



ADMINISTRATIVE REGISTER OF KENTUCKY

The submission deadline for this edition of the *Administrative Register of Kentucky* was noon, March 15, 2025

MEETING NOTICES

The **Administrative Regulation Review Subcommittee** is tentatively scheduled to meet on April 8, 2025, at 1:00 p.m. in room 149 Capitol Annex. **ARRS Tentative Agenda – 1747** [Online agenda updated as needed](#)

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Title 806	KAR	Chapter 050:	Regulation 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regulations that may be added for informational review or removed to complete the public comment process or deferred or withdrawn by promulgating agencies.



Administrative Regulation Review Subcommittee
TENTATIVE Meeting Agenda
Tuesday, April 8, 2025 at 1:00 p.m.
Annex Room 149



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

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Board of Optometric Examiners
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Board of Nursing
[201 KAR 020:215](#). Continuing competency requirements.

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Board of Emergency Medical Services
[202 KAR 007:410](#). Advanced Practice Paramedics.

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Fish
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Crime Victims Claims
[802 KAR 3:010](#). Crime victims compensation.
[802 KAR 3:020](#). Payment schedule for sexual assault examinations.
[802 KAR 3:030](#). Crime victims compensation awards.
[802 KAR 3:040](#). Additional award requests.
[802 KAR 3:050](#). Emergency awards.
[802 KAR 3:060](#). Crime victim compensation offender debt collections.

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Department of Alcoholic Beverage Control

Licensing

- [804 KAR 004:212](#). In-State Distilled Spirits Supplier License.
- [804 KAR 004:251](#). Special temporary license.
- [804 KAR 004:400](#). Applications incorporated by reference.
- [804 KAR 004:410](#). Product registration and forms.
- [804 KAR 004:415](#). Direct shipper license.

Department of Insurance

Agents, Consultants, Solicitors and Adjusters

- [806 KAR 009:360](#). Pharmacy Benefit Manager License. (Deferred from February)

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Medicaid Services

- [907 KAR 001:039](#). Hearing program reimbursement provisions and requirements.
- [907 KAR 001:595](#). Model Waiver II service coverage and reimbursement policies and requirements. (Filed with Emergency; "E" expires 09-19-2025)
- [907 KAR 001:835E](#). Michelle P. waiver services and reimbursement. (Filed with Ordinary) ("E" expires 09-19-2025) (Not Amended After Comments)
- [907 KAR 001:835](#). Michelle P. waiver services and reimbursement. (Filed with Emergency; "E" expires 09-19-2025)

Payment and Services

- [907 KAR 003:100](#). Reimbursement for acquired brain injury waiver services. (Filed with Emergency; "E" expires 09-19-2025)
- [907 KAR 003:210E](#). Acquired brain injury long-term care waiver services and reimbursement. (Filed with Ordinary) ("E" expires 09-19-2025) (Not Amended After Comments)
- [907 KAR 003:210](#). Acquired brain injury long-term care waiver services and reimbursement. (Filed with Emergency; "E" expires 09-19-2025)

Certified Provider Requirements

- [907 KAR 007:015](#). Reimbursement for home and community based waiver services version 2. (Filed with Emergency; "E" expires 09-19-2025)

Supports for Community Living Waiver

- [907 KAR 012:020](#). Reimbursement for New Supports for Community Living Waiver Services. (Filed with Emergency; "E" expires 09-19-2025)

Medicaid Eligibility

- [907 KAR 020:005](#). Medicaid technical eligibility requirements not related to a modified gross income standard or former foster care individuals. (Filed with Emergency; "E" expires 09-19-2025)

Department of Community Based Services

Child Welfare

- [922 KAR 001:360E](#). Private child care placement, levels of care, and payment. (Filed with Ordinary) ("E" Expires 10-19-2025)

4. REGULATIONS REMOVED FROM FULL REVIEW

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Board of Medical Licensure

- [201 KAR 9:270](#). Professional standards for prescribing, dispensing, or administering Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone. (Withdrawn by Agency; 3-20-2025)

ENERGY AND ENVIRONMENT CABINET

Department for Natural Resources

Bond and Insurance Requirements

- [405 KAR 010:001](#). Definitions. (Amended After Comments) (Deferred from January) (Impacted by 2025 Legislation)
- [405 KAR 010:015](#). General bonding provisions. (Not Amended After Comments) (Deferred from January) (Impacted by 2025 Legislation)

PUBLIC PROTECTION CABINET

Department of Financial Institutions

Credit Unions

- [808 KAR 003:050](#). Conduct of credit unions. (Amended After Comments) (Deferred from November) (Impacted by 2025 Legislation)

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Behavioral Health, Developmental and Intellectual Disabilities

Substance Abuse

- [908 KAR 001:410](#). Recovery housing. (Comments Received, SOC ext. due 04-15-2025)

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
807 KAR 5:015E.

This emergency amendment is being promulgated to meet an imminent deadline of the expiration of a current emergency version of 807 KAR 5:015. The Public Service Commission originally filed emergency amendments to 807 KAR 5:015 to comply with the requirements established by the General Assembly during the 2024 Regular Session in Senate Joint Resolution 175. The Resolution states that access to broadband internet service in rural areas of the Commonwealth places unserved and underserved citizens at a disadvantage, and recounts that funds from the Broadband Equity, Access, and Deployment (BEAD) Program and the Rural Digital Opportunity Fund (RDOF) will be used to assist in deploying broadband internet service to unserved and underserved areas. The Resolution stated that the deployment of broadband internet access will require attaching to utility poles. The Resolution directed the Commission to promulgate emergency regulations on pole attachments not later than sixty (60) days after the effective date of the Joint Resolution, and that the "new or amended emergency regulations are tailored to advance the buildout of broadband service to unserved or underserved areas." The Commission timely promulgated an emergency amendment to 807 KAR 5:015, which expires on February 25, 2025. The emergency amendment was not replaced with an ordinary regulation as the Commission planned to take further information on the efficacy of the emergency amendment and make changes as required. This emergency amendment regulation replaces the previous emergency regulation and ensures that the Commission continues its compliance with Senate Joint Resolution 175. This emergency amendment incorporates several of the amendments made by the previous emergency regulation that, among other things: set different timelines, depending upon the number of poles in an application, for surveys and make-ready work on poles; halve the time in which the Commission must act on a complaint regarding pole attachments; establish a complaint process to resolve issues relating to contract negotiations; require invoices and payment contain specific information so that the project for which the invoice and payment are issue can be quickly identified; and require a pole owner and a new attacher provide contact information for personnel essential for the processing and execution of pole attachments. This emergency amendment differs from the previous emergency regulation by: removing a certification requirement that new pole attachers must include in their applications; establishing a timeline within which a pole owner must process an application that have previously been rejected as deficient; allowing a pole owner to waive its right to conduct a pole survey thus allowing a new attacher to engage in self-help remedies established in the regulation; clarifying that a pole owner must be paid all owed amounts before beginning make-ready work; and requiring a pole owner to notify a new attacher as soon as possible after it determines it will not be able to meet applicable survey deadlines. This emergency amendment will be replaced with an ordinary amendment because the deployment of broadband to unserved and underserved areas will occur over several years and the amendments will need to remain in place to ensure the continued expedited deployment of broadband. The companion ordinary amendment is identical to this emergency amendment.

ANGIE C. HATTON, Chair
ANDY BESHEAR, Governor

ENERGY AND ENVIRONMENT CABINET
Public Service Commission
(Emergency Amendment)

807 KAR 5:015E. Access and attachments to utility poles and facilities.

EFFECTIVE: February 25, 2025

RELATES TO: KRS Chapter 278, 47 U.S.C. 224(c)
STATUTORY AUTHORITY: KRS 278.030(1), 278.040(2), 278.5464
NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3) authorizes the commission to promulgate administrative regulations to implement the provisions of KRS Chapter 278. KRS 278.040(2) requires the commission to have exclusive jurisdiction over the regulation of rates and service of utilities. KRS 278.030(1) authorizes utilities to demand, collect, and receive fair, just, and reasonable rates. KRS 278.030(2) requires every utility to furnish adequate, efficient, and reasonable service. KRS 278.5464 requires the commission to promulgate administrative regulations regarding pole attachments under its jurisdiction, including those necessary for the provision of broadband. 47 U.S.C.A. 224(c) requires that state regulation of pole attachments shall only preempt federal regulation of poles under federal jurisdiction if the state regulates the rates, terms, and conditions of access to those poles, has the authority to consider and does consider the interest of the customers of attachers and the pole owning utilities, has effective rules and administrative regulations governing attachments, and addresses complaints regarding pole attachments within 180[360] days. This administrative regulation establishes the process by which the commission regulates the rates, terms, and conditions of utility pole attachments and access to other utility facilities, establishes specific criteria and procedures for obtaining access to utility poles within the commission's jurisdiction, and establishes a process by which the complaints of those seeking to access utility facilities shall be addressed within the period established by federal law. The amendments establish an expedited complaint process to address issues pertaining to contract negotiations and amend other parts of the regulation to expedite the processing of applications for pole attachments. 2024 KY S.J.R. 175, 2024 Regular Session requires the commission to promulgate emergency regulations addressing issues pertaining to broadband attachments to utility poles.

Section 1. Definitions.

(1) "Attachment" means any attachment by a cable television system operator, telecommunications carrier, broadband internet provider, or governmental unit to a pole owned or controlled by a utility.

(2) "Broadband internet provider":

(a) Means a person who owns, controls, operates, or manages any facility used or to be used to offer internet service to the public with download speeds of at least twenty-five (25) megabits per second and upload speeds of at least three (3) megabits per second; and

(b) Does not mean a utility with an applicable joint use agreement with the utility that owns or controls the poles to which it is seeking to attach.

(3) "Communications space" means the lower usable space on a utility pole, which is typically reserved for low-voltage communications equipment.

(4) "Complex make-ready" means any make-ready that is not simple make-ready, such as the replacement of a utility pole; splicing of any communication attachment or relocation of existing wireless attachments, even within the communications space; and any transfers or work relating to the attachment of wireless facilities.

