$2,000,000 per aggregate.

(b) A licensee shall obtain and maintain commercial automobile insurance as required by Kentucky law, specifically KRS 304.39-110, for any vehicle used to transport medicinal cannabis or medicinal cannabis products.

(c) A licensee shall obtain and maintain workers' compensation insurance coverage for employees in the Commonwealth and shall pay all required employer contributions to the Kentucky Office of Unemployment Insurance.

(d) The insurance requirements contained in this section shall begin prior to the licensee's first day of cannabis business activities in the Commonwealth and continue for as long as the licensee is operating under a license issued by the cabinet.

(6) Reports.

(a) The cabinet may require ongoing reporting of operational and financial information from the licensee in a form and manner prescribed by the cabinet.

(b) The cabinet shall require any reports necessary to carry out its responsibilities under KRS Chapter 218B and 915 KAR Chapter 1.

Section 6. Failure to be Operational.

(1) If a licensee has not met the timeline estimates provided in its initial license application to begin cannabis business activities in the Commonwealth, the licensee shall notify the cabinet via electronic mail to kymedcanreporting@ky.gov within two (2) calendar days of determining a need to adjust its timeline. In its written notice to the cabinet, the licensee shall identify any operational deficiencies and provide an explanation for failing to adhere to its timeline estimates.

(2) Within seven (7) calendar days of providing the written notice required under this section, the licensee shall submit a corrective action plan to the cabinet that sets forth the licensee's updated timeline and a date certain for correcting the identified operational deficiencies.

(3) If the licensee fails to comply with its corrective action plan, the cabinet may impose penalties or sanctions as outlined in Section 12 of this administrative regulation.

Section 7. Closure of a licensed Cannabis Business Location.

(1) A licensee shall notify the cabinet via electronic mail to kymedcanreporting@ky.gov immediately, but in no event fewer than thirty (30) calendar days prior to the projected date of closure, upon making a determination that it intends to close a cannabis business location.

(2) A licensee shall not accept or purchase seeds, seedlings, medicinal cannabis plants, medicinal cannabis, medicinal cannabis products, medicinal cannabis accessories, equipment, or medicinal devices or instruments for the closing location as of the date of closure notice submitted to the cabinet.

(3) The notice shall be accompanied by the licensee's written plan for closing its cannabis business location that includes:

(a) The projected date of closure;

(b) How the licensee intends to notify, prior to the projected date for closure, any person or entity to which the licensee provides medicinal cannabis or medicinal cannabis services from the closing location;

(c) How the licensee intends to dispose of seeds, seedlings, medicinal cannabis plants, medicinal cannabis, medicinal cannabis products, or other plant matter projected to still be at the closing location at the time of the projected closure; and

(d) How the licensee intends to dispose of equipment, devices, instruments, or medicinal cannabis accessories at the closing location.

(4) A licensee shall not remove or destroy any seeds, seedlings, medicinal cannabis plants, medicinal cannabis, other plant matter, medicinal cannabis products, equipment, medicinal cannabis accessories, or medicinal devices or instruments until the cabinet has approved its plan for closing the location and shall comply with all applicable requirements regarding disposal of medicinal cannabis contained in 915 KAR Chapter 1.

(5) The cabinet may enter and inspect the cannabis business location and facilities following receipt of the licensee's closure plan to determine whether to approve the closure plan. If the cabinet denies the closure plan, it shall notify the licensee in writing and require the licensee to submit a revised closure plan within seven (7) calendar days of the date of the denial notice. The cabinet shall review and consider the revised closing plan and issue a determination within seven (7) calendar days of receipt.

(6) If the cabinet approves the licensee's closure plan, the licensee shall surrender its license for the closing location to the cabinet on or before the date for closure provided in the plan.

Section 8. Request for Approval of a Change in Cannabis Business Ownership.

(1) If there is an impending change in ownership of a licensee from the ownership listed in the initial license application, the licensee shall submit a written request for approval of a change in ownership to the cabinet via electronic mail to kymedcanreporting@ky.gov. The cabinet shall consider the requirements for ownership of a cannabis business contained in

KRS Chapter 218B and 915 KAR Chapter 1 as well as any other factors that the cabinet deems relevant in making its determination on the request. The cabinet shall review the request and notify the licensee in writing whether the request is approved or denied.

(2) For each new individual or entity that is part of the proposed change in ownership, the licensee shall include in its request the information required of owners in the initial license application. The licensee shall also provide the cabinet with the names of all outgoing individuals or entities previously listed as owners.

(3) If the cabinet determines that a request for approval of a change in ownership is lacking sufficient information upon which to make a determination, the cabinet shall notify the licensee in writing of the areas that require additional information and documentation. The licensee shall have fifteen (15) calendar days from the mailing date of the notice to provide the requested information and documentation to the cabinet. A licensee's failure to provide the required information and documentation to the cabinet by the deadline shall be grounds for the denial of the requested change in ownership.

Section 9. Request for Approval of a Change in Cannabis Business Location.

(1) A licensee desiring to change the location of a site or facility shall submit a written request for approval of a change in location to the cabinet via electronic mail to kymedcanreporting@ky.gov. A change in location of a site or facility shall not occur unless the cabinet approves the change in writing. The cabinet shall consider the location requirements for a cannabis business contained in KRS Chapter 218B and 915 KAR Chapter 1 in making its determination on the request, and any other factors that the cabinet deems relevant. The cabinet shall review the request and notify the licensee in writing whether the request is approved or denied.

(2) A written request for approval of a change in location shall include the reason(s) for requesting the change and other information about the proposed new location, including:

(a) The proposed new physical address of the cannabis business and the GPS coordinates for any proposed cultivation, processing, producing, testing, or dispensing activities;

(b) Evidence that the licensee has the authority to use the proposed site as a cannabis business;

(c) Confirmation that the proposed location is not within 1,000 feet of an existing elementary or secondary school or a daycare center at the time the request is made; and

(d) A site plan for the cannabis business.

(3) If the cabinet in its discretion approves the request, the cabinet shall issue an amended license to the licensee reflecting the new physical address of the cannabis business. The expiration date of the amended license shall be the same as the expiration date of the previous license.

(4) Within ninety (90) calendar days of the issuance by the cabinet of an amended license under this section, the licensee shall change the location of its operation to the new location designated in the new license. Simultaneously, the licensee shall cease to operate at the former location and surrender its existing license to the cabinet. The following conditions shall apply:

(a) At no time may a licensee operate or exercise any of the privileges granted under the license in both locations;

(b) The cabinet may extend the ninety (90) day deadline for relocation for up to an additional ninety (90) calendar days;

(c) The licensee shall notify the cabinet via electronic mail to kymedcanreporting@ky.gov at least fifteen (15) calendar days prior to beginning cannabis business activities at the new location; and

(d) The cabinet may conduct an inspection to determine the appropriateness of the new location, and upon notification from the cabinet, the licensee shall immediately correct any deficiencies identified by the cabinet during this inspection and shall not commence operations at the new location until the deficiencies have been corrected and approved by the cabinet.

(5) For dispensary licenses, the cabinet shall not approve a change of location that is outside the boundaries of the medicinal cannabis region for which the license was issued or that otherwise is not in compliance with the location restrictions contained in Section 3(3) of this administrative regulation.

Section 10. Request to Sell Cannabis Business License.

(1) A licensee desiring to sell its cannabis business license shall submit a written request for approval of the sale to the cabinet via electronic mail to kymedcanreporting@ky.gov. The sale of a cannabis business license shall not occur unless the cabinet approves the sale in writing. The cabinet shall review the request and notify the licensee in writing whether the proposed sale is approved or denied. The cabinet shall consider the initial license application requirements for a cannabis business contained in KRS Chapter 218B and 915 KAR 1:010, and any other factors that the cabinet deems relevant in making its determination on the request.

(2) A written request to approve a license sale shall include the sale price, the reason(s) for requesting the sale, and information about the proposed purchaser, including:

(a) All information and documentation required to be submitted by a cannabis business as part of the initial license application process in order to show the proposed purchaser would be eligible for entry into a license lottery conducted according to this administrative regulation;

(b) Signed attestations from the proposed purchaser that are required as part of the initial license application process;

(c) A transition plan for transferring the license from the licensee to the proposed purchaser; and

(d) A notarized affidavit from the proposed purchaser swearing and affirming that all information and documentation provided to the cabinet along with the request is true and correct, and an acknowledgement that any false statement made to the cabinet as part of the proposed sale process is punishable under the applicable provisions of KRS 523.100.

(3) The cabinet shall approve a licensee's sale of a license if the proposed purchaser and any new location or facilities meet the requirements of KRS Chapter 218B and 915 KAR Chapter 1.

(4) The cabinet shall deny a licensee's sale of a license to any proposed purchaser who currently holds a license in a different cannabis business category than the one offered for sale (such as the proposed purchaser seeks to purchase a dispensary license while currently licensed as a tier I cultivator), except that a cultivator may sell its license to another licensed cultivator in the same or different cultivator tier (such as the proposed purchaser may purchase a tier II cultivator license while currently licensed as a tier I cultivator). Cultivators may hold licenses in more than one (1) cultivator tier at any given time as long as each license contains a separate and distinct physical address where cultivator conducts licensed cannabis activities and the licensee is otherwise in compliance with the requirements of KRS Chapter 218B and 915 KAR Chapter 1.

Section 11. Issuance of Additional Cannabis Business Licenses.

(1) Beginning January 1, 2025, the cabinet shall, on a quarterly basis, review the need for issuance of new licenses in each cannabis business category.

(2) In making its determination whether to issue new licenses, the cabinet may consider:

(a) The population of the Commonwealth;

(b) The number of active cardholders;

(c) Changes to the list of qualifying medical conditions for medicinal cannabis;

(d) Market supply and demand;

(e) Geographic distribution of dispensaries and other cannabis businesses;

(f) Workforce development opportunities; and

(g) Any other factors that the cabinet deems relevant to its analysis.

(3) If the cabinet determines there exists a need for additional cannabis business licenses in the Commonwealth, the cabinet shall issue a notice documenting the basis for this determination, including a list of the factors it considered to arrive at that determination.