(5) "Existing attacher" means any person or entity with equipment fully on a utility pole.

(6) "Governmental unit" means an agency or department of the federal government; a department, agency, or other unit of the Commonwealth of Kentucky; or a county or city, special district, or other political subdivision of the Commonwealth of Kentucky.

(7) "Macro cell facility" means a wireless communications system site that is typically high-power and high-sited, and capable of covering a large physical area, as distinguished from a distributed antenna system, small cell, or WiFi attachment, for example.

(8) "Make-ready" means the modification or replacement of a utility pole, or of the lines or equipment on the utility pole, to accommodate additional facilities on the utility pole.

(9) "New attacher" means a cable television system operator, telecommunications carrier, broadband internet provider, or governmental unit requesting to attach new or upgraded facilities to a pole owned or controlled by a utility, except that a new attacher does not include a utility with an applicable joint use agreement with the utility that owns or controls the pole to which it is seeking to attach or a person seeking to attach macro cell facilities.

(10) "Red tagged pole" means a pole that a utility that owns or controls the pole that:

(a) Is designated for replacement based on the pole's non-compliance with an applicable safety standard;

(b) Is designated for replacement within two (2) years of the date of its actual replacement for any reason unrelated to a new attacher's request for attachment; or

(c) Would have needed to be replaced at the time of replacement even if the new attachment were not made.

(11) "Telecommunications carrier":

(a) Means a person who owns, controls, operates, or manages any facility used or to be used for or in connection with the transmission or conveyance over wire, in air, or otherwise, any message by telephone or telegraph for the public, for compensation; and

(b) Does not mean a utility with an applicable joint use agreement with the utility that owns or controls the poles to which it is seeking to attach.

(12) "Simple make-ready" means make-ready in which existing attachments in the communications space of a pole could be rearranged without any reasonable expectation of a service outage or facility damage and does not require splicing of any existing communication attachment or relocation of an existing wireless attachment.

Section 2. Duty to Provide Access to Utility Poles and Facilities.

(1) Except as established in paragraphs (a) through (c) of this subsection, a utility shall provide any cable television system operator, telecommunications carrier, broadband internet provider, or governmental unit nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.

(a) A utility may deny access to any pole, duct, conduit, or right-of-way on a non-discriminatory basis if there is insufficient capacity or for reasons of safety, reliability, or generally applicable engineering purposes.

(b) A utility shall not be required to provide access to any pole that is used primarily to support outdoor lighting.

(c) A utility shall not be required to secure any right-of-way, easement, license, franchise, or permit required for the construction or maintenance of attachments or facilities from a third party for or on behalf of a person or entity requesting access pursuant to this administrative regulation to any pole, duct, conduit, or right-of-way owned or controlled by the utility.

(2) A request for access to a utility's poles, ducts, conduits or rights-of-way shall be submitted to a utility in writing, either on paper or electronically, as established by a utility's tariff or a special contract between the utility and person requesting access.

(3) If a utility provides access to its poles, ducts, conduits, or rights-of-way pursuant to an agreement that establishes rates, terms, or conditions for access not contained in its tariff:

(a) The rates, terms, and conditions of the agreement shall be in writing; and

(b) The utility shall file the written agreement with the commission pursuant to 807 KAR 5:011, Section 13.

Section 3. Pole Attachment Tariff Required.

(1) A utility that owns or controls utility poles located in Kentucky shall maintain on file with the commission a tariff that includes rates, terms, and conditions governing pole attachments in Kentucky that are consistent with the requirements of this administrative regulation and KRS Chapter 278.

(2) The tariff may incorporate a standard contract or license for attachments if its terms and conditions are consistent with the

requirements of this administrative regulation and KRS Chapter 278.

(3) Standard contracts or licenses for attachments permitted by subsection (2) of this section shall prominently indicate that the contracts or licenses are based wholly on the utility's tariff and that the tariff shall control if there is a difference.

(4) The tariff may include terms, subject to approval by the commission, that are fair, just, and reasonable and consistent with the requirements of this administrative regulation and KRS Chapter 278, such as certain limitations on liability, indemnification and insurance requirements, and restrictions on access to utility poles for reasons of lack of capacity, safety, reliability, or generally applicable engineering standards.

(5)

(a) The tariff shall include the URL for a utility-maintained website.

(b) The website shall include:

1. A form that a new attacher shall submit to the utility that shall require a new attacher to:

a. Designate appropriate personnel responsible for overseeing all attachments with the utility; and

b. Identify appropriate personnel associated with each application, who shall be responsible for coordinating with the utility and ensuring that attachment-related issues are addressed in a timely manner;

2. Pole attachment information including the identity and contact information for contractors approved to conduct surveys and make-ready self-help;

3. Construction standards for attachments; and

4. The identity and contact information for:

a. The primary utility personnel responsible for invoicing, payment, make-ready work, and escalation of disputes; and

b. The alternate utility personnel responsible for invoicing, payment, make-ready work, and escalation of disputes if the primary personnel are unavailable.

(6) Overlapping.

(a) A utility shall not require prior approval for:

1. An existing attacher that overlashes its existing wires on a pole; or

2. A third party overlapping of an existing attachment that is conducted with the permission of an existing attacher.

(b)

1. A utility shall not prevent an attacher from overlapping because another existing attacher has not fixed a preexisting violation.

2. A utility shall not require an existing attacher that overlashes its existing wires on a pole to fix preexisting violations caused by another existing attacher, unless failing to fix the preexisting violation would create a capacity, safety, reliability, or engineering issue.

(c)

1. A utility shall not require more than thirty (30) days' advance notice of planned overlapping.

2. If a utility requires advance notice for overlapping, then the utility shall include the notice requirement in its tariff or include the notice requirement in the attachment agreement with the existing attacher.

3. If, after receiving advance notice, the utility determines that an overlap would create a capacity, safety, reliability, or engineering issue, it shall provide specific documentation of the issue to the party seeking to overlap within the thirty (30) day advance notice period and the party seeking to overlap shall address any identified issues before continuing with the overlap either by modifying its proposal or by explaining why, in the party's view, a modification is unnecessary.

(d)

1. A party that engages in overlapping shall be responsible for its own equipment and shall ensure that it complies with reasonable safety, reliability, and engineering practices.

2. If damage to a pole or other existing attachment results from overlapping or overlapping work causes safety or engineering standard violations, then the overlapping party shall be responsible at its expense for any necessary repairs.

(e) An overlapping party shall notify the affected utility within fifteen (15) days of completion of the overlap on a particular pole.

1. The notice shall provide the affected utility at least ninety (90) days from receipt in which to inspect the overlash.

2. The utility shall have fourteen (14) days after completion of its inspection to notify the overlash party of any damage or code violations to its equipment caused by the overlash.

3. If the utility discovers damage or code violations caused by the overlash on equipment belonging to the utility, then the utility shall inform the overlash party and provide adequate documentation of the damage or code violations.

4. The utility shall either:

a. Complete any necessary remedial work and bill the overlash party for the reasonable costs related to fixing the damage or code violations; or

b. Require the overlash party to fix the damage or code violations at its expense within fourteen (14) days following notice from the utility.

(7)(6) Signed standard contracts or licenses for attachments allowed by subsection (2) of this section shall be submitted to the commission but shall not be filed pursuant to 807 KAR 5:011, Section 13.

(8)(7) Tariffs conforming to the requirements of this administrative regulation and with a proposed effective date no later than May 28[March 31], 2025[2022], shall be filed by April 28[February 28], 2025[2022].

Section 4. Procedure for New Attachers to Request Utility Pole Attachments.

(1) All time limits established in this section shall be calculated according to 807 KAR 5:001, Section 4(7).

(2) Application review and survey.

(a) Application completeness.

1. A new attacher shall, prior to submitting a pole attachment application to a utility:

a. Review the application for completeness; and

b. Submit the information required by Section 3(5).

2. A utility shall review a new attacher's pole attachment application for completeness before reviewing the application on its merits and shall notify the new attacher within the time established in subparagraph 8. of this paragraph[ten (10) business days] after receipt of the new attacher's pole attachment application if the application is incomplete.

3.2. A new attacher's pole attachment application shall be considered complete if the application provides the utility with the information necessary under its procedures, as established in the utility's applicable tariff or a special contract regarding pole attachments between the utility and the new attacher, to begin to survey the affected poles.

4.3. If the utility notifies a new attacher that its attachment application is not complete, then the utility shall state all reasons for finding it incomplete.

5.4. A utility shall not require a new attacher to submit a survey or pole loading analysis as a filing requirement for an application.

6. A new attacher may submit a survey with an application of 500 poles or less, which the utility shall accept if the new attacher used an approved contractor listed on the utility's website and the survey was conducted no longer than thirty (30) days prior to submission. A utility shall conduct the survey for applications exceeding 500 poles.

7. If a utility rejects an application, the rejection shall state the reason for the denial and shall include specific citations to this regulation and the utility's tariff that form the basis of the rejection.

8. A utility shall complete a review of an application of 500 poles or less within ten (10) business days after receipt of the application. A utility shall have an additional one (1) business day to complete its review for each additional 500-pole increment in an application.

9. A new attacher, if it submits an application while a previous application is still under review, may prioritize the order in which a utility shall review the applications. Prioritizing a new application resets the respective review time period of the new attacher's deprioritized applications currently under review and over which the new application is being prioritized.

10. Any resubmitted application need only address the utility's reasons for finding the original application incomplete and shall be

deemed complete within ten (10) business days after its resubmission, unless the utility specifies which reasons were not addressed and how the resubmitted application did not sufficiently address the reasons. The new attacher may follow the resubmission procedure as many times as it chooses so long as in each case it makes a bona fide attempt to correct the reasons identified by the utility, and in each case the deadline set forth in this paragraph shall apply to the utility's review:

11. If the utility does not respond within the time prescribed in subparagraph 8. of this paragraph[ten (10) business days] after receipt of the application, or if the utility rejects the application as incomplete but fails to state any reasons in the utility's response, then the application shall be deemed complete and the time for the utility's next procedural step begins to run.

(b) Survey and application review on the merits.

1. A utility shall complete a survey of poles for which access has been requested within forty-five (45) days of receipt of a complete application to attach facilities to its utility poles (or within 120[sixty (60)] days in the case of larger orders as established in subsection (8)(7) of this section) for the purpose of determining if the attachments may be made and identifying any make-ready to be completed to allow for the attachment.

2. Participation of attachers in surveys conducted by a utility.

a. A utility shall allow the new attacher and any existing attachers on the affected poles to be present for any field inspection conducted as part of a utility's survey conducted pursuant paragraph (b)1. Of this subsection.

b. A utility shall use commercially reasonable efforts to provide the affected attachers with advance notice of not less than five (5) business days of any field inspection as part of the survey and shall provide the date, time, and location of the inspection, and name of the contractor, if any, performing the inspection.

3. If a new attacher has conducted a survey pursuant to subsection (10)(b) of this section, or a new attacher has otherwise conducted and provided a survey, after giving existing attachers notice and an opportunity to participate in a manner consistent with subsection (10)(b), a utility may elect to satisfy survey obligations established in this paragraph by notifying affected attachers of the intent to use the survey conducted by the new attacher and by providing a copy of the survey to the affected attachers within the time period established in subparagraph 1. of this paragraph.

4. Based on the results of the applicable survey and other relevant information, a utility shall respond to the new attacher either by granting access or denying access within forty-five (45) days of receipt of a complete application to attach facilities to its utility poles (or within 120[sixty (60)] days in the case of larger orders as described in subsection (8)(7) of this section).

5. A utility's denial of a new attacher's pole attachment application shall be specific, shall include all relevant evidence and information supporting the denial, and shall explain how the evidence and information relate to a denial of access for reasons of lack of capacity, safety, reliability, or engineering standards.

6. Payment of survey costs and estimates.

a. A utility's tariff may require prepayment of the costs of surveys made to review a pole attachment application, or some other reasonable security or assurance of credit worthiness before a utility shall be obligated to conduct surveys pursuant to this section.

b. If a utility's tariff requires prepayment of survey costs, the utility shall include a per pole estimate of costs in the utility's tariff and the payment of estimated costs shall satisfy any requirement that survey costs be prepaid.

c. The new attacher shall be responsible for the costs of surveys made to review the new attacher's pole attachment application even if the new attacher decides not to go forward with the attachments.

(3) Payment of make-ready estimates.

(a) Within fourteen (14) days of providing a response granting access pursuant to subsection (2)(b)4. Of this section, a utility shall send a new attacher whose application for access has been granted a detailed, itemized estimate in writing, on a pole-by-pole basis if requested and reasonably calculable, and consistent with subsection (6)(b) of this section, of charges to perform all necessary make-ready.

(b) A utility shall provide documentation that is sufficient to

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determine the basis of all estimated charges, including any projected material, labor, and other related costs that form the basis of the estimate.

(c) A utility may withdraw an outstanding estimate of charges to perform make-ready beginning fourteen (14) days after the estimate is presented.

(d) A new attacher may accept a valid estimate and make payment any time after receipt of an estimate, except a new attacher shall not accept the estimate after the estimate is withdrawn.

(e) Invoices for estimates shall clearly identify the application or project for which payment is requested.

(f) Payment for the estimate shall clearly identify the application(s) or project(s) for which payment is made.

(4) Make-ready. Upon receipt of payment for survey costs owed to-date pursuant to the utility's tariff and the make-ready estimate specified in subsection (3)(d) of this section, a utility shall, as soon as practical but in no case more than seven (7) days, notify all known entities with existing attachments in writing that could be affected by the make-ready.

(a) For make-ready in the communications space, the notice shall:

1. State where and what make-ready will be performed;

2. State a date for completion of make-ready in the communications space that is no later than ~~forty-five (45)~~~~[thirty (30)]~~ days after notification is sent (or up to ~~120~~~~[seventy-five (75)]~~ days in the case of larger orders as established in subsection ~~(8)~~~~[(7)]~~ of this section);

3. State that any entity with an existing attachment may modify the attachment. Modification shall be consistent with the specified make-ready before the date established for completion;

4. State that, if make-ready is not completed by the completion date established by the utility in subparagraph 2. of this paragraph, the new attacher may complete the make-ready, which shall be completed as specified pursuant to subparagraph 1. of this paragraph; and

5. State the name, telephone number, and email address of a person to contact for more information about the make-ready procedure.

(b) For make-ready above the communications space, the notice shall:

1. State where and what make-ready will be performed;

2. State a date for completion of make-ready that is no later than ninety (90) days after notification is sent (or ~~165~~~~[135]~~ days in the case of larger orders, as established in subsection ~~(8)~~~~[(7)]~~ of this section).

3. State that any entity with an existing attachment may modify the attachment. Modification shall be consistent with the specified make-ready before the date established for completion;

4. State that the utility may assert the utility's right to up to fifteen (15) additional days to complete make-ready;

5. State that if make-ready is not completed by the completion date established by the utility in subparagraph 2. of this paragraph (or, if the utility has asserted its fifteen (15) day right of control, fifteen (15) days later), the new attacher may complete the make-ready, which shall be completed as specified pursuant to subparagraph 1. of this paragraph; and

6. State the name, telephone number, and email address of a person to contact for more information about the make-ready procedure.

(c) Once a utility provides the notices required by this subsection, the utility shall provide the new attacher with a copy of the notices and the existing attachers' contact information and address where the utility sent the notices. The new attacher shall be responsible for coordinating with existing attachers to encourage completion of make-ready by the dates established by the utility pursuant to paragraph (a)2. of this subsection for communications space attachments or paragraph (b)2. of this subsection for attachments above the communications space.

(5) A utility shall complete its make-ready in the communications space by the same dates established for existing attachers in subsection (4)(a)2. of this section or its make-ready above the communications space by the same dates for existing attachers in subsection (4)(b)2. of this section (or if the utility has asserted its

fifteen (15) day right of control, fifteen (15) days later).

(6) An attacher shall, within fifteen (15) business days following completion of all attachments within an application, provide written notice to a utility in the manner and form stated in the utility's tariff.

(7) Final invoice.

(a) Within a reasonable period, not to exceed 120 days after a utility completes the utility's make-ready, the utility shall provide the new attacher:

1. A detailed, itemized final invoice of the actual survey charges incurred if the final survey costs for an application differ from the amount[any estimate] previously paid[for the survey work or if no estimate was previously paid]; and

2. A detailed, itemized final invoice, on a pole-by-pole basis if requested and reasonably calculable, of the actual make ready costs to accommodate attachments if the final make-ready costs differ from the estimate provided pursuant to subsection (3)(d) of this section.

(b) Limitations on make ready costs.

1. A utility shall not charge a new attacher, as part of any invoice for make-ready, to bring poles, attachments, or third-party or utility equipment into compliance with current published safety, reliability, and pole owner construction standards if the poles, attachments, or third-party or utility equipment were out of compliance because of work performed by a party other than the new attacher prior to the new attachment.

2. A utility shall not charge a new attacher, as part of any invoice for make ready, the cost to replace any red tagged pole with a replacement pole of the same type and height.

3. If a red tagged pole is replaced with a pole of a different type or height, then the new attacher shall be responsible, as part of any invoice for make ready, only for the difference, if any, between the cost for the replacement pole and the cost for a new utility pole of the type and height that the utility would have installed in the same location in the absence of the new attachment.

4. The make ready cost, if any, for a pole that is not a red tagged pole to be replaced with a new utility pole to accommodate the new attacher's attachment shall be charged in accordance with the utility's tariff or a special contract regarding pole attachments between the utility and the new attacher.

~~(8)~~[(7)] For the purposes of compliance with the time periods in this section:

(a) A utility shall apply the timeline as established in subsections (2) through (4) of this section to all requests for attachment up to the lesser of ~~500~~~~[300]~~ poles or zero and ~~.75~~~~[five-tenths (0.5)]~~ percent of the utility's poles in the state;

(b) A utility may, for every 500-pole increment, add up to fifteen (15) days to the survey period established in subsection (4) of this section to larger orders up to the lesser of ~~3,000~~~~[1,000]~~ poles or three (3)~~[4-50]~~ percent of the utility's poles in Kentucky;

(c) A utility may, for every 500-pole increment, add up to fifteen (15)~~[forty-five (45)]~~ days to the make-ready periods established in subsection (4) of this section to larger orders up to the lesser of ~~3,000~~~~[1,000]~~ poles or three (3)~~[4-50]~~ percent of the utility's poles in Kentucky;

(d) A utility and a new attacher, unless the utility owns or controls fewer than 500 poles, shall negotiate a special contract in good faith ~~[the timing of]~~ all requests for attachment larger than the lesser of ~~3,000~~~~[1,000]~~ poles or three (3)~~[4-50]~~ percent of the utility's poles in Kentucky. The special contract, at a minimum, shall contain:

1. An agreement for a prepaid account from the new attacher to cover the cost of the request;

2. Direction from the new attacher regarding make ready work that the utility may complete without further direction from the new attacher including:

a. The maximum cost per pole; and

b. The total cost for make ready work for each project or line of each project;

3. The new attacher's prioritization of projects if the new attacher has submitted multiple requests for attachment;

4. Contact information, including phone numbers and email addresses, for all necessary utility and new attacher personnel;

5. The cadence, location, and necessary personnel for each project; and

6. The timing of surveys and make ready.

(e) If a special contract identified in paragraph (d) of this subsection cannot be agreed to within fifteen (15) business days from submission of a formal written request to engage from the attacher, the new attacher may file a complaint with the commission, with a copy served contemporaneously to the utility, on which the commission shall rule within twenty (20) business days of filing of the complaint.

(f)(e) For the calculation of any deadlines in this regulation a[A] utility may treat multiple applications[requests] from a single new attacher as one (1) application[request] if the applications[requests] are submitted within thirty (30) days of one another; and

(g)(f) As soon as reasonably practicable, but no less than ninety (90)[sixty (60)] days before the new attacher expects to submit an application in which the number of requests exceed the lesser of the amounts identified in paragraph (a) of this subsection, a new attacher shall provide written notice to a utility in the manner and form stated in the utility's tariff that the new attacher expects to submit a [high-volume] request.