(4) The cabinet shall publish on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>, the notice required by this section as well as a notice of initial license application availability. This notice shall provide the timeframe

during which initial license applications shall be accepted by the cabinet and the category and number of cannabis business licenses available for distribution at the close of the application period. Applicants for new cannabis business licenses shall adhere to the requirements of 915 KAR 1:010 regarding initial license applications and follow the initial license application instructions. The process for issuing new licenses shall comply with the requirements of this administrative regulation.

Section 12. Penalties and Sanctions.

(1) In addition to any other penalty imposed by law for violations of KRS Chapter 218B and 915 KAR Chapter 1, the cabinet may take one (1) or more of the following actions:

(a) Suspend or revoke a license if any of the following occur:

1. The licensee or any of its agents commit multiple violations or a serious violation of the requirements of KRS Chapter 218B and 915 KAR Chapter 1;

2. The licensee or any of its agents fail to maintain effective control against diversion of medicinal cannabis from its facility or under its control;

3. The licensee or any of its agents violate a provision of other state or local laws regarding the operation of its cannabis business;

4. The licensee or any of its agents engage in conduct, or an event occurs, that would have disqualified the cannabis business from being issued a license or having its license renewed; or

5. The licensee submitted false or misleading information on any application submitted to the cabinet.

(b) Impose a civil fine of not more than \$10,000 for each violation and an additional fine of not more than \$1,000 for each day of the continuing violation. In determining the amount of each fine, the cabinet shall take the following into consideration:

1. The seriousness of the violation;

2. The potential harm resulting from the violation to cardholders or the general public;

3. The willfulness of the violation;

4. Previous violations, if any, by the licensee being assessed;

5. The economic benefit to the licensee being assessed for failing to comply with the requirements of KRS Chapter 218B, 915 KAR Chapter 1, or an order issued by the cabinet; and

6. The economic deterrent to the licensee.

(c) Issue a cease-and-desist order to immediately stop or restrict the operations of a licensee to protect the public's health, safety, and welfare. The following applies to issuing a cease-and-desist order:

1. An order may include a requirement that a licensee cease or restrict some or all of its operations. In addition, the order may prohibit the use of some or all of the medicinal cannabis grown, processed, or to be sold by the licensee;

2. An order may be issued by an authorized agent of the cabinet immediately upon the completion of an inspection or investigation if the agent observes or suspects an operational failure or determines that the conditions will likely create a diversion of medicinal cannabis, contamination of medicinal cannabis, or a risk to cardholders or the general public;

3. An order may be issued by an authorized agent of the cabinet in circumstances where a licensee fails to provide timely notice of closure of a cannabis business location in accordance with Section 7 of this administrative regulation and the cabinet suspects the imminent closure of the cannabis business shall likely create a diversion of medicinal cannabis or a risk to cardholders or the general public;

4. An order may include:

a. An immediate evacuation of the site and facility, and the sealing of the entrances to the facility;

b. A quarantine of some or all of the medicinal cannabis found at the facility; and

c. The suspension of the sale or shipment of some or all of the medicinal cannabis found at the facility.

(d) Issue a written warning if the cabinet determines that either:

1. The public interest shall be adequately served under the circumstances by the issuance of the warning; or

2. The violation does not threaten the safety or health of cardholders or the general public, and the licensee shall take immediate action to remedy the violation.

(e) Require a licensee develop and adhere to a corrective action plan approved by the cabinet. The cabinet shall monitor compliance with the corrective action plan. Failure to comply with the corrective action plan may result in the cabinet taking additional action under the applicable provisions of this section as it deems appropriate.

(2) A person who aids, abets, counsels, induces, procures, or causes another person to violate KRS Chapter 218B or 915 KAR Chapter 1, or an order issued by cabinet, shall be subject to the civil penalties provided for under this section.

(3) Before the cabinet may revoke or suspend a license, the cabinet shall provide the licensee with written notice specifying the nature of the alleged violation(s) and allow the licensee an opportunity to appear and be heard pursuant to KRS Chapter 13B. Any resulting hearing shall be conducted in compliance with the requirements of KRS Chapter 13B.

(4) The cabinet shall provide a licensee with written notice of imposition of a civil fine, order of restitution, cease-and-desist order, written warning, or corrective action plan via certified mail to the address on the license. The licensee may, within thirty (30) calendar days after the date of the mailing of the cabinet's notice, file a written request for an administrative hearing regarding the action taken. The hearing shall be conducted in compliance with the requirements of KRS Chapter 13B.

Section 13. Technical Advisories.

(1) The cabinet may issue technical advisories by memorandum to assist licensees in complying with the KRS Chapter 218B and 915 KAR Chapter 1.

(2) Technical advisories shall not have the force of law or regulation, but shall provide guidance on the cabinet's interpretation of, and how a licensee may maintain compliance with, KRS Chapter 218B and 915 KAR Chapter 1.

(3) Notice of the availability of a technical advisory shall be published on the Web site of the Kentucky Medical Cannabis Program, <https://kymedcan.ky.gov>.

Section 14. Minimal Performance Standards for Biennial Accreditation.

(1) As part of the license renewal process, licensees shall meet the minimum performance standards established in 915 KAR 1:010, Section 6 in order to be approved for a renewal license.

(2) If a licensee successfully meets the minimum performance standards established in 915 KAR 1:010, Section 6 over a two (2) year period, the cabinet shall recognize the licensee as an accredited cannabis business in the Commonwealth.

(3) The recognition provided under this section shall expire two (2) years after the date of issuance, and shall be renewed if the licensee continues to:

(a) Operate in the Commonwealth as of the expiration date; and

(b) Meet the minimum performance standards established in 915 KAR 1:010, Section 6.

SAM FLYNN, Executive Director

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: April 9, 2024

FILED WITH LRC: April 18, 2024 at 11:45 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on July 22, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by July 15, 2024, 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 virtually 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 July 31, 2024. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

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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: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles or Oran S. McFarlan, III

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses. This administrative regulation establishes those procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides the procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses.

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

(a) How the amendment will change this existing administrative regulation: Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable. 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: This administrative regulation affects cannabis businesses that have applied for and subsequently receive licenses to conduct cannabis business activities in the commonwealth.

(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 requirements to receive a cannabis business license and remain in good standing throughout the licensure period are provided in this 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 initial license fees vary by cannabis business category and range from \$12,000 to \$125,000 for each licensed location. The annual renewal license fees also vary by cannabis business category and range from \$12,000 to \$115,000 for each licensed location.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The cannabis businesses that receive a license from the Cabinet for Health and Family Services are authorized to conduct cannabis business activities in the commonwealth for the term of the license, which is one (1) year from the date of license issuance. (5) Provide an estimate of how much it will cost to implement this administrative regulation:

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

(a) Initially: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(b) On a continuing basis: The annual cost estimate to administer

all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State general funds provided by the commonwealth.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer and enforce licensure of cannabis businesses.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: Yes, this administrative regulation establishes initial license fees and annual renewal license fees for cannabis businesses to operate in Kentucky.

(9) TIERING: Is tiering applied? Tiering is not applied. Cannabis businesses will be treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 218B.015, 218B.080, 218B.085, 218B.090, 218B.095, 218B.100, 218B.105, 218B.110, 218B.115, 218B.120, 218B.125, 218B.140, 304.39-110, 523.100, KRS Chapter 13B.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398.

Revenues: The commonwealth will receive initial license fees paid by proposed cannabis businesses during the first year. The initial license fees vary by cannabis business category and range from \$12,000 to \$125,000 for each licensed location.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. The commonwealth will receive annual renewal license fees from licensed cannabis businesses that desire to continue operating in the commonwealth following the expiration of their existing license. The annual renewal license fees vary by cannabis business category and range from \$12,000 to \$115,000 for each submitted renewal application. The annual renewal license fees are refundable if the renewal application is denied. The commonwealth may also receive additional initial license fees if the Cabinet for Health and Family Services determines additional licenses should be issued in a given year based on criteria provided in 915 KAR Chapter 1.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): If its application is approved, a proposed cannabis business will locate within a city or county in the commonwealth.

(a) Estimate the following for the first year:

Expenditures: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130

Revenues: Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in

subsequent years? Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

(4) Identify additional regulated entities not listed in questions (2) or (3): Licensed cannabis businesses.

(a) Estimate the following for the first year:

Expenditures: The initial license fees vary by cannabis business category and range from \$12,000 to \$125,000 for each licensed location.

Revenues: Once operational, licensees will generate revenue through cannabis business activities. At this time, it is unknown how much revenue will be generated by those licensed cannabis businesses.

Cost Savings: The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Cannabis businesses are required to pay the applicable annual renewal license fee at the time of renewal application submission. The annual renewal license fees vary by cannabis business category and range from \$12,000 to \$115,000 for each submitted renewal application. This renewal license fee is refundable if the renewal application is denied.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. It is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 1 related to cannabis businesses.

(b) Methodology and resources used to determine the fiscal impact: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services, and it is anticipated that an increase in funding will be necessary to administer all of the administrative regulations contained in 915 KAR Chapter 1 related to cannabis businesses.

(b) The methodology and resources used to reach this conclusion: As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of May 14, 2024

Call to Order and Roll Call

The May meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, May 14, 2024 at 1:00 p.m. in Room 149 of the Capitol Annex. Senator Stephen West, Co-Chair, called the meeting to order, and roll call was taken.

Present were:

Members: Senator Stephen West, Co-Chair; Representative Derek Lewis, Co-Chair; Senators Julie Raque Adams, Damon Thayer, and David Yates; and Representatives Randy Bridges and Daniel Grossberg.

LRC Staff: Stacy Auterson, Emily Caudill, Emily Harkenrider, Karen Howard, Anna Latek, and Carrie Nichols.

Guests: Cassie Trueblood, Education Professional Standards Board; Jeffrey Allen, Board of Dentistry; Steven Fields, Department of Fish and Wildlife Resources; Amy Barker, Kirstie Willard, Department of Corrections; and Laura Begin, Clifton Bryant, Maurice Lee, Department for Community Based Services.