(h) As soon as reasonably practicable a utility shall provide written notice to an attacher if the utility determines it will be unable to meet survey or other make-ready deadlines. Such notice shall entitle an attacher immediately to proceed with self-help remedies in accordance with Section 4(10).

(9)(8) Deviations from make-ready timeline.

(a) A utility may deviate from the time limits specified in this section before offering an estimate of charges if the new attacher failed to satisfy a condition in the utility's tariff or in a special contract between the utility and the new attacher.

(b) A utility may deviate from the time limits established in this section during performance of make-ready for good and sufficient cause that renders it infeasible for the utility to complete make-ready within the time limits established in this section. A utility that so deviates shall immediately notify, in writing, the new attacher and affected existing attachers and shall identify the affected poles and include a detailed explanation of the reason for the deviation and a new completion date. The utility shall deviate from the time limits established in this section for a period no longer than necessary to complete make-ready on the affected poles and shall resume make-ready without discrimination once the utility returns to routine operations.

(c) An existing attacher may deviate from the time limits established in this section during performance of complex make-ready for reasons of safety or service interruption that renders it infeasible for the existing attacher to complete complex make-ready within the time limits established in this section. An existing attacher that so deviates shall immediately notify, in writing, the new attacher and other affected existing attachers and shall identify the affected poles and include a detailed explanation of the basis for the deviation and a new completion date, which shall not extend beyond sixty (60) days from the completion date provided in the notice specified in subsection (4) of this section as sent by the utility (or up to 105 days in the case of larger orders specified in subsection (8)(6)(b) and (c) of this section). The existing attacher shall not deviate from the time limits established in this section for a period for longer than necessary to complete make-ready on the affected poles.

(10)(9) Self-help remedy.

(a) Surveys. If a utility fails to complete a survey as established in subsection (2)(b) of this section, or if a utility waives its right to perform the survey in writing, then a new attacher may conduct the survey in place of the utility by hiring a contractor to complete a survey, which shall be completed as specified in Section 5 of this administrative regulation.

1. A new attacher shall allow the affected utility and existing attachers to be present for any field inspection conducted as part of the new attacher's survey.

2. A new attacher shall use commercially reasonable efforts to provide the affected utility and existing attachers with advance notice of not less than five (5) business days of a field inspection as part of any survey the attacher conducts.

3. The notice shall include the date and time of the survey, a description of the work involved, and the name of the contractor

being used by the new attacher.

(b) Make-ready. If make-ready is not complete by the applicable date established in subsection (4) of this section, then a new attacher may conduct the make-ready in place of the utility and existing attachers by hiring a contractor to complete the make-ready, which shall be completed as specified in Section 5 of this administrative regulation. The make-ready shall be performed in compliance with this administrative regulation, the utility's tariff, and the construction standards listed on the utility's website. Make-ready work performed by the new attacher within the electric space shall be conducted by an approved contractor listed on the utility's website.

1. A new attacher shall allow the affected utility and existing attachers to be present for any make-ready.

2. A new attacher shall use commercially reasonable efforts to provide the affected utility and existing attachers with advance notice of not less than seven (7) days of the impending make-ready.

3. The notice shall include the date and time of the make-ready, a description of the work involved, and the name of the contractor being used by the new attacher.

(c) The new attacher shall notify an affected utility or existing attacher immediately if make-ready damages the equipment of a utility or an existing attacher or causes an outage that is reasonably likely to interrupt the service of a utility or existing attacher.

(d) Pole replacements. Self-help shall not be available for pole replacements.

(11)(10) One-touch make-ready option. For attachments involving simple make-ready, new attachers may elect to proceed with the process established in this subsection in lieu of the attachment process established in subsections (2) through (6) and (9) of this section.

(a) Attachment application.

1. A new attacher electing the one-touch make-ready process shall elect the one-touch make-ready process in writing in its attachment application and shall identify the simple make-ready that it will perform. It is the responsibility of the new attacher to ensure that its contractor determines if the make-ready requested in an attachment application is simple.

2. Application completeness.

a. The utility shall review the new attacher's attachment application for completeness before reviewing the application on its merits and shall notify the new attacher within ten (10) business days after receipt of the new attachers attachment application whether or not the application is complete.

b. An attachment application shall be considered complete if the application provides the utility with the information necessary under its procedures, as established in the utility's applicable tariff or a special contract regarding pole attachments between the utility and the new attacher, to make an informed decision on the application.

c. If the utility notifies the new attacher that an attachment application is not complete, then the utility shall state all reasons for finding the application incomplete.

d. If the utility fails to notify a new attacher in writing that an application is incomplete within ten (10) business days of receipt, then the application shall be deemed complete.

3. Application review on the merits. The utility shall review on the merits a complete application requesting one-touch make-ready and respond to the new attacher either granting or denying an application within fifteen (15) days of the utility's receipt of a complete application (or within thirty (30) days in the case of larger orders as established in subsection (8)(7)(b) of this section or within a time negotiated in good faith for requests equal to or larger than those established in (7)(d)).

a. If the utility denies the application on its merits, then the utility's decision shall be specific, shall include all relevant evidence and information supporting its decision, and shall explain how the evidence and information relate to a denial of access.

b. Within the fifteen (15) day application review period (or within thirty (30) days in the case of larger orders as established in subsection (8)(7)(b) of this section or within a time negotiated in good faith for requests equal to or larger than those established in (8)(7)(d)), a utility or an existing attacher may object to the designation by the new attacher's contractor that certain make-ready

is simple.

c. An objection made pursuant to clause b. of this subparagraph shall be specific and in writing, include all relevant evidence and information supporting the objection, be made in good faith, and explain how the evidence and information relate to a determination that the make-ready is not simple.

d. If the utility's or the existing attacher's objection to the new attacher's determination that make-ready is simple complies with clause c. of this subparagraph, then the make-ready shall be deemed to be complex and the new attacher shall not proceed with the affected proposed one-touch make-ready.

(b) Surveys.

1. The new attacher shall be responsible for all surveys required as part of the one-touch make-ready process and shall use a contractor as established in Section 5(2) of this administrative regulation to complete surveys.

2. The new attacher shall allow the utility and any existing attachers on the affected poles to be present for any field inspection conducted as part of the new attacher's surveys.

3. The new attacher shall use commercially reasonable efforts to provide the utility and affected existing attachers with advance notice of not less than five (5) business days of a field inspection as part of any survey and shall provide the date, time, and location of the surveys, and name of the contractor performing the surveys.

(c) Make-ready. If the new attacher's attachment application is approved by the pole owner and if the attacher has provided at least fifteen (15) days prior written notice of the make-ready to the affected utility and existing attachers, the new attacher may proceed with make-ready. The new attacher shall use a contractor in the manner established for simple make-ready in Section 5(2) of this administrative regulation.

1. The prior written notice shall include the date and time of the make-ready, a description of the work involved, the name of the contractor being used by the new attacher, and provide the affected utility and existing attachers a reasonable opportunity to be present for any make-ready.

2. The new attacher shall notify an affected utility or existing attacher immediately if make-ready damages the equipment of a utility or an existing attacher or causes an outage that is reasonably likely to interrupt the service of a utility or existing attacher.

3. In performing make-ready, if the new attacher or the utility determines that make-ready classified as simple is complex, then all make-ready on the impacted poles shall be halted and the determining party shall provide immediate notice to the other party of its determination and the impacted poles. All remaining make-ready on the impacted poles shall then be governed by subsections (2) through (9) of this section, and the utility shall provide the notices and estimates required by subsections (2)(a), (3), and (4) of this section as soon as reasonably practicable.

(d) Post-make-ready timeline. A new attacher shall notify the affected utility and existing attachers within fifteen (15) days after completion of make-ready on a one-touch make ready application.

Section 5. Contractors for Survey and Make-ready.

(1) Contractors for self-help complex and above the communications space make-ready. A utility shall make available and keep up-to-date a reasonably sufficient list of contractors the utility authorizes to perform self-help surveys and make-ready that is complex and self-help surveys and make-ready that is above the communications space on the utility's poles. The new attacher shall use a contractor from this list to perform self-help work that is complex or above the communications space. New and existing attachers may request the addition to the list of any contractor that meets the minimum qualifications in subsection (3) of this section and the utility shall not unreasonably withhold its consent.

(2) Contractors for surveys and simple work. A utility may keep up-to-date a reasonably sufficient list of contractors the utility authorizes to perform surveys and simple make-ready. If a utility provides this list, then the new attacher shall choose a contractor from the list to perform the work. New and existing attachers may request the addition to the list of any contractor that meets the minimum qualifications in subsection (3) of this section and the utility shall not unreasonably withhold its consent.

(a)

1. If the utility does not provide a list of approved contractors for surveys or simple make-ready or no utility-approved contractor is available within a reasonable time period, then the new attacher may choose its own qualified contractor that shall meet the requirements in subsection (3) of this section.

2. If choosing a contractor that is not on a utility-provided list, the new attacher shall certify to the utility that the attacher's contractor meets the minimum qualifications established in subsection (3) of this section upon providing notices required by Section 4(9)(a)2., (9)(b)2., (10)(b)3., and (10)(c) of this administrative regulation.

(b)

1. The utility may disqualify any contractor chosen by the new attacher that is not on a utility-provided list, but a disqualification shall be based on reasonable safety or reliability concerns related to the contractor's failure to meet any of the minimum qualifications established in subsection (3) of this section or to meet the utility's publicly available and commercially reasonable safety or reliability standards.

2. The utility shall provide notice of the utility's objection to the contractor within the notice periods established by the new attacher in Section 4(9)(a)2., (9)(b)2., (10)(b)3., and (10)(c) of this administrative regulation and in the utility's objection must identify at least one available qualified contractor.

(3) Contractor minimum qualification requirements. Utilities shall ensure that contractors on a utility-provided list, and new attachers shall ensure that contractors selected pursuant to subsection (2)(a) of this section, meet the minimum requirements established in paragraphs (a) through (e) of this subsection.

(a) The contractor has agreed to follow published safety and operational guidelines of the utility, if available, but if unavailable, the contractor shall agree to follow National Electrical Safety Code (NESC) guidelines.

(b) The contractor has acknowledged that the contractor knows how to read and follow licensed-engineered pole designs for make-ready, if required by the utility.

(c) The contractor has agreed to follow all local, state, and federal laws and regulations including the rules regarding Qualified and Competent Persons under the requirements of the Occupational and Safety Health Administration (OSHA) rules.

(d) The contractor has agreed to meet or exceed any uniformly applied and reasonable safety and reliability thresholds established by the utility, if made available.

(e) The contractor shall be adequately insured or shall establish an adequate performance bond for the make-ready the contractor will perform, including work the contractor will perform on facilities owned by existing attachers.

(4) A consulting representative of a utility may make final determinations, on a nondiscriminatory basis, if there is insufficient capacity and for reasons of safety, reliability, and generally applicable engineering purposes.

Section 6. Notice of Changes to Existing Attachers.

(1) Unless otherwise established in a joint use agreement or special contract, a utility shall provide an existing attacher no less than sixty (60) days written notice prior to:

(a) Removal of facilities or termination of any service to those facilities if that removal or termination arises out of a rate, term, or condition of the utility's pole attachment tariff or any special contract regarding pole attachments between the utility and the attacher; or

(b) Any modification of facilities by the utility other than make-ready noticed pursuant to Section 4 of this administrative regulation, routine maintenance, or modifications in response to emergencies.

(2) Stays from removals, terminations, and modifications noticed pursuant to subsection (1) of this section.

(a) An existing attacher may request a stay of the action contained in a notice received pursuant to subsection (1) of this section by filing a motion pursuant to 807 KAR 5:001, Section 4 within fifteen (15) days of the receipt of the first notice provided pursuant to subsection (1) of this section.

(b) The motion shall be served on the utility that provided the notice pursuant to 807 KAR 5:001, Section 5(1).

(c) The motion shall not be considered unless it includes the

relief sought, the reasons for such relief, including a showing of irreparable harm and likely cessation of cable television system operator or telecommunication service, a copy of the notice, and a certification that service was provided pursuant to paragraph (b) of this subsection.

(d) The utility may file a response within ten (10) days of the date the motion for a temporary stay was filed.

(e) No further filings under this subsection shall be considered unless requested or authorized by the commission.

(3) Transfer of attachments to new poles.

(a) Unless an applicable tariff or special contract or Section 4 of this administrative regulation establishes a different timeframe, existing attachers shall transfer their attachments within sixty (60) days of receiving written notice from the utility pole owner.

(b) Existing attachers may deviate from the time limit established in paragraph (a) of this subsection for good and sufficient cause that renders it infeasible for the existing attacher to complete the transfer within the time limit established. An existing attacher that requires such a deviation shall immediately notify, in writing, the utility and shall identify the affected poles and include a detailed explanation of the reason for the deviation and the date by which the attacher shall complete the transfer. An existing attacher shall deviate from the time limits established in paragraph (a) of this subsection for a period no longer than is necessary to complete the transfer.

(c) If an existing attacher fails to transfer its attachments within the timeframe established in paragraph (a) of this subsection and the existing attacher has not notified the utility of good and sufficient cause for extending the time limit pursuant to paragraph (a) of this subsection, a utility pole owner may transfer attachments and the transfer shall be at the existing attacher's expense.

(d) A utility pole owner may transfer an existing attacher's attachment prior to the expiration of any period established by paragraph (a) or (b) of this subsection if an expedited transfer is necessary for safety or reliability purposes.

Section 7. Complaints for Violations of This Administrative Regulation.

(1) Contents of complaint. Each complaint shall be headed "Before the Public Service Commission," shall establish the names of the complainant and the defendant, and shall state:

(a) The full name and post office address of the complainant;

(b) The full name and post office address of the defendant;

(c) Fully, clearly, and with reasonable certainty, the act or omission, of which complaint is made, with a reference, if practicable, to the law, order, or administrative regulation, of which a failure to comply is alleged, and other matters, or facts, if any, as necessary to acquaint the commission fully with the details of the alleged failure; and

(d) The relief sought.

(2) Signature. The complainant or his or her attorney, if applicable, shall sign the complaint. A complaint by a corporation, association, or another organization with the right to file a complaint, shall be signed by its attorney.

(3) How filed.

(a) Complaints shall be filed in accordance with the electronic filing procedures in 807 KAR 5:001, Section 8; and

(b) The complainant shall serve a copy of the complaint on the defendant at the same time as it files the complaint with the commission. ~~The filing party shall file two (2) copies in paper medium with the commission in the manner required by 807 KAR 5:001, Section 8(12)(a)2.~~

(4) Procedure on filing of complaint.

(a) Upon the filing of a complaint, the commission shall immediately examine the complaint to ascertain if it establishes a prima facie case and conforms to this administrative regulation.

1. If the commission finds that the complaint does not establish a prima facie case or does not conform to this administrative regulation, the commission shall notify the complainant and provide the complainant an opportunity to amend the complaint within a stated time.

2. If the complaint is not amended within the time or the extension as the commission, for good cause shown, shall grant, the complaint shall be dismissed.

(b) If the complaint, either as originally filed or as amended, establishes a prima facie case and conforms to this administrative regulation, the commission shall serve an order upon the person complained of, accompanied by a copy of the complaint, directed to the person complained of and requiring that the matter complained of be satisfied, or that the complaint be answered in writing within ten (10) days from the date of service of the order. The commission may require the answer to be filed within a shorter period if the complaint involves an emergency situation or otherwise would be detrimental to the public interest.

(5) Satisfaction of the complaint. If the defendant desires to satisfy the complaint, he or she shall submit to the commission, within the time allowed for satisfaction or answer, a statement of the relief that the defendant is willing to give. Upon the acceptance of this offer by the complainant and with the approval of the commission, pursuant to KRS Chapter 278 and this administrative regulation, the case shall be dismissed.

(6) Answer to complaint. If the complainant is not satisfied with the relief offered, the defendant shall file an answer to the complaint within the time stated in the order or the extension as the commission, for good cause shown, shall grant.

(a) The answer shall contain a specific denial of the material allegations of the complaint as controverted by the defendant and also a statement of any new matters constituting a defense.

(b) If the defendant does not have information sufficient to answer an allegation of the complaint, the defendant may so state in the answer and place the denial upon that ground.

(7) Burden of proof.

(a) The complainant has the burden of establishing it is entitled to the relief sought.

(b) The commission may presume that a pole replaced to accommodate a new attachment was a red tagged pole if:

1. There is a dispute regarding the condition of the pole at the time it was replaced; and

2. The utility failed to document and maintain records that inspections were conducted pursuant to 807 KAR 5:006 and that no deficiencies were found on the pole or poles at issue, or if inspections of poles are not required pursuant to 807 KAR 5:006, the utility failed to periodically inspect and document the condition of its poles.

(8) Time for final action.

(a) The commission shall take final action on a complaint regarding the rates, terms, or conditions for access to a utility's pole, duct, conduit, or right-of-way within ~~60~~[180] days of a complaint establishing a prima facie case being filed, unless the commission finds it is necessary to continue the proceeding for good cause for up to ~~180~~[360] days from the date the complaint establishing a prima facie case is filed.

(b) The period within which final action shall be taken may be extended beyond ~~180~~[360] days upon agreement of the complainant and defendant and approval of the commission.

This is to certify that the Public Service Commission approved promulgation of this emergency administrative regulation, pursuant to KRS 278.040(3), on February 25, 2025.

LINDA BRIDWELL, P.E., Executive Director

ANGIE C. HATTON, Chair

APPROVED BY AGENCY: February 25, 2025

FILED WITH LRC: February 25, 2025 at 2:33 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this emergency administrative regulation shall be held on April 29, 2025, at 10:00 a.m. Eastern Daylight Time at the Kentucky Public Service Commission, 211 Sower Boulevard, 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. This hearing is open to the public and instructions on how to attend and participate virtually will be published on the commission's website at psc.ky.gov. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written

comments on the proposed administrative regulation. Written comments shall be accepted through April 30, 2025. 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: John E.B. Pinney, Executive Advisor, Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 782-2587, fax (502) 564-7279, email jeb.pinney@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John E.B. Pinney

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides the process by which the commission regulates the rates, terms, and conditions of utility pole attachments and access to other utility facilities, amends the specific criteria and procedures for certain types of pole attachment applications for obtaining access to utility poles within the Kentucky Public Service Commission's jurisdiction, and establishes a process by which the complaints of those seeking to access utility facilities shall be addressed within the period established by federal law. The emergency amendments address issues pertaining to expediting certain applications to attach broadband facilities to the poles of utilities subject to the jurisdiction of the Public Service Commission.

(b) The necessity of this administrative regulation: Senate Joint Resolution 175 from the 2024 Regular Session mandates that the Public Service Commission promulgate emergency regulations, or emergency amendment to existing regulations, to address issues pertaining to certain applications to attach broadband facilities to the poles of utilities subject to the jurisdiction of the Public Service Commission. This administrative regulation replaces the emergency amendments originally promulgated pursuant to Senate Joint Resolution 175.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 278.040(3) authorizes the Commission to adopt reasonable regulations to implement the provisions of KRS Chapter 278. KRS 278.040(2) states that the PSC has exclusive jurisdiction over the regulation of rates and services of utilities. KRS 278.030(1) provides that all rates received by a utility shall be fair, just, and reasonable. KRS 278.030(2) provides that every utility shall furnish adequate, efficient, and reasonable service. In Kentucky CATV Ass'n v. Volz, 675 S.W.2d 393 (Ky. App. 1983), the Court of Appeals held that utility pole attachments are a service that is provided for a rate. Senate Joint Resolution 175 from the 2024 Regular Session mandates that the Public Service Commission promulgate emergency regulations, or emergency amendment to existing regulations, to address issues pertaining to certain applications to attach broadband facilities to the poles of utilities subject to the jurisdiction of the Public Service Commission. This administrative regulation replaces the emergency amendments originally promulgated pursuant to Senate Joint Resolution 175.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The amendments will expedite deployment of broadband internet service in rural areas of the Commonwealth places unserved and underserved citizens at a disadvantage and recounts that funds from the Broadband Equity, Access, and Deployment Program and the Rural Digital Opportunity Fund that will be used to assist in deploying broadband internet service to unserved and underserved areas.