The Administrative Regulation Review Subcommittee met on Tuesday, May 14, 2024, and submits this report:

EDUCATION AND LABOR CABINET: Education Professional Standards Board: Certification Procedures

016 KAR 004:030. Out-of-state educator preparation. Cassie Trueblood, counsel, represented the board.

BOARDS AND COMMISSIONS: Board of Dentistry

201 KAR 008:533. Licensure of dentists. Jeffrey Allen, executive director, represented the board.

A motion was made and seconded to approve the following amendments: to amend Sections 2, 4 through 12, and 15 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

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

301 KAR 002:132. Elk hunting seasons, permits, zones, and requirements. Steven Fields, staff attorney, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 15 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Hunting and Fishing

301 KAR 003:030. Year-round season for wildlife.

In response to questions by Co-Chair Lewis, Mr. Fields stated that sport hunting of wild pigs was being prohibited because, due to the intelligence and learning capabilities of wild pigs, sport hunting led to behavioral and migratory changes that made the location, control, and tracking of these populations more difficult. Mr. Fields stated that a smaller number of mass trapping events would be the best means to control wild pig populations.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Section 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

301 KAR 003:130. Public use of Conservation Camp Properties.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting and

formatting requirements of KRS Chapter 13A; (2) to amend Section 1 to: (a) delete two (2) definitions; (b) clarify three (3) definitions; and (c) revise some time-frame requirements because the previous version did not provide for youth between fifteen (15) and eighteen (18) years of age; (3) to amend Section 2 to clarify that a mentee shall be under eighteen (18) years of age or a novice in the specific activity; (4) to amend Section 3 to clarify potential mentor activities; and (5) to amend Section 4 to delete redundant provisions. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Class D and Class C Felons

501 KAR 002:060. Procedures for housing of Class C and D felons. Amy Barker, assistant general counsel, and Kirstie Willard, division director, represented the department.

Jail Standards for Full-Service Facilities

501 KAR 003:010. Definitions for 501 KAR Chapter 3.

501 KAR 003:040. Personnel.

501 KAR 003:060. Security; control.

In response to questions by Senator Yates, Ms. Willard stated that 501 KAR 3:060 and 3:100 related to pregnant inmates. While judicial officials utilized options to divert these individuals from incarceration, not all pregnant inmates were candidates for alternatives.

501 KAR 003:080. Sanitation; hygiene.

501 KAR 003:090. Medical services.

501 KAR 003:100. Food services.

501 KAR 003:140. Prisoner rights.

Jail Standards for Restricted Custody Center Facilities

501 KAR 007:010. Definitions for 501 KAR Chapter 7.

501 KAR 007:040. Personnel.

501 KAR 007:080. Sanitation; hygiene.

501 KAR 007:090. Medical services.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Community Based Services: Protection and Permanency: Child Welfare

922 KAR 001:140. Permanency services. Laura Begin, regulation coordinator; Clifton Bryant, branch manager; and Maurice Lee, relative service array specialist, represented the department.

In response to a question by Co-Chair West, Ms. Begin stated that these administrative regulations included a new initiative to provide an option for subsidized permanent custody for relative or fictive kin caregivers. The goal of this option was to provide ongoing financial assistance for these caregivers and to streamline the custody process in these relative or fictive kin situations.

In response to questions by Senator Yates, Ms. Begin stated that this option was applicable to relative and fictive kin caregivers who had become foster parents and who had complied with foster home requirements for at least six (6) consecutive months. Mr. Lee stated that minors who entered Kentucky's system from out of state would first be eligible for benefits as established in the state from which they transferred to Kentucky. After six (6) consecutive months of compliance with foster home requirements and if custody was granted, these relatives or fictive kin families would be eligible for benefits under Kentucky's program. Determination was on a case-by-case basis, and the department was available to investigate specific situations.

A motion was made and seconded to approve the following

amendments: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

922 KAR 001:145. Subsidized permanent custody.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 5 and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

922 KAR 001:495. Training requirements for foster parents, adoptive parents, and respite care providers for children in the custody of the cabinet.

922 KAR 001:565. Service array for a relative or fictive kin caregiver.

Adult Services

922 KAR 005:120. Vulnerable adult maltreatment registry and appeals.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 2 and 4 through 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred or removed from the May 14, 2024, subcommittee agenda:

EDUCATION AND LABOR CABINET: Education Professional Standards Board: Teaching Certificates

016 KAR 002:120. Emergency certification and out-of-field teaching.

016 KAR 002:160. Probationary certificate for teachers of exceptional children.

OFFICE OF THE GOVERNOR: Department of Veterans' Affairs: Veterans' Programs

017 KAR 006:020. Kentucky Women Veterans Program and coordinating committee, administrative procedures.

017 KAR 006:030. Kentucky Wounded or Disabled Veterans Program, administrative procedures.

KENTUCKY COMMISSION ON HUMAN RIGHTS

104 KAR 001:010. Posting, distribution and availability of notices and pamphlets.

104 KAR 001:040. Guidelines for advertising employment or licensing opportunities.

104 KAR 001:050. Standards and procedures for providing equal employment opportunities.

104 KAR 001:080. Guidelines on fair housing.

104 KAR 001:100. Nondiscrimination on the basis of disability by a place of public accommodations, licensing agencies and trade organizations.

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

301 KAR 001:150. Waters open to commercial fishing.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Jail Standards for Life Safety Facilities

501 KAR 013:010. Life safety issues.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Certification of Title

601 KAR 023:040. Application form to become Kentucky Electronic License Title Entity; and application form for electronic motor vehicle title application submission.

PUBLIC PROTECTION CABINET: Department of Housing, Buildings and Construction: Kentucky Building Code

815 KAR 007:120. Kentucky Building Code.

815 KAR 007:125. Kentucky Residential Code.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Health Services and Facilities

902 KAR 020:036. Operation and services; personal care homes.

Department for Medicaid Services

907 KAR 001:044. Coverage provisions and requirements regarding community mental health center behavioral health services.

Behavioral Health

907 KAR 015:005. Definitions for 907 KAR Chapter 015.

Department for Aging and Independent Living: Aging Services

910 KAR 001:270. Hart-Supported Living grant program.

Office of the Secretary: General

915 KAR 001:001. Definitions for 915 KAR Chapter 1.

915 KAR 001:030. Cultivator.

915 KAR 001:040. Processor.

915 KAR 001:050. Producer.

915 KAR 001:060. Safety compliance facility.

915 KAR 001:070. Dispensary.

915 KAR 001:080. Transportation and delivery of medicinal cannabis.

915 KAR 001:090. Advertising.

915 KAR 001:100. Packaging and labeling of medicinal cannabis.

915 KAR 001:110. Medicinal cannabis testing.

Department for Community Based Services: K-TAP, Kentucky Works, Welfare to Work, State Supplementation

921 KAR 002:015. Supplemental programs for persons who are aged, blind, or have a disability.

The subcommittee adjourned at 1:20 p.m. The next meeting of this subcommittee was tentatively scheduled for June 11, 2024, at 1 p.m. in Room 149 of the Annex.

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 50th year of the *Administrative Register of Kentucky*, from July 2023 through June 2024.

Locator Index - Effective Dates

L - 2

Lists all administrative regulations published or continuing through the KRS Chapter 13A review process 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.

KRS Index

L - 14

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

L - 29

A list of administrative regulations for which certification letters have been filed pursuant to KRS 13A.3104 during this *Register* year.

Technical Amendment Index

L - 29

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

L - 31

A general index of administrative regulations published during this *Register* year, and is mainly broken down by agency.

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	Ky.R. Page No.	Effective Date	Regulation Number	Ky.R. Page No.	Effective Date
Administrative regulations published in previous Register years may appear in this index if a regulation had not completed the KRS Chapter 13A review process by the beginning of <i>Register</i> year 49. The "Register number" or "Ky.R. number" is listed the first time a regulation is published during that Register year. Once the regulation has been published in another Register year, the new Ky.R. number will appear next to the page number entry. To view versions of regulations published in prior <i>Registers</i> , please visit our online Administrative Registers of Kentucky .					
SYMBOL KEY:					
*	Statement of Consideration not filed by deadline		Replaced	2273	7-24-2023
**	Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))		101 KAR 001:365E	50 Ky.R. 324	7-11-2023
***	Withdrawn before being printed in Register		Replaced	1049	1-30-2024
IJC	Interim Joint Committee		101 KAR 002:210E	50 Ky.R. 772	9-15-2023
(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.		Replaced	857	4-2-2024

EMERGENCY ADMINISTRATIVE REGULATIONS					
NOTE: Pursuant to KRS 13A.190, emergency regulations expire after 270 days (or 270 days plus the number of days an accompanying ordinary is extended) or upon replacement by an ordinary regulation, whichever occurs first. This index reflects the KRS Chapter 13A-established expiration dates. Other statutes or legislation may affect a regulation's actual end date.					
013 KAR 002:120E	50 Ky.R. 2349	4-30-2024	105 KAR 001:148E	50 Ky.R. 1014	10-11-2023
013 KAR 002:130E	50 Ky.R. 2352	4-30-2024	Replaced	1653	5-7-2024
016 KAR 002:240E	50 Ky.R. 302	6-29-2023	201 KAR 023:016E	49 Ky.R. 976	10-3-2022
As Amended IJC	595	8-1-2023	Withdrawn		6-28-2023
Replaced	1038	12-11-2023	201 KAR 023:051E	49 Ky.R. 1239	11-15-2022
016 KAR 009:080E	49 Ky.R. 2200	4-26-2023	Replaced	1803	7-5-2023
As Amended	50 Ky.R. 596	8-8-2023	201 KAR 023:160E	50 Ky.R. 326	6-28-2023
Replaced	618	12-5-2023	Replaced	1487	2-20-2024
016 KAR 009:100E	49 Ky.R. 2205	4-26-2023	201 KAR 028:240E	50 Ky.R. 2354	5-14-2024
As Amended	50 Ky.R. 599	8-8-2023	201 KAR 036:100E	50 Ky.R. 1649	9-14-2024
Replaced	621	12-5-2023	Am Comments	2002	3-5-2024
030 KAR 010:010E	50 Ky.R. 303	6-29-2023	202 KAR 002:020E	50 Ky.R. 329	7-5-2023
Replaced	1038	1-30-2024	Replaced	1066	1-30-2024
030 KAR 010:020E	50 Ky.R. 305	6-29-2023	202 KAR 007:555E	50 Ky.R. 5	5-22-2023
Replaced	1039	1-30-2024	Replaced	816	10-25-2023
030 KAR 010:030E	50 Ky.R. 307	6-29-2023	501 KAR 006:330E	50 Ky.R. 2356	5-15-2024
Replaced	1040	1-30-2024	501 KAR 006:430E	50 Ky.R. 2358	5-15-2024
030 KAR 010:040E	50 Ky.R. 309	6-29-2023	503 KAR 001:140E	50 Ky.R. 331	6-27-2023
Replaced	1040	1-30-2024	Replaced	1272	3-5-2024
030 KAR 010:050E	50 Ky.R. 311	6-29-2023	505 KAR 001:120E	49 Ky.R. 1567	1-13-2023
Replaced	1041	1-30-2024	Am Comments	1886	3-6-2023
030 KAR 010:060E	50 Ky.R. 312	6-29-2023	Replaced	50 Ky.R. 40	10-3-2023
Replaced	1042	1-30-2024	505 KAR 001:140E	49 Ky.R. 1569	1-13-2023
030 KAR 010:070E	50 Ky.R. 314	6-29-2023	Am Comments	1888	3-6-2023
Replaced	1042	1-30-2024	As Amended	2075	4-11-2023
030 KAR 010:080E	50 Ky.R. 315	6-29-2023	Replaced	50 Ky.R. 40	9-21-2023
Replaced	1042	1-30-2024	505 KAR 001:200E	49 Ky.R. 2208	5-15-2023
030 KAR 010:090E	50 Ky.R. 317	6-29-2023	Am Comments	50 Ky.R. 385	7-12-2023
Replaced	1042	1-30-2024	Replaced	660	12-5-2023
030 KAR 010:100E	50 Ky.R. 318	6-29-2023	505 KAR 001:210E	49 Ky.R. 2211	5-15-2023
Replaced	1043	1-30-2024	Replaced	2434	3-5-2024
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SYMBOL KEY:

- * Statement of Consideration not filed by deadline
- ** Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))
- *** Withdrawn before being printed in Register
- IJC Interim Joint Committee
- (r) Repealer regulation: KRS 13A.310(3)-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.

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95A.210	739 KAR 002:160	121.120	032 KAR 002:020
95A.220	739 KAR 002:160		032 KAR 002:221
95A.240	739 KAR 002:160	121.135	032 KAR 002:060
96A.095	907 KAR 003:066		032 KAR 002:230
116.025	031 KAR 002:010	121.140	032 KAR 002:020
116.045	031 KAR 003:041		032 KAR 002:030
116.0452	031 KAR 003:041		032 KAR 002:040
116.065	031 KAR 002:010		032 KAR 002:050
	031 KAR 003:041	121.160	032 KAR 001:020
116.165	031 KAR 003:041	121.170	032 KAR 001:050
117.001	031 KAR 005:026	121.172	032 KAR 001:046
	031 KAR 005:040	121.180	032 KAR 001:020
117.015	031 KAR 005:040		032 KAR 001:030
117.025	031 KAR 005:026		032 KAR 001:046
	031 KAR 005:040		032 KAR 002:221
117.035	031 KAR 005:040	131.570	921 KAR 001:410
	040 KAR 010:010	132.010	815 KAR 007:120
117.066	031 KAR 004:196	136.392	739 KAR 002:160
117.075	031 KAR 002:010	142.361	907 KAR 001:065
117.085	031 KAR 002:010	142.363	907 KAR 001:025
	031 KAR 004:030		907 KAR 001:065
	031 KAR 005:026	146.200 – 146.990	401 KAR 045:030
117.086	031 KAR 004:030	150.010	301 KAR 001:001
	031 KAR 005:026		301 KAR 001:140
117.0861	031 KAR 005:026		301 KAR 001:146

KRS SECTION	REGULATION	KRS SECTION	REGULATION
	301 KAR 001:150		301 KAR 001:152
	301 KAR 001:152		301 KAR 001:155
	301 KAR 001:155		301 KAR 001:410
	301 KAR 001:201	150.450	301 KAR 001:140
	301 KAR 001:125		301 KAR 001:146
	301 KAR 001:410		301 KAR 001:150
	301 KAR 002:083		301 KAR 001:152
	301 KAR 002:132		301 KAR 001:155
	301 KAR 002:172		301 KAR 005:022
	301 KAR 002:178	150.485	301 KAR 001:115
	301 KAR 003:030		301 KAR 001:125
150.0241	301 KAR 003:130		301 KAR 005:022
150.025	301 KAR 001:001	150.520	301 KAR 005:022
	301 KAR 001:146	150.525	301 KAR 005:022
	301 KAR 003:030	150.600	301 KAR 004:021
	301 KAR 003:130		301 KAR 005:022
	301 KAR 004:021	150.603	301 KAR 005:022
150.120	301 KAR 005:022		301 KAR 005:040
	301 KAR 001:146	150.620	301 KAR 001:201
	301 KAR 001:150		301 KAR 001:410
150.170	301 KAR 001:155	150.660	301 KAR 005:022
	301 KAR 001:001	150.720	301 KAR 005:720
	301 KAR 001:125	150.725	301 KAR 002:083
	301 KAR 001:150	150.740	301 KAR 002:083
	301 KAR 001:152	150.990	301 KAR 001:146
	301 KAR 001:170		301 KAR 001:150
	301 KAR 001:155		301 KAR 001:152
	301 KAR 001:201		301 KAR 001:155
	301 KAR 001:410		301 KAR 001:201
	301 KAR 002:030		301 KAR 001:410
	301 KAR 002:132		301 KAR 002:020
	301 KAR 002:178		301 KAR 002:122
	301 KAR 003:030		301 KAR 002:132
	301 KAR 005:210		301 KAR 002:172
150.175	301 KAR 005:200		301 KAR 002:178
	301 KAR 001:146		301 KAR 003:030
	301 KAR 001:150	150.730 – 150.735	302 KAR 022:150
	301 KAR 001:152	154A.130	011 KAR 015:090
	301 KAR 001:201	156.010	011 KAR 015:090
	301 KAR 001:410	156.029	705 KAR 004:231
	301 KAR 003:030	156.070	701 KAR 005:110
	301 KAR 005:010		702 KAR 003:340
	301 KAR 005:020		702 KAR 007:065
	301 KAR 005:200		704 KAR 003:095
	301 KAR 005:210		780 KAR 006:010
150.177	301 KAR 002:172	156.160	704 KAR 003:095
150.180	301 KAR 001:122	156.488	704 KAR 003:095
	301 KAR 002:132	156.496	922 KAR 001:565
	301 KAR 002:172	156.802	705 KAR 004:231
	301 KAR 005:022		780 KAR 002:031
150.183	301 KAR 005:022	156.808	780 KAR 003:030
150.195	301 KAR 005:001		780 KAR 003:035
150.235	301 KAR 001:125		780 KAR 003:100
	301 KAR 001:410		780 KAR 003:120
150.240	301 KAR 005:040		780 KAR 003:130
150.275	301 KAR 005:022		780 KAR 006:010
150.280	301 KAR 005:022	156.820	780 KAR 006:020
150.290	301 KAR 001:115		780 KAR 003:120
	301 KAR 002:083	156.828	780 KAR 003:130
	301 KAR 005:290	156.830	708 KAR 003:035
150.320	301 KAR 003:030	156.832	780 KAR 003:100
150.340	301 KAR 001:201	156.850	780 KAR 003:120
	301 KAR 002:122	157.200	780 KAR 002:031
	301 KAR 002:178	157.250	016 KAR 004:020
150.360	301 KAR 002:122	157.320	016 KAR 004:020
	301 KAR 003:030	157.350	702 KAR 007:125
150.370	301 KAR 002:122	157.390	702 KAR 007:125
	301 KAR 002:178	157.650	016 KAR 002:120
	301 KAR 003:030	157.655	701 KAR 005:110
150.411	301 KAR 002:172	157.3175	701 KAR 005:110
150.412	301 KAR 002:030	157.660	016 KAR 002:140
150.445	301 KAR 001:146	157.665	701 KAR 005:110
	301 KAR 001:150	158.007	701 KAR 005:110
			011 KAR 015:090

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158.030	702 KAR 007:125	164.092	013 KAR 002:120E
158.070	702 KAR 007:125		013 KAR 002:120
158.070	704 KAR 003:095		013 KAR 002:130E
158.100	702 KAR 007:125		013 KAR 002:130
158.135	922 KAR 001:495	164.518	011 KAR 004:080
158.140	704 KAR 007:140	164.530	910 KAR 001:270
158.240	702 KAR 007:125	164.740	011 KAR 008:030
158.305	704 KAR 003:095	164.740 – 164.785	011 KAR 005:001
158.441	105 KAR 001:390	164.744	011 KAR 004:080
158.645	704 KAR 003:095		011 KAR 008:030
158.6451	704 KAR 003:095	164.748	011 KAR 004:080
158.6453	704 KAR 003:095	164.753	011 KAR 004:080
158.6459	704 KAR 003:095		011 KAR 008:030
158.791	704 KAR 003:095	164.7535	011 KAR 004:080
159.010	702 KAR 007:125	164.769	011 KAR 004:080
159.030	702 KAR 007:125		011 KAR 008:030
	922 KAR 002:100	164.772	301 KAR 002:030
159.035	702 KAR 007:125		301 KAR 002:083
159.140	702 KAR 007:125	164.780	011 KAR 004:080
159.170	702 KAR 007:125	164.785	011 KAR 004:080
160.160	701 KAR 005:110	164.7871	011 KAR 015:090
	702 KAR 003:340	164.7871 – 164.7885	011 KAR 015:110
160.380	702 KAR 007:065	164.7881	011 KAR 015:040
160.445	702 KAR 007:065	164.7890	011 KAR 004:080
161.011	704 KAR 003:550	164.7894	011 KAR 004:080
161.020	016 KAR 002:110	164.952	105 KAR 001:390
	016 KAR 002:120	176.010	603 KAR 005:155
	016 KAR 002:140	176.050	603 KAR 005:155
	016 KAR 002:160	177.106	603 KAR 005:155
	016 KAR 002:170	177.830	603 KAR 005:155
	016 KAR 002:200	177.990	603 KAR 005:155
	016 KAR 002:240	186.018	922 KAR 002:100
	016 KAR 004:020	186.020	922 KAR 002:100
161.028	016 KAR 004:030	186.412	601 KAR 012:080
	016 KAR 002:110	186.4122	601 KAR 012:080
	016 KAR 002:120	186A.017	601 KAR 023:040
	016 KAR 002:160	189.125	922 KAR 002:100
	016 KAR 002:170	191.881-888	922 KAR 002:165
	016 KAR 002:200	194A	921 KAR 002:015
	016 KAR 004:020	194A.005	908 KAR 002:300
	016 KAR 004:030	194A.705	201 KAR 020:700
161.030	016 KAR 005:060	194.540	201 KAR 020:620
	016 KAR 002:110	194.705	902 KAR 020:300
	016 KAR 002:120	194A.005	902 KAR 100:040
	016 KAR 002:140		902 KAR 100:050
	016 KAR 002:160		902 KAR 100:058
	016 KAR 002:170		902 KAR 100:065
	016 KAR 002:200		902 KAR 100:185
	016 KAR 004:020		902 KAR 100:195
	016 KAR 004:030		902 KAR 100:200
	016 KAR 005:060		908 KAR 002:300
161.044	704 KAR 003:550	194A.005	922 KAR 001:140
161.052	016 KAR 002:110		922 KAR 001:495
161.100	016 KAR 002:120		922 KAR 001:565
161.102	016 KAR 002:120	194A.025	907 KAR 015:005
161.124	016 KAR 004:030	194A.050	922 KAR 002:100
161.126	016 KAR 004:030	194A.060	907 KAR 001:044
161.135	016 KAR 004:030		910 KAR 001:270
161.200	702 KAR 007:125		922 KAR 005:120
161.212	702 KAR 003:330	194A.540	201 KAR 020:215
161.1211	016 KAR 002:120		201 KAR 020:225
161.1221	016 KAR 002:120		201 KAR 020:320
162.1002	907 KAR 001:479		201 KAR 036:030
164.001	013 KAR 002:120E	194A.700	902 KAR 020:048
	013 KAR 002:120	194A.700	902 KAR 020:036
	013 KAR 002:130E	194A.705	902 KAR 020:036
	013 KAR 002:130		902 KAR 020:048
164.002	011 KAR 015:090		902 KAR 020:086
164.0401	013 KAR 005:010	196	501 KAR 006:021
	013 KAR 005:020		501 KAR 006:300
164.0402	013 KAR 005:010		501 KAR 006:310
	013 KAR 005:020		501 KAR 006:320
164.0403	013 KAR 005:010		501 KAR 006:330E
164.0404	013 KAR 005:020		501 KAR 006:330

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	501 KAR 006:340	197.065	501 KAR 006:460
	501 KAR 006:350	197.070	501 KAR 006:460
	501 KAR 006:360	197.110	501 KAR 006:460
	501 KAR 006:370	197.120	501 KAR 006:460
	501 KAR 006:380		501 KAR 006:510
	501 KAR 006:390	197.140	501 KAR 006:450
	501 KAR 006:400		501 KAR 006:510
	501 KAR 006:410	197.150	501 KAR 006:460
	501 KAR 006:420	197.170	501 KAR 006:510
	501 KAR 006:430E	197.175	501 KAR 006:510
	501 KAR 006:430	197.270	501 KAR 006:500
	501 KAR 006:440	197.275	501 KAR 006:500
	501 KAR 006:450	197.400 – 197.440	501 KAR 006:530
	501 KAR 006:460	197.500 – 197.540	501 KAR 006:310
	501 KAR 006:470	198A.740 – 198A.750	202 KAR 002:020
	501 KAR 006:480	198B.010	815 KAR 007:120
	501 KAR 006:490		815 KAR 007:125
	501 KAR 006:500	198B.040	815 KAR 007:120
	501 KAR 006:510		815 KAR 007:125
	501 KAR 006:520	198B.050	815 KAR 007:120
	501 KAR 006:530		815 KAR 007:125
	501 KAR 006:540	198B.060	815 KAR 007:120
196.030	501 KAR 016:310		815 KAR 007:125
196.035	501 KAR 002:060	198B.080	815 KAR 007:120
	501 KAR 003:100		815 KAR 007:125
	501 KAR 006:280	198B.260	815 KAR 007:120
	501 KAR 016:310		815 KAR 007:125
196.070	501 KAR 006:450	198B.650 – 198B.689	501 KAR 013:010
	501 KAR 016:310	198B.990	815 KAR 007:120
196.073	501 KAR 006:450		815 KAR 007:125
196.160	501 KAR 006:330E	199.011	922 KAR 001:145
	501 KAR 006:330		922 KAR 001:360
196.173	501 KAR 003:060		922 KAR 001:495
	501 KAR 006:450		922 KAR 001:565
196.180	501 KAR 045:310		922 KAR 002:100
196.230	501 KAR 006:330E	199.011	922 KAR 001:140
	501 KAR 006:330	199.462	922 KAR 001:140
196.270	501 KAR 006:320		922 KAR 001:565
196.280	505 KAR 001:420	199.464	922 KAR 001:495
196.610	501 KAR 006:450	199.470 – 199.590	922 KAR 001:565
197	501 KAR 006:021	199.555	922 KAR 001:140
	501 KAR 006:300	199.557	922 KAR 001:140
	501 KAR 006:310	199.640 – 199.680	922 KAR 001:360
	501 KAR 006:320	199.801	922 KAR 001:140
	501 KAR 006:330E		922 KAR 001:360
	501 KAR 006:330	199.894	922 KAR 002:100
	501 KAR 006:340	199.8943	922 KAR 002:165
	501 KAR 006:350	199.895	922 KAR 002:100
	501 KAR 006:360	199.8951	922 KAR 002:100
	501 KAR 006:370	199.896	922 KAR 002:100
	501 KAR 006:380	199.897	922 KAR 002:100
	501 KAR 006:390	199.898	922 KAR 002:100
	501 KAR 006:400	199.8982	922 KAR 002:100
	501 KAR 006:410	200.080 – 200.120	505 KAR 001:100
	501 KAR 006:420		505 KAR 001:110
	501 KAR 006:430E		505 KAR 001:185
	501 KAR 006:430		505 KAR 001:200
	501 KAR 006:440		505 KAR 001:240
	501 KAR 006:450		505 KAR 001:250
	501 KAR 006:460		505 KAR 001:260
	501 KAR 006:470		505 KAR 001:270
	501 KAR 006:480		505 KAR 001:280
	501 KAR 006:490		505 KAR 001:290
	501 KAR 006:500		505 KAR 001:300
	501 KAR 006:510		505 KAR 001:310
	501 KAR 006:520		505 KAR 001:320
	501 KAR 006:530		505 KAR 001:330
	501 KAR 006:540		505 KAR 001:340
197.020	501 KAR 002:060		505 KAR 001:350
	501 KAR 003:100		505 KAR 001:360
	501 KAR 006:280		505 KAR 001:370
197.045	501 KAR 002:060		505 KAR 001:380
	501 KAR 006:420		505 KAR 001:390
	501 KAR 006:470		505 KAR 001:400

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	505 KAR 001:410		902 KAR 100:050
	505 KAR 001:420		902 KAR 100:058
202A.011	907 KAR 001:044		902 KAR 100:065
202A.011	902 KAR 020:036		902 KAR 100:165
	921 KAR 002:015		902 KAR 100:185
202A.051	922 KAR 005:070		902 KAR 100:195
202B.010	907 KAR 001:025		902 KAR 100:200
202B.100	922 KAR 005:070	212.132	105 KAR 001:148
205.140	922 KAR 005:120	214.010	922 KAR 002:100
205.200	921 KAR 003:020	214.036	922 KAR 002:100
205.201	910 KAR 001:170	216.380	907 KAR 001:065
205.203	910 KAR 001:170	216.510	201 KAR 020:700
205.211	922 KAR 001:565	216.2920	900 KAR 007:030
205.245	921 KAR 002:015		900 KAR 007:040
205.455 – 205.460	910 KAR 001:170	216.2925	900 KAR 007:030
205.510	907 KAR 015:005	216.2927	900 KAR 007:030
205.520	907 KAR 001:061		900 KAR 007:040
	907 KAR 001:479	216.2929	900 KAR 007:040
	907 KAR 003:066	216.510 – 216.525	902 KAR 020:036
	907 KAR 009:010		902 KAR 020:048
	907 KAR 013:010		902 KAR 020:086
	907 KAR 013:015		902 KAR 020:300
	907 KAR 015:090	216.530	902 KAR 020:036
	907 KAR 015:100	216.532	902 KAR 020:036
205.560	907 KAR 001:479		902 KAR 020:048
205.622	907 KAR 001:044		902 KAR 020:086
205.6333	907 KAR 001:479		902 KAR 020:300
205.712	105 KAR 001:190	216.535	902 KAR 020:300
205.712 – 205.795	921 KAR 001:410	216.537	902 KAR 020:048
205.720	921 KAR 001:420	216.540	902 KAR 020:048
205.750	921 KAR 001:420		902 KAR 020:300
205.755	921 KAR 001:420	216.543	902 KAR 020:300
205.795	921 KAR 001:420	216.545	902 KAR 020:300
205.2005	921 KAR 003:027	216.547	902 KAR 020:300
205.8451	907 KAR 001:044	216.555 – 216.567	902 KAR 020:036
	907 KAR 001:061	216.570 – 216.597	902 KAR 020:036
	907 KAR 015:005	216.765	902 KAR 020:036
209	922 KAR 005:070	216.765	921 KAR 002:015
	922 KAR 005:120	216.785 – 216.793	902 KAR 020:036
209.020	921 KAR 002:015	216.789	902 KAR 020:048
209.030	902 KAR 020:036		902 KAR 020:086
	902 KAR 020:048	216.793	902 KAR 020:048
	902 KAR 020:086		902 KAR 020:086
	902 KAR 020:300	216.597	902 KAR 020:036
	910 KAR 001:270	216A.080	902 KAR 020:036
209.032	902 KAR 020:036		902 KAR 020:048
	902 KAR 020:048		902 KAR 020:086
	902 KAR 020:086	216B	921 KAR 002:015
	902 KAR 020:300	216B.010	902 KAR 020:036
210	908 KAR 002:300	216B.040	902 KAR 020:036
210.366	201 KAR 036:030	216B.042	902 KAR 020:036
210.410	908 KAR 002:300	216B.045 – 216B.130	902 KAR 020:036
210.770 – 210.795	910 KAR 001:270	216B.450	705 KAR 004:231
211.180	902 KAR 100:185	216B.455	705 KAR 004:231
	902 KAR 100:195	216B.990	902 KAR 020:036
	902 KAR 100:200	216B.010	900 KAR 006:075
	902 KAR 004:120	216B.010 – 216B.130	900 KAR 006:020
211.185	908 KAR 002:300	216B.015	900 KAR 006:075
211.332	201 KAR 036:045		900 KAR 006:080
211.334	201 KAR 036:045		902 KAR 100:185
211.336	201 KAR 036:045	216B.020	900 KAR 006:080
211.338	201 KAR 036:045	216B.040	900 KAR 006:075
211.689	902 KAR 004:120	216B.061	900 KAR 006:080
211.842 – 11.852	902 KAR 100:019	216B.062	900 KAR 006:075
	902 KAR 100:040	216B.090	900 KAR 006:075
	902 KAR 100:050	216B.095	900 KAR 006:075
	902 KAR 100:058	216B.115	900 KAR 006:075
	902 KAR 100:065	216B.178	900 KAR 006:020
	902 KAR 100:165	216B.455	900 KAR 006:075
	902 KAR 100:185	216B.990	900 KAR 006:075
	902 KAR 100:195		900 KAR 006:080
	902 KAR 100:200	217.015	201 KAR 002:225
211.990	902 KAR 100:019		301 KAR 001:155
	902 KAR 100:040		902 KAR 045:001E