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

(a) How the amendment will change this existing administrative regulation: The amendments: expedite the time spent reviewing for completeness applications for pole attachments; allow the attachers, if they have multiple pending applications, to prioritize a particular application; Increase the maximum number of poles, from 1,000 to 3,000, that may be requested in an application and to which regulatory timelines for processing apply; address concerns regarding clarity of invoices and payments from both utilities and pole attachers that expedites invoicing and payment; increases from 60 to 90 days the time in which an attacher will be filing an

application for attachments exceeding 3,000 poles; establishes minimum contents of special contracts for applications of greater than 3,000 poles; establishes an expedited complaint and resolution process if a special contract cannot be negotiated within 15 business days of the beginning of good faith negotiations; and for other complaints, reduces from 180 to 60 days the time in which the Commission must issue a final order.

(b) The necessity of the amendment to this administrative regulation: 2024 KY S.J.R. 175, 2024 Regular Session requires the Commission to promulgate emergency regulations addressing issues pertaining to broadband attachments to utility poles.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 278.040(3) authorizes the Commission to adopt reasonable regulations to implement the provisions of KRS Chapter 278. 2024 KY S.J.R. 175, 2024 Regular Session requires the Commission to promulgate emergency regulations addressing issues pertaining to broadband attachments to utility poles. This administrative regulation replaces the emergency amendments originally promulgated pursuant to Senate Joint Resolution 175.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will hasten the review the processing of pole attachment applications and increase the speed at which pole attachments are made which meet the requirements of 2024 KY S.J.R. 175, 2024 Regular Session directing the Public Service Commission to promulgate emergency amendments to promote the deployment of broadband in unserved or underserved areas of the Commonwealth. This administrative regulation replaces the emergency amendments originally promulgated pursuant to Senate Joint Resolution 175.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The administrative regulation will primarily affect regulated utilities in Kentucky that own or control utility poles, including investor-owned electric utilities, rural electric cooperatives, and incumbent local exchange carriers. There are currently four investor-owned electric utilities, 21 rural electric cooperates, and 20 incumbent local exchange carriers, which include investor-owned telephone utilities and telephone cooperatives, operating 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 utilities will have to file amended tariffs to comply with the amended regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The regulated entities will incur some initial costs in updating their tariffs to comply with this administrative regulation. The costs of such a process are likely to vary depending on the size and complexity of the utility involved and whether and the extent to which potential attachers or other customer groups object to the proposed tariff. An estimate of the costs regulated entities might incur to update their tariffs would be between \$25,000 and \$200,000 per regulated entity. However, such costs could likely be mitigated if similarly situated utilities worked together to draft tariffs that comply with this regulation. However, like the federal regulation, and consistent with the cost causation principles the Public Service Commission applies when setting rates for other customers, utilities are able to recover the costs of processing pole attachment applications and completing make-ready from the attaching entities that caused them to be incurred, so the timelines for reviewing applications and completing make-ready should not result in the regulated entities incurring uncompensated costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The adoption of a uniform process to expedite broadband deployment should reduce potential conflicts in the future that would have to be resolved through the complaint process. This should reduce the overall cost of pole attachments for utilities and attachers by reducing or eliminating costly delays.

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

- (a) Initially: Zero Dollars, no fiscal impact.
- (b) On a continuing basis: Zero Dollars, no fiscal impact.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The commission does not anticipate this amendment increasing its enforcement cost. The commission currently funds enforcement of this regulation through its general operating budget funded through annual assessments paid by regulated utilities pursuant to KRS 278.130, et. seq., and this amendment has no effect on that 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 fiscal impact.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees are established and existing fees will not be affected.
- (9) TIERING: Is tiering applied? Yes. The speed at which utilities are required to process applications and complete make ready is tiered based on the number of poles owned the utility. Tiering the regulation in this manner, which is consistent with how the federal regulation is tiered, will allow smaller utilities to process pole attachment applications at slower rates, while maintaining a relatively consistent attachment speed throughout the state.

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 278.040, HB 320 (2021,) SJR 175 (2024).
- (2) Identify the promulgating agency and any other affected state units, parts, or divisions: Public Service Commission
 - (a) Estimate the following for the first year:
Expenditures: Zero Dollars; no fiscal impact.
Revenues: Zero Dollars; no fiscal impact.
Cost Savings: Zero Dollars; no fiscal impact.
 - (b) How will expenditures, revenues, or cost savings differ in subsequent years? No fiscal impact.
- (3) Identify affected local entities (for example: cities, counties, fire departments, school districts): These entities will be affected to the extent that they are seeking to attach to poles owned or controlled by regulated utilities of which there should be few requests.
 - (a) Estimate the following for the first year:
Expenditures: Zero Dollars; no fiscal impact.
Revenues: Zero Dollars; no fiscal impact.
Cost Savings: Zero Dollars; no fiscal impact.
 - (b) How will expenditures, revenues, or cost savings differ in subsequent years? Zero Dollars; no fiscal impact.
- (4) Identify additional regulated entities not listed in questions (2) or (3): Utilities, as defined by KRS 278.010(3), that own utility poles.
 - (a) Estimate the following for the first year:
Expenditures: It is not possible to estimate the expenditures for the first year. The amounts of expenditures will depend upon the volume of applications for pole attachments, as well as the utilities' costs to engage the resources necessary to meet the requirements of the amendments to the regulation.
Revenues: It is not possible to estimate the revenues for the first year. The revenues should approximately match the expenditures incurred to process pole attachments although there may be some lag in recovery. Utilities are allowed to recover the cost of pole attachments from attachers through rates and billing of other costs.
Cost Savings: None. Expenditures and revenue should roughly match.
 - (b) How will expenditures, revenues, or cost savings differ in subsequent years? While the amount of expenditures and revenues will vary in subsequent years the expenditures and revenues should roughly match because utilities are allowed to recover the cost of pole attachments from attachers through rates and billing of costs.
- (5) Provide a narrative to explain the:
 - (a) Fiscal impact of this administrative regulation: There is no fiscal impact to the Public Service Commission. Pole-owning utilities are already under an obligation to allow broadband attachment to their poles at rates, terms, and conditions in their tariffs. The emergency amendments will increase the speed at which these attachments are made, but should have no significant fiscal impact over the current

- obligation to provide attachments.
- (b) Methodology and resources used to determine the fiscal impact: The Public Service Commission will not require additional resources to implement the emergency amendment. Pole-owning utilities are under an existing obligation to provide access to their poles and the emergency amendment does not increase the fiscal impact of attachments that does not already exist.
- (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 will be no major economic impact to the Public Service Commission which will have no increased costs resulting from the emergency regulation. Other public entities that attach to utility poles will see no negative or positive fiscal impact. Pole-owning utilities will see increased costs of operation due to an increase of pole attachment requests. These costs, however, will ultimately be recovered from the entities requesting attachment to the poles.
 - (b) The methodology and resources used to reach this conclusion: The Public Service Commission initiated a docket at the end of 2023 to review the application of 807 KAR 5:015 and invited the participation of pole-owning utilities and pole attachers. The Public Service Commission has held several conferences in this docket, during which the attachers and utilities introduced information that the incoming funds from the Broadband Equity, Access, and Deployment (BEAD) Program and the Rural Digital Opportunity Fund (RDOF) will result in a significant increase in pole attachment applications. Pole owning utilities will have to acquire the necessary personnel and resources to meet this increase in attachment applications, which will increase the utilities' up-front expenses. The costs, however, will ultimately be recovered from the attaching entities once attachments are completed.

STATEMENT OF EMERGENCY
907 KAR 10:840E.

This emergency administrative regulation is being promulgated to implement Senate Bill 280 from the 2024 Regular Session and introduce a new hospital rate improvement program for specific qualifying rural hospitals with trauma level emergency department systems. This emergency administrative regulation will establish the Kentucky Trauma Hospital Rate Improvement (K-THRI) as an additional add-on payment for certain hospitals that treat a high percentage of Medicaid patients. The U.S. Center for Medicare and Medicaid Services approved this proposal for the additional add-on payment on January 15, 2025. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)2. to preserve state and federal funding and ensure the most efficient use of funds. In addition, this emergency amendment is necessary for the Department for Medicaid Services (DMS) pursuant to KRS 13A.190(1)(a)1. to preserve the welfare of Medicaid recipients in need of continued access to high quality services in specific rural hospital markets. This emergency administrative regulation to an existing administrative regulation shall be replaced by an ordinary amendment to the same existing administrative regulation. The ordinary amendment is identical to this emergency amendment.

ERIC C. FRIEDLANDER, Secretary
ANDY BESHEAR, Governor

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Fiscal Management
(Emergency Amendment)

907 KAR 10:840E. Hospital Rate Improvement Program.

EFFECTIVE: February 24, 2025
RELATES TO: KRS 45.229, 142.303, 205.565, 205.637, 205.638, 205.639, 205.640, 205.6405, 205.6406, 205.6407, 205.6408, 216.380, 42 C.F.R. 413.17, 433.51, 438.340, 440.140, 447.271, 447.272, 42 U.S.C. 1396a, 1395ww
STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1),

205.520(3), 205.560, 205.6406(13), 205.6411, 205.6412, 42 C.F.R. 447.252, 447.253, 42 U.S.C. 1396a

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed, or opportunity presented, by federal law to qualify for federal funds. KRS 205.6406(13) requires the department to promulgate an administrative regulation to implement the Hospital Rate Improvement Program, KRS 205.6405 to 205.6408. This administrative regulation establishes the requirements for implementing the Hospital Rate Improvement Program for qualifying hospitals.