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	902 KAR 045:001		915 KAR 001:020
	902 KAR 045:012E		915 KAR 001:030
	902 KAR 045:012		915 KAR 001:040
	902 KAR 045:021E		915 KAR 001:050
	902 KAR 045:021		915 KAR 001:060
	902 KAR 045:031E		915 KAR 001:070
	902 KAR 045:031		915 KAR 001:080
	902 KAR 045:190E		915 KAR 001:090
217.025	902 KAR 045:001E		915 KAR 001:110
	902 KAR 045:001		915 KAR 002:001
	902 KAR 045:012E		915 KAR 002:010
	902 KAR 045:012		915 KAR 002:020
	902 KAR 045:021E		915 KAR 002:030
	902 KAR 045:021		915 KAR 002:040
	902 KAR 045:031E	218B.010	201 KAR 020:067
	902 KAR 045:031	218B.015	201 KAR 009:067
217.035	902 KAR 045:190E		201 KAR 020:067
	902 KAR 045:001E	218B.050	201 KAR 009:067
	902 KAR 045:001		201 KAR 020:067
	902 KAR 045:012E	218B.080	201 KAR 020:067
	902 KAR 045:012	218B.202	201 KAR 009:067
	902 KAR 045:021E	218B.050	201 KAR 009:067
	902 KAR 045:021	224.01	401 KAR 045:025
	902 KAR 045:031E	224.01-110	401 KAR 045:030
	902 KAR 045:031	224.1-010	401 KAR 045:010
217.037	902 KAR 045:190E	224.1-400	401 KAR 042:250
	902 KAR 045:001E	224.1-405	401 KAR 042:250
	902 KAR 045:001	224.10	401 KAR 045:020
	902 KAR 045:012E		401 KAR 045:025
	902 KAR 045:012		401 KAR 045:030
	902 KAR 045:021E		401 KAR 045:040
	902 KAR 045:021		401 KAR 045:050
	902 KAR 045:031E		401 KAR 045:080
	902 KAR 045:031		401 KAR 045:100
	902 KAR 045:190E		401 KAR 045:105
217.039	902 KAR 045:001E		401 KAR 045:140
	902 KAR 045:001		401 KAR 045:160
	902 KAR 045:012E	224.10-100	401 KAR 050:038
	902 KAR 045:012		401 KAR 103:005
	902 KAR 045:021E		401 KAR 103:010
	902 KAR 045:021		401 KAR 103:020
	902 KAR 045:031E		401 KAR 103:030
	902 KAR 045:031	221.10-230	401 KAR 050:038
217.0	902 KAR 045:190E	224.10-285	401 KAR 103:005
217.055	201 KAR 002:076		401 KAR 103:010
217.065	201 KAR 002:076		401 KAR 103:020
217.177	201 KAR 016:550		401 KAR 103:030
217.215	201 KAR 002:165	224.10-410	401 KAR 042:250
217.280 – 217.390	501 KAR 003:100	224.10-420	401 KAR 042:250
	501 KAR 013:010	224.10-430	401 KAR 042:250
217.992	902 KAR 045:012E	224.10-440	401 KAR 042:250
	902 KAR 045:012	224.10-470	401 KAR 042:250
	902 KAR 045:021E	224.20-050	401 KAR 050:038
	902 KAR 045:021	224.20-100	401 KAR 050:038
218	915 KAR 001:100		401 KAR 051:010
218A.205	201 KAR 002:020	224.20-110	401 KAR 051:010
	201 KAR 002:050	224.20-120	401 KAR 051:010
	201 KAR 020:056	224.20-130	401 KAR 050:038
	201 KAR 005:005	224.40	401 KAR 045:020
218A.010	201 KAR 020:065		401 KAR 045:025
218A.170	201 KAR 020:065		401 KAR 045:030
218A.171 – 218A.172	201 KAR 020:057		401 KAR 045:040
218A.202	201 KAR 020:057		401 KAR 045:050
	915 KAR 002:030		401 KAR 045:080
218A.205	201 KAR 008:533		401 KAR 045:100
	902 KAR 020:300		401 KAR 045:105
	201 KAR 020:050		401 KAR 045:140
	201 KAR 020:057		401 KAR 045:160
	201 KAR 020:215		401 KAR 045:250
	201 KAR 002:050	224.43-345	401 KAR 103:005
218B	915 KAR 001:001		401 KAR 103:010
	915 KAR 001:010E		401 KAR 103:020
	915 KAR 001:010		401 KAR 103:030
	915 KAR 001:020E	224.46	401 KAR 045:020

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	401 KAR 045:040		201 KAR 027:006
	401 KAR 045:050		201 KAR 027:011
	401 KAR 045:080		201 KAR 027:016
	401 KAR 045:140		201 KAR 027:106
224.50	401 KAR 045:160	229.171	201 KAR 027:005
	401 KAR 045:020		201 KAR 027:006
	401 KAR 045:025		201 KAR 027:008
	401 KAR 045:030		201 KAR 027:011
	401 KAR 045:040		201 KAR 027:012
	401 KAR 045:050		201 KAR 027:016
	401 KAR 045:080		201 KAR 027:023
	401 KAR 045:100		201 KAR 027:041
	401 KAR 045:140		201 KAR 027:106
	401 KAR 045:160	229.180	201 KAR 027:023
224.50-760	401 KAR 045:010		201 KAR 027:106
224.50-765	401 KAR 045:010	229.190	201 KAR 027:006
224.60-110	401 KAR 042:250		201 KAR 027:106
224.60-120	401 KAR 042:250	229.200	201 KAR 027:006
224.60-130	401 KAR 042:250		201 KAR 027:023
224.60-135	401 KAR 042:250		201 KAR 027:106
224.60-140	401 KAR 042:250	229.991	201 KAR 027:006
224.60-150	401 KAR 042:250		201 KAR 027:023
224.70	401 KAR 045:020		201 KAR 027:106
	401 KAR 045:030	230	809 KAR 001:002
	401 KAR 045:105		809 KAR 010:001
224.90	401 KAR 045:090		809 KAR 010:002
224.99	401 KAR 045:020		809 KAR 010:002
	401 KAR 045:030		809 KAR 010:003
	401 KAR 045:040		809 KAR 010:003
	401 KAR 045:080		809 KAR 010:004
	401 KAR 045:105		809 KAR 010:004
	401 KAR 045:140		809 KAR 010:005
	401 KAR 045:160		809 KAR 010:006
227.300	815 KAR 007:120		809 KAR 010:006
227.550	815 KAR 007:120		809 KAR 010:007
229.011	201 KAR 027:005		809 KAR 010:008
	201 KAR 027:006	230.210	810 KAR 004:001
229.021	201 KAR 027:006	230.215	810 KAR 002:020
	201 KAR 027:012		810 KAR 002:070
	201 KAR 027:041		810 KAR 003:010
	201 KAR 027:106		810 KAR 004:010
229.025	201 KAR 027:008		810 KAR 004:030
	201 KAR 027:011		810 KAR 004:040
	201 KAR 027:016		810 KAR 004:070
229.031	201 KAR 027:005		810 KAR 007:040
	201 KAR 027:011	230.240	810 KAR 002:020
	201 KAR 027:012		810 KAR 004:030
	201 KAR 027:016	230.260	810 KAR 002:020
	201 KAR 027:106		810 KAR 002:070
229.035	201 KAR 027:008		810 KAR 002:100
229.041	201 KAR 027:006		810 KAR 003:010
229.051	201 KAR 027:006		810 KAR 004:030
229.055	201 KAR 027:011		810 KAR 004:040
	201 KAR 027:016		810 KAR 004:070
229.061	201 KAR 027:006		810 KAR 007:040
229.065	201 KAR 027:008	230.280	810 KAR 003:010
229.071	201 KAR 027:012	230.290	810 KAR 003:010
	201 KAR 027:023		810 KAR 004:030
	201 KAR 027:106	230.300	810 KAR 003:010
229.081	201 KAR 027:012	230.310	810 KAR 004:030
	201 KAR 027:023	230.320	810 KAR 004:030
	201 KAR 027:041	230.770	810 KAR 007:040
229.091	201 KAR 027:012	230.802	810 KAR 007:040
	201 KAR 027:023	230.811	810 KAR 003:010
	201 KAR 027:041	230.817	810 KAR 003:010
	201 KAR 027:106	237.110	301 KAR 002:172
229.111	201 KAR 027:005		921 KAR 001:410
	201 KAR 027:011	246.030	302 KAR 022:150
	201 KAR 027:016		302 KAR 045:020
	201 KAR 027:023	246.650	302 KAR 045:020
229.131	201 KAR 027:005	246.660	302 KAR 045:020
	201 KAR 027:011	246.990	302 KAR 045:020
	201 KAR 027:016	247.232	302 KAR 016:020
229.155	201 KAR 027:005		302 KAR 016:030

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247.233	302 KAR 016:072	304.17A-505	806 KAR 017:290
	302 KAR 016:111	304.17A-535	806 KAR 017:290
247.234	301 KAR 001:410	304.17A-600	806 KAR 017:290
	302 KAR 016:020	304.17A-607	806 KAR 017:290
	302 KAR 016:030	304.17A-617	806 KAR 017:290
	302 KAR 016:050	304.17A-621 – 304.17A-631	806 KAR 017:290
247.236	302 KAR 016:020	304.17A-732	806 KAR 017:590
	302 KAR 016:030		907 KAR 015:005
251.355	302 KAR 033:010	304.40-075	201 KAR 008:533
251.375	302 KAR 033:010	309.080	908 KAR 002:300
251.380	302 KAR 033:010	309.130	907 KAR 015:005
251.470	302 KAR 033:010		908 KAR 002:300
251.990	302 KAR 033:010	309.460	907 KAR 003:310
257.020	302 KAR 022:150	309.462	907 KAR 003:310
257.030	302 KAR 022:150	309.464	907 KAR 003:310
257.080	201 KAR 016:701	310.021	902 KAR 020:036
	302 KAR 022:150		902 KAR 020:048
257.160	201 KAR 016:560	310.031	902 KAR 020:036
257.990	302 KAR 022:150		902 KAR 020:048
258	201 KAR 016:550		902 KAR 020:086
258.043	201 KAR 016:701	311	201 KAR 027:008
258.065	201 KAR 016:701	311.571	908 KAR 002:300
260.020	302 KAR 045:020	311.592	201 KAR 009:067
260.030	302 KAR 045:020	311.646	922 KAR 002:100
260.850	902 KAR 045:001E	311.840	907 KAR 015:005
	902 KAR 045:001	311.840 – 311.862	908 KAR 002:300
	902 KAR 045:031E	311A.025	202 KAR 007:410
	902 KAR 045:031	311A.030	202 KAR 007:550
	902 KAR 045:190E		202 KAR 007:555
273	922 KAR 001:580	311A.050 – 311A.100	202 KAR 007:410
273.2	921 KAR 003:095	311A.120 – 311A.135	202 KAR 007:410
273.10	921 KAR 003:095	311A.142	202 KAR 007:410
278	807 KAR 005:078	311A.145	202 KAR 007:030
278.700 – 278.716	401 KAR 103:005	311A.170	202 KAR 007:410
	401 KAR 103:010	311A.180	202 KAR 007:550
	401 KAR 103:020	311A.185	202 KAR 007:410
	401 KAR 103:030	311A.190	202 KAR 007:410
281.010	907 KAR 003:066		202 KAR 007:550
281.605	907 KAR 003:066		202 KAR 007:555
281.635	907 KAR 003:066	311.595	201 KAR 009:067
281.872	907 KAR 003:066	311.599	201 KAR 009:067
281.875	907 KAR 003:066	311.621 – 311.641	501 KAR 006:400
292.310	808 KAR 010:260	311.720	922 KAR 001:495
292.330	808 KAR 010:501	311.840	922 KAR 001:495
292.331	808 KAR 010:260	313.010	201 KAR 008:533
292.337	808 KAR 010:260	313.030	201 KAR 008:533
292.410	808 KAR 010:501	313.254	201 KAR 005:533
292.411	808 KAR 010:501	314.011	201 KAR 020:056
292.412	808 KAR 010:501		201 KAR 020:057
292.500	808 KAR 010:260		201 KAR 020:065
301	201 KAR 016:550		201 KAR 020:067
302.32	921 KAR 001:420		201 KAR 020:215
302.38	921 KAR 001:420		201 KAR 020:220
302.51 – 302.54	921 KAR 001:420		201 KAR 020:320
303.72	921 KAR 001:420		902 KAR 020:036
304.1-050	806 KAR 017:290		907 KAR 015:005
	806 KAR 017:590		922 KAR 002:100
304.2-100	806 KAR 017:290		922 KAR 001:495
304.2-230	806 KAR 017:290	314.021	201 KAR 020:320
304.2-310	806 KAR 017:290	314.041	201 KAR 020:225
304.39-110	915 KAR 001:020E		201 KAR 020:320
	915 KAR 001:020		201 KAR 020:370
	915 KAR 001:080	314.042	908 KAR 002:300
304.9-020	806 KAR 009:400		201 KAR 020:057
	806 KAR 017:590		201 KAR 020:065
304.9-055	806 KAR 017:590		201 KAR 020:067
304.9-430	806 KAR 009:400		201 KAR 020:215
304.9-433	806 KAR 009:400		201 KAR 020:225
304.9-435	806 KAR 009:400		201 KAR 020:370
304.9-440	806 KAR 009:400	314.051	201 KAR 020:225
304.14-135	900 KAR 007:030		201 KAR 020:370
304.17A-005	806 KAR 017:290	314.071	201 KAR 020:225
304.17A-1631	806 KAR 017:290		201 KAR 020:370
304.17A-168	806 KAR 017:290	314.073	201 KAR 020:215

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	201 KAR 020:220		201 KAR 002:220
	201 KAR 020:225		201 KAR 002:225
314.075	201 KAR 020:225		201 KAR 002:320
314.085	201 KAR 020:067		201 KAR 002:340
	201 KAR 020:225		201 KAR 002:390
314.089	201 KAR 020:067		201 KAR 002:465
314.091	201 KAR 020:056	315.210	201 KAR 002:030
	201 KAR 020:057	315.300	201 KAR 002:205
	201 KAR 020:091	315.335	201 KAR 002:205
	201 KAR 020:225	315.350	201 KAR 002:105
	201 KAR 020:370	315.400	201 KAR 002:105
314.103	201 KAR 020:056		201 KAR 002:320
	201 KAR 020:225		201 KAR 002:390
	201 KAR 020:370	315.402	201 KAR 002:050
314.109	201 KAR 020:056		201 KAR 002:105
	201 KAR 020:225	315.404	201 KAR 002:105
314.111	201 KAR 020:320		201 KAR 002:320
	201 KAR 020:360	315.406	201 KAR 002:105
314.131	201 KAR 020:220	315.408	201 KAR 002:105
	201 KAR 020:320	315.410	201 KAR 002:105
314.161	201 KAR 020:056	315.4102	201 KAR 002:390
314.175	201 KAR 020:056	315.4104	201 KAR 002:390
314.193	201 KAR 020:057	315.4106	201 KAR 002:390
314.195	201 KAR 020:057	315.4108	201 KAR 002:390
314.400 – 314.414	201 KAR 020:620	315.4110	201 KAR 002:390
314.475	201 KAR 020:370	315.412	201 KAR 002:105
	201 KAR 020:506	319.050	908 KAR 002:300
314.991	201 KAR 020:215	319.053	907 KAR 015:005
315.010	201 KAR 002:015	319.056	907 KAR 015:005
	201 KAR 002:040		908 KAR 002:300
	201 KAR 002:105	319.064	907 KAR 015:005
	201 KAR 002:220		908 KAR 002:300
	201 KAR 002:225	319A.310	201 KAR 028:240E
	201 KAR 002:320		201 KAR 028:240
	201 KAR 002:340	319C.010	907 KAR 015:005
315.020	201 KAR 002:040		908 KAR 002:300
	201 KAR 002:076	320	809 KAR 010:001
	201 KAR 002:205	320.220	201 KAR 005:005
	201 KAR 002:225	320.250	201 KAR 005:005
	201 KAR 002:320	320.270	201 KAR 005:005
	201 KAR 002:340	321	302 KAR 022:150
315.035	201 KAR 002:050	321.175	201 KAR 016:701
	201 KAR 002:076		201 KAR 016:702
	201 KAR 002:225		201 KAR 016:750
	201 KAR 002:240	321.181	201 KAR 016:701
	201 KAR 002:340		201 KAR 016:552
	201 KAR 002:050	321.185	201 KAR 016:701
	902 KAR 020:048	321.187	201 KAR 016:701
	902 KAR 020:086	321.188	201 KAR 016:701
315.036	201 KAR 002:320	321.190	201 KAR 016:510
315.0351	201 KAR 002:050		201 KAR 016:512
	201 KAR 002:076		201 KAR 016:501
	201 KAR 002:205		201 KAR 016:051
	201 KAR 002:465		201 KAR 016:702
315.036	201 KAR 002:050		201 KAR 016:750
315.040	201 KAR 002:220	321.193	201 KAR 016:702
315.050	201 KAR 002:020		201 KAR 016:510
	201 KAR 002:030	321.200	201 KAR 016:701
	201 KAR 002:040		201 KAR 016:514
	201 KAR 002:050	321.201	201 KAR 016:510
315.060	201 KAR 002:050	321.211	201 KAR 016:510
315.065	201 KAR 002:015		201 KAR 016:510
315.110	201 KAR 002:050	321.207	201 KAR 016:514
315.120	201 KAR 002:015		201 KAR 016:550
	201 KAR 002:050		201 KAR 016:552
315.121	201 KAR 002:015		201 KAR 016:560
	201 KAR 002:105	321.208	201 KAR 016:514
	201 KAR 002:220	321.235	201 KAR 016:512
315.191	105 KAR 001:457		201 KAR 016:516
	201 KAR 002:030		201 KAR 016:552
	201 KAR 002:040		201 KAR 016:510
	201 KAR 002:050		201 KAR 016:514
	201 KAR 002:076	321.351	201 KAR 016:550
	201 KAR 002:205		201 KAR 016:552