Section 1. Definitions.

(1) "Assessment" is defined by KRS 205.6405(1).

(2) "Department" means the Department for Medicaid Services or its designee.

(3) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(4) "Program year" is defined by KRS 205.6405(14).

(5) "Qualifying hospital" is defined by KRS 205.6405(16).

(6) "Received date" means the date a claim is accepted and approved into the Medicaid Management Information System and does not mean the date a claim is actually paid.

(7) "Upper payment limit" or "UPL" is defined by KRS 205.6405(19).

Section 2. Hospital Rate Improvement Program.

(1) Prior to the start of each program year and in accordance with the payment methodology required by KRS 205.6406(2), the department shall calculate for each qualifying hospital:

(a) A per-discharge uniform add-on amount that the qualifying hospital is eligible to receive as a supplemental payment for the program year for Medicaid fee-for-service discharges; and

(b) A per discharge uniform add-on amount that the qualifying hospital is eligible to receive as a supplemental payment for the program year for Medicaid managed care discharges.

(2) With the exception of the initial implementation year, no less than thirty (30) days prior to the beginning of each program year, the department shall provide each qualifying hospital written notice of the total per-discharge uniform add-on amounts for both Medicaid fee-for-service and Medicaid managed care discharges. The notice shall include the data sources and methodologies used to arrive at the value for each variable upon which the qualifying hospital's per-discharge uniform add-on amounts shall be calculated for the program year.

(3) For each quarter in a program year, the department shall:

(a) Calculate each qualifying hospital's supplemental payments for Medicaid fee-for-service and Medicaid managed care in accordance with KRS 205.6406(3) through (11) by:

1. Excluding all inpatient claims with discharge dates preceding October 1, 2018 from enhanced payment calculations;

2. Reducing the number of inpatient claims eligible for enhanced reimbursement by the number of previously enhanced claims that have been voided in the Medicaid Management Information System; and

3. Excluding from enhanced payment calculations partial or adjusted inpatient claims that have previously received an enhanced payment;

(b) Make a quarterly Medicaid fee-for-service supplemental payment to each qualifying hospital, or its designee acting as a fiscal intermediary, in accordance with the methodology in KRS 205.6406(3)(a) and (c); and

(c) Make a quarterly Medicaid managed care supplemental payment to each qualifying hospital, or its designee acting as a fiscal intermediary, in accordance with the methodology in KRS 205.6406(3)(b), (d), and (e).

(4) Payment of the quarterly Medicaid managed care supplemental payment shall be made by distribution to each Medicaid managed care organization through a quarterly supplemental capitation payment.

(5) The department shall submit with, or prior to, the quarterly

supplemental capitation payment directions to the Medicaid managed care organization for the payment of the quarterly Medicaid managed care supplemental payments to qualifying hospitals.

(6) In accordance with KRS 205.6406(6), each Medicaid managed care organization shall remit to each qualifying hospital, or its designee, as directed by the department the quarterly Medicaid managed care supplemental payment within five (5) business days of receipt of the quarterly supplemental capitation payment. The department shall establish contractual penalty provisions to require that each Medicaid managed care organization remit the required amounts within five (5) business days.

(7) In accordance with KRS 205.6406(9), a qualifying hospital may seek review by the department of any quarterly supplemental payment that the qualifying hospital suspects is in error.

(a) The qualifying hospital shall submit a detailed listing of any disputed claim or claims for department consideration and potential updates to the Medicaid Management Information System.

(b) Once each claim is received and validated in the Medicaid Management Information System, the department shall adjust the qualifying hospital's future quarterly supplemental payment to account for any warranted correction.

(c) If the department determines that a correction is not warranted, the hospital may request an administrative appeal pursuant to 907 KAR 1:671.

(8) In order to receive a supplemental payment and to pay the assessment for that quarter, an entity shall be a qualifying hospital each day of a quarter for the program year.

(9) Medicaid Management Information System (MMIS) fee-for-service and managed care encounter data, queried by the claim received date, shall be utilized to calculate the quarterly payments.

(10) For each quarter in a program year, the department shall:

(a) Calculate each qualifying hospital's per-discharge hospital assessment in accordance with the methodology in KRS 205.6406(3)(g) and (h); and

(b) Provide notice to each qualifying hospital in accordance with KRS 205.6406(3)(i).

(11) A qualifying hospital's per-discharge hospital assessment shall be calculated using the Medicare cost report period ending in the calendar year that is two (2) calendar years prior to the first day of a program year. For example, for the program year beginning July 1, 2019, cost report periods ending in calendar year 2017 shall be utilized.

(a) If a qualifying hospital's cost report period referenced in this subsection is greater than or less than a normal calendar year of 365 days, the total discharges used in accordance with KRS 205.6406(3)(g) shall be annualized to a 365-day period.

(b) If a qualifying hospital is newly enrolled in the Medicaid program and does not have cost report information available for the period established in this subsection, the department may utilize the cost report information of a comparable hospital to approximate the newly enrolled hospital's utilization.

(12) A qualifying hospital shall pay its calculated per-discharge hospital assessment in accordance with KRS 205.6406(7).

(13) If a hospital assessment is not received in a timely manner, the department may deny or withhold future quarterly supplemental payments until the assessment is submitted.

(14) A qualifying hospital may authorize a third-party entity to serve as a fiscal intermediary to facilitate the implementation of this administrative regulation by providing letter notice to the department.

Section 3. Reporting Requirements.

(1) Throughout a program year, a qualifying hospital shall submit any documentation or information to the department that the department requests in a timely manner as designated by the department. This request may include any documentation pertaining to:

(a) Resolution of a quarterly supplemental payment that the qualifying hospital suspects is in error; or

(b) Quality metrics set forth in the department's Quality Strategy filed with the Centers for Medicare and Medicaid Services pursuant to 42 C.F.R. 438.340.

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(2) If a qualifying hospital fails to provide the department with any requested documentation in a timely manner, the department may deny or withhold future quarterly supplemental payments, until the documentation is submitted.

Section 4. Kentucky Trauma Hospital Rate Improvement (K-THRI).

(1) If consistent with federal approval, the department shall operate K-THRI as a supplemental payment arrangement that provides an average commercial rate reimbursement for inpatient hospital services, outpatient hospital services, and professional services.

(a) The methodology for determining a rate increase shall be applied equally to all providers within K-THRI.

(b) Adjustments to payments shall be made as necessary to ensure that aggregate hospital rate improvement program payments and K-THRI payments do not exceed the statewide average commercial rate limit.

(c) K-THRI payments shall be made by distribution to each Medicaid managed care organization through a quarterly supplemental capitation payment.

(d) The department shall submit with, or prior to, the K-THRI payment directions to the Medicaid managed care organization for the payment of the quarterly K-THRI payment to qualifying hospitals.

(e) In accordance with KRS 205.6406(6), each Medicaid managed care organization shall remit to each qualifying hospital, or its designee, as directed by the department the K-THRI supplemental payment within five (5) business days of receipt of the quarterly K-THRI supplemental capitation payment. The department shall establish contractual penalty provisions to require that each Medicaid managed care organization remit the required amounts within five (5) business days.

(f) The payments received by the K-THRI providers shall be reconciled to actual utilization on a quarterly basis after a reasonable claims runout period. Future payments shall be withheld or increased in order to reconcile K-THRI hospitals to the amount of the enhanced payment.

(2)

(a) Twenty (20) percent of the amount calculated shall be determined by the department and withheld by the managed care organization.

(b) The amount withheld shall be subject to the qualifying hospital meeting the requirements established pursuant to an annual listing of twenty-one (21) performance quality measures established by the department. The quality measures shall be identical to the performance measures that academic hospitals meet under the separate hospital rate improvement program for academic hospitals.

(c) In order to be eligible for a quality performance payment, a K-THRI provider shall meet the performance target on at least seven (7) of the twenty-one (21) annual metrics listed pursuant to paragraph (b) of this section.

(d) If less than seven (7) of the twenty-one (21) metrics are met, there shall be no partial payment of the quality performance payment. For illustrative purposes only, a K-THRI provider meeting criteria for five (5) of the twenty-one (21) metrics would not receive any partial or pro-rated quality withhold payment.

(e) The initial performance targets shall be a two (2) percent improvement over the most recent program year's established targets.

(f) In order to qualify for evaluation pursuant to this subsection a measure shall have at least twenty (20) cases in the K-THRI hospital during the evaluation period. A measure that does not meet the twenty (20) case threshold shall be considered as a reporting-only measure and shall not be included in determining the value-based payments.

(3) Consistent with KRS 205.6412, in order to be eligible for the K-THRI portion of the HRIP program, a provider shall:

(a) Have a trauma center that has received a designation as of Level II, III, or IV;

(b) Be located in a county with a higher proportion of residents enrolled in Medicaid than the statewide median; and

(c) Have an agreement with a university affiliated graduate

medical education program or a pediatric teaching hospital to host and provide clinical rotations at that facility to train providers.

(4) The methodology for determining a rate increase under this Section shall be applied to all qualifying hospitals equally as a uniform dollar increase.

Section 5. Upper Payment Limit. A supplemental payment referenced in this administrative regulation is not intended to cause aggregate Medicaid hospital reimbursement to exceed the aggregate statewide upper payment limit for privately-owned and non-state government-owned hospitals established in:

(1) 42 C.F.R. 447.271;

(2) 42 C.F.R. 447.272; or

(3) Any other applicable statute or administrative regulation.

Section 6.[Section 5.] Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

(1) Receipt of federal financial participation for the coverage; and

(2) Centers for Medicare and Medicaid Services' approval for the coverage.

LISA D. LEE, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: February 16, 2025

FILED WITH LRC: February 24, 2025 at 8:05 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on April 21, 2025, 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 April 14, 2025, 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 April 30, 2025. 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: Jonathan Scott or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the reimbursement provisions and requirements for the Hospital Rate Improvement Program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the Hospital Rate Improvement Program as required by state statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the reimbursement provisions and requirements for the private hospital rate improvement program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by implementing a private hospital rate improvement program.

(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: The amendments create a new Section 4 of the administrative regulation that establishes the Kentucky Trauma Hospital Rate Improvement (K-THRI). The new program is required by KRS 205.6411-.6412 and is required to have federal approval. If approval is received, the program will allow for an enhanced quarterly add-on payment to qualifying providers that will include inpatient, outpatient, and professional services. The K-THRI program will include a requirement to meet at least 7 of 21 quality metrics each year. 20% of the potential funds will be withheld and subject to meeting the quality metrics in order to receive payment.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide an additional type of hospital rate improvement program for hospitals that qualify pursuant to KRS 205.6411-.6412.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by establishing K-THRI as required by KRS 205.6411-.6412.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists with the affective administration of the statutes by establishing an additional hospital rate improvement program as required by KRS 205.6411-.6412.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: DMS anticipates that at least 9 hospitals will qualify for this expanded program.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulated entities will be able to participate in K-THRI.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Regulated entities will experience no new costs in complying with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Recipients will be able to participate in the expanded funds available under K-THRI.

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

(a) Initially: KRS 205.6412 requires that state general funds not be used to administer this program. The non-federal share of this state directed payment is estimated to be \$27,349,525. The total dollar amount is estimated to be \$136,747,624.

(b) On a continuing basis: KRS 205.6412 requires that state general funds not be used to administer this program. In the first year, the non-federal share of this state directed payment will be \$27,349,525. The total dollar amount is estimated to be \$136,747,624.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.

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

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

(9) TIERING: Is tiering applied? (Explain why or why not) 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 205.560, 205.8405, 205.520, 194A.030, 42 C.F.R. 455

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Department for Medicaid Services is the promulgating agency, other agencies have not been identified.

(a) Estimate the following for the first year:
Expenditures: KRS 205.6412 requires that state general funds not be used to administer this program. The non-federal share of this state directed payment is estimated to be \$27,349,525. The total dollar amount is estimated to be \$136,747,624.
Revenues: The Department does not anticipate revenues as a result of this administrative regulation.
Cost Savings: The Department does not anticipate cost savings as a result of this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? KRS 205.6412 requires that state general funds not be used to administer this program. The non-federal share of this state directed payment is estimated to be \$27,349,525. The total dollar amount is estimated to be \$136,747,624. DMS does not expect a change to revenues or cost savings in subsequent years.

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

(a) Estimate the following for the first year:
Expenditures: KRS 205.6412 requires that state general funds not be used to administer this program. The non-federal share of this state directed payment is estimated to be \$27,349,525. The total dollar amount is estimated to be \$136,747,624.
Revenues: The department does not anticipate revenues as a result of this administrative regulation.
Cost Savings: The department does not anticipate cost savings as a result of this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not expect additional expenditures, revenues, or cost savings for local entities as a result of this regulation.

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities certain qualifying hospitals.

(a) Estimate the following for the first year:
Expenditures: KRS 205.6412 requires that state general funds not be used to administer this program. The non-federal share of this state directed payment is estimated to be \$27,349,525. The total dollar amount is estimated to be \$136,747,624.
Revenues: Qualifying hospitals will have the opportunity to receive average commercial rate reimbursement for additional services.
Cost Savings: The department does not anticipate cost savings as a result of this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The preprint will need to be resubmitted each year. As proposed, the non-federal share of this state directed payment is estimated to be \$27,349,525. The total dollar amount is estimated to be \$136,747,624.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation implements KRS 205.6411-.6412. KRS 205.6412 requires that state general funds not be used to administer this program. The non-federal share of this state directed payment is estimated to be \$27,349,525. The total dollar amount is estimated to be \$136,747,624.

(b) Methodology and resources used to determine the fiscal impact: The department worked with stakeholders and third party fiscal agents and experts to implement KRS 205.6411-.6412. The program establishes an additional rate enhancement program for certain qualifying hospitals.

(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 administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.

(b) The methodology and resources used to reach this conclusion: This administrative regulation will provide additional reimbursement for qualifying hospitals.

FEDERAL MANDATE ANALYSIS COMPARISON

- (1) Federal statute or regulation constituting the federal mandate. 42 C.F.R. 438.6
- (2) State compliance standards. KRS 194A.030(2) requires the Department for Medicaid Services to “serve as the single state agency in the commonwealth to administer Title XIX of the Federal Social Security Act.”. KRS 205.6412 requires DMS to establish an additional hospital rate improvement program.
- (3) Minimum or uniform standards contained in the federal mandate. 42 C.F.R. 438.6 governs state directed payment arrangements utilizing managed care organizations.
- (4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The amendment will not impose stricter than federal requirements.
- (5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The amendment will not impose stricter than federal requirements.

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.

BOARDS AND COMMISSIONS
Board of Licensed Professional Counselors
(Emergency As Amended at ARRS, March 10, 2025)

201 KAR 36:100E. Counseling compact.

EFFECTIVE: March 10, 2025

Prior Versions:
Amendment - 50 Ky.R. 1649

RELATES TO: KRS 335.560

STATUTORY AUTHORITY: KRS 335.515, 335.560

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.560, Section 16.B.1. requires the Board of Licensed Professional Counselors to review any rule adopted by the Counseling Compact pursuant to Section 11 of KRS 335.560 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 Counseling Compact.

Section 1. The Board of Licensed Professional Counselors shall comply with all rules of the Counseling Compact, which includes the Counseling Compact Rules as of February 12, 2025~~January 10, 2024~~.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference: "The Counseling Compact Rules", February 12, 2025~~January 10, 2024~~, and as revised.

(a) Chapter 2 – Definitions, adopted October 25, 2023;

(b) Chapter 3 – Examination Requirements, adopted October 25, 2023;~~and~~

(c) Chapter 4 – Data System Reporting Requirements, adopted January 10, 2024;~~and~~

(d) Chapter 5 – Rulemaking on Legacy Eligibility for Privilege to Practice, adopted October 8, 2024;~~and~~

(e) Chapter 6 – Rulemaking on Implementing Criminal Background Checks, adopted October 8, 2024; and

(f) Chapter 7 – Rulemaking on Fees, adopted February 12, 2025.

(2)

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

(b) This material may also be obtained on the Board of Licensed Professional Counselors' Web site at <https://lpc.ky.gov/>.

(3) This material may also be obtained at:

(a) The Counseling Compact Commission, 108 Wind Haven Drive, Suite A, Nicholasville, Kentucky 40356; or

(b) <https://counselingcompact.org/compact-commission/rulemaking/>.

FILED WITH LRC: March 10, 2025

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

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Driver Licensing
(Emergency As Amended at ARRS, March 10, 2025)

601 KAR 12:120E. Testing applicants for initial or renewal instruction permit, initial or renewal operator's license, or reinstatement.

EFFECTIVE: March 10, 2025

Prior Versions:

New Emergency Administrative Regulation - 51 Ky.R. 1240

RELATES TO: KRS 186.412, 186.4121, 186.415, 186.416, 186.417, 186.419, 186.435, 186.442, 186.450, 186.480, 186.580, 601 KAR 12:020.

STATUTORY AUTHORITY: KRS 186.4101, 186.444, 186.570, 186.577

NECESSITY, FUNCTION, AND CONFORMITY: KRS 186.577 requires the Kentucky State Police to ~~submit~~ persons applying for an initial operator's license or an initial instruction permit to submit to a test of visual acuity and visual field at the time of application. It also requires the Kentucky Transportation Cabinet, Department of Vehicle Regulation, Division of Driver Licensing, to ~~submit~~ persons applying for a renewal operator's license, a renewal instruction permit, or reinstatement to ~~submit to~~ a test of visual acuity and visual field at the time of application. It also requires persons whose visual acuity is 20/60 or better in one (1) eye and who meet or exceed the visual field standard established by this administrative regulation with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses. KRS 186.577 also requires the Transportation Cabinet to promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of the section, including establishing visual field standards, the creation of a driver vision testing form, and establishing a credentialing process for osteopaths, physicians, and advanced practice registered nurses to conduct vision testing under the section.

Section 1. Definitions.

(1) "Corrective lens" means an ophthalmic lens, whether an eyeglass, contact lens, or single lens system, that corrects the refraction error or other optically correctable deficiency of the eye.

(2) "Credentialed medical specialist" means an osteopath, physician, or advanced practice registered nurse who is credentialed by the cabinet to perform vision testing under this administrative regulation.

(3) "Field of vision" means the entire horizontal and vertical planes a person has for each eye without shifting the gaze.

(4) "Licensing action" means any action by the Transportation Cabinet involving the denial, cancellation, restriction, or issuance of a motor vehicle operator's license pursuant to KRS Chapter 186.

(5) "Medical Review Board" means the Medical Review Board established pursuant to KRS 186.444 and 186.570(1)(c).

(6) "Visual field" is defined by KRS 186.576(13).

(7) "Vision specialist" means a person licensed to practice optometry as established in KRS Chapter 320 or its out-of-state equivalent, or an ophthalmologist who is a medical or osteopathic physician specializing in eye and vision care and licensed pursuant to KRS Chapter 311 or its out-of-state equivalent.

(8) "Vision testing" means the initial vision screening for visual acuity and visual field conducted by the Kentucky State Police, a credentialed medical specialist, or a vision specialist to test persons applying for an initial operator's license or an initial instruction permit, or the vision screening conducted by the Division of Driver Licensing, a credentialed medical specialist, or a vision specialist to test persons applying for a renewal operator's license, a renewal instruction permit, or reinstatement. It also means the further examination vision testing for visual acuity and visual field conducted

by a vision specialist after a failed initial vision screening.

(9) "Visual field standards" means the driver's horizontal field of vision shall be at least thirty (30) degrees to both the left and the right without interruption and their vertical field of vision shall be at least twenty-five (25) degrees above and below fixation without interruption.

Section 2. Procedures for Testing Applicants for Initial or Renewal Instruction Permit