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321.441	201 KAR 016:560 201 KAR 016:702 201 KAR 016:750 201 KAR 016:512	342.0011 342.019	803 KAR 025:089E 803 KAR 025:089 803 KAR 025:089E 803 KAR 025:089
321.442	201 KAR 016:512	342.020	803 KAR 025:089E
321.443	201 KAR 016:702 201 KAR 016:750	342.035	803 KAR 025:089 803 KAR 025:089E
323A.040	201 KAR 010:040 201 KAR 010:050	342.640	803 KAR 025:089
323A.050	201 KAR 010:040 201 KAR 010:050	344.010	902 KAR 020:500
323A.060	201 KAR 010:040 201 KAR 010:050	344.010 – 344.500 344.030	104 KAR 001:080 104 KAR 001:050 101 KAR 001:365 780 KAR 003:120
323A.070	201 KAR 010:040 201 KAR 010:050	344.040 344.050	104 KAR 001:040 104 KAR 001:040
323A.080	201 KAR 010:070	344.060	104 KAR 001:100
323A.100	201 KAR 010:050 201 KAR 010:080	344.070	104 KAR 001:040 104 KAR 001:100
323A.110	201 KAR 010:030	344.120	104 KAR 001:100
323A.210	201 KAR 010:080	344.130	104 KAR 001:100
325.240	201 KAR 001:200	344.190	104 KAR 001:010
325.261	201 KAR 001:190	344.360 – 344.385	104 KAR 001:080
325.270	201 KAR 001:190	344.500	104 KAR 001:100
327.040	201 KAR 022:053	344.600 – 344.680	104 KAR 001:080
327.070	201 KAR 022:053	344.990	104 KAR 001:050
327.300	201 KAR 022:170	363.610	302 KAR 045:020
333.030	902 KAR 020:048	363.900 – 363.908	302 KAR 016:071
334A.030	016 KAR 002:120	369.101 – 369.120	907 KAR 001:044
334A.033	016 KAR 002:120	387	915 KAR 002:010
334A.035	016 KAR 002:120	387.010	922 KAR 001:565
334A.050	016 KAR 002:120	387.025	902 KAR 045:065
334A.060	016 KAR 002:120	387.540	905 KAR 045:070
335B	201 KAR 016:560 201 KAR 036:070 201 KAR 036:072	387.540 400.203	922 KAR 001:140 922 KAR 005:070 907 KAR 001:044
335.070	201 KAR 023:055	402.050	501 KAR 006:410
335.080	201 KAR 023:160 907 KAR 015:005 908 KAR 002:300	402.080 403.270 – 403.355	501 KAR 006:410 922 KAR 001:145 922 KAR 001:565
335.090	201 KAR 023:160	405.024	922 KAR 001:565
335.100	201 KAR 023:160 907 KAR 015:005 908 KAR 002:300	405.060 405.520	921 KAR 001:410 921 KAR 001:420
335.158	201 KAR 023:170	407.5101	921 KAR 001:420
335.300	907 KAR 015:005 908 KAR 002:300	415.208 421.500	907 KAR 001:044 501 KAR 006:510
335.500	907 KAR 015:005 908 KAR 002:300 201 KAR 036:005 201 KAR 036:060 201 KAR 036:065 201 KAR 036:070	422.317 424.57 424.260 424.290	501 KAR 006:350 907 KAR 001:044 907 KAR 001:479 702 KAR 003:340 031 KAR 002:010E 031 KAR 002:010
335.500 – 335.599	201 KAR 036:030	431	907 KAR 001:044
335.505	201 KAR 036:045 201 KAR 036:060 201 KAR 036:065 201 KAR 036:072	431.17 431.52 431.213 – 431.270 431.215	907 KAR 001:044 907 KAR 001:044 501 KAR 045:310 501 KAR 002:060
335.515	201 KAR 036:072 201 KAR 036:090	434.840 – 434.860	907 KAR 001:044
335.525	201 KAR 036:060 201 KAR 036:065 201 KAR 036:070	438.305	902 KAR 045:001E 902 KAR 045:001 902 KAR 045:031E
335.527	201 KAR 036:070	439	902 KAR 045:031 902 KAR 045:031
335.535	201 KAR 036:005 201 KAR 036:072 201 KAR 036:075 201 KAR 036:535	439	902 KAR 045:190E 501 KAR 006:021 501 KAR 006:300 501 KAR 006:310
335.540	201 KAR 036:040 201 KAR 036:050	439.265	501 KAR 006:340 501 KAR 006:350 501 KAR 006:530
335.545	201 KAR 036:050 201 KAR 036:090 201 KAR 036:090	439.267 439.268 439.3101	501 KAR 006:280 505 KAR 001:420 505 KAR 001:420
335.560	201 KAR 036:100E 201 KAR 036:100		501 KAR 006:470 501 KAR 006:280
339.500-335.599	739 KAR 002:160		

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439.3105	501 KAR 006:280		922 KAR 001:565
439.3110	501 KAR 006:510	532.100	501 KAR 002:060
439.331	501 KAR 006:280		501 KAR 013:010
439.3405	501 KAR 006:400	532.200 – 532.262	501 KAR 006:510
	501 KAR 006:510	600 – 645	505 KAR 001:100
439.348	501 KAR 006:280		505 KAR 001:110
439.380	501 KAR 006:450		505 KAR 001:185
439.480	501 KAR 006:280		505 KAR 001:200
439.510	501 KAR 006:340		505 KAR 001:240
439.590	501 KAR 006:510		505 KAR 001:250
439.600	501 KAR 006:490		505 KAR 001:260
	501 KAR 006:510		505 KAR 001:270
	505 KAR 001:310		505 KAR 001:280
439.610	501 KAR 006:490		505 KAR 001:290
	501 KAR 006:510		505 KAR 001:300
440.010	501 KAR 006:510		505 KAR 001:310
440.70	907 KAR 001:479		505 KAR 001:320
440.230	907 KAR 001:479		505 KAR 001:330
440.450	501 KAR 006:450		505 KAR 001:340
441.005	501 KAR 003:010		505 KAR 001:350
	501 KAR 013:010		505 KAR 001:360
441.045	501 KAR 002:060		505 KAR 001:370
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CERTIFICATION LETTER SUMMARIES

The certification process is established in KRS 13A.3104. If the certification letter states the regulation shall be amended, the administrative body shall file an amendment to the regulation within 18 months of the date the certification letter was filed. If the certification letter states that the regulation shall remain in effect without amendment, the last effective date of the regulation is changed to the date the regulations compiler received the letter.

* KRS 13A.010(6) - "Effective" or "eff." means that an administrative regulation has completed the legislative review process established by KRS 13A.290, 13A.330, and 13A.331.

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013 KAR 002:110	05-16-2024	Remain in Effect without Amendment
016 KAR 004:040	05-03-2024	Remain in Effect without Amendment
016 KAR 004:080	05-03-2024	To be amended, filing deadline 11-03-2025
016 KAR 004:090	05-05-2017	To be amended, filing deadline 11-03-2025
106 KAR 001:131	12-01-2023	Shall be Amended; Filing deadline 06-01-2025
201 KAR 002:045	11-6-2023	To be amended, filing deadline 05-06-2025
201 KAR 023:055	09-06-2023	To be amended, Am filed 6-28-2023
201 KAR 023:070	04-05-2024	To be amended, Filing deadline 10-5-2025
201 KAR 039:001	03-07-2024	Shall be Amended; Filing deadline 9-7-2025
201 KAR 039:030	03-07-2024	Shall be Amended; Filing deadline 9-7-2025
201 KAR 039:050	03-07-2024	Shall be Amended; Filing deadline 9-7-2025
201 KAR 039:070	03-07-2024	Shall be Amended, Filing deadline 9-7-2025
201 KAR 045:100	05-10-2024	Remain in Effect without Amendment
201 KAR 045:110	05-10-2024	To be amended, filing deadline 11-10-2025
201 KAR 045:120	05-10-2024	To be amended, filing deadline 11-10-2025
201 KAR 045:170	05-10-2024	To be amended, filing deadline 11-10-2025
301 KAR 002:122	07-14-2023	To be amended, filing deadline 1-4-2025
301 KAR 003:015	03-20-2024	To be amended, filing deadline 9-2-2025
301 KAR 005:040	08-03-2023	To be amended, filing deadline 2-3-2025
705 KAR 004:231	10-11-2023	To be amended, Am filed 10-11-2023
750 KAR 001:030	04-29-2024	Remain in Effect without Amendment
907 KAR 017:040	04-17-2024	Remain in Effect without Amendment
908 KAR 003:060	04-17-2024	Remain in Effect without Amendment
921 KAR 001:410	10-11-2023	To be amended, Am filed 10-9-2023
921 KAR 001:420	10-11-2023	To be amended, Am 8-14-2023
921 KA R001:430	04-17-2024	Remain in Effect without Amendment
922 KA R005:120	03-11-2024	To be amended, Am filed 12-8-2023
922 KAR 002:020	06-19-2023	To be amended, filing deadline 12-19-2024

TECHNICAL AMENDMENT INDEX

The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments made during the 49th year of the *Administrative Register of Kentucky*. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10), 13A.2255(2), 13A.312(2), or 13A.320(1)(d). Since these changes were not substantive in nature, administrative regulations appearing in this index will NOT be published to show the technical corrections in the *Register*. NOTE: Technical amendments may be available online for a short period of time before finalized versions of the technically amended regulations are available. To view regulations on the Legislative Research Commission Web site go to <https://apps.legislature.ky.gov/law/kar/titles.htm>.

‡ - A technical change was made to this administrative regulation during the promulgation process, pursuant to KRS 13A.320(1)(e).
 † - A nonsubstantive change was made by the Compiler pursuant to KRS 13A.040(9).

Regulation Number	Date Corrected	Regulation Number	Date Corrected
201 KAR 020:360	11-21-2023		
201 KAR 020:390	11-21-2023		
201 KAR 020:411	11-21-2023		
201 KAR 020:472	11-21-2023		
201 KAR 020:476	11-21-2023		
201 KAR 020:490	11-21-2023		
201 KAR 020:506	11-21-2023		
201 KAR 020:600	11-21-2023		
201 KAR 020:620	11-21-2023		
201 KAR 020:660	11-21-2023		
201 KAR 020:670	11-21-2023		
703 KAR 005:240	07-20-2023		
705 KAR 004:041	08-23-2023		
806 KAR 009:025	08-11-2023		
806 KAR 012:140	06-20-2023		
900 KAR 006:125	08-29-2023		
922 KAR 002:280	03-11-2024		

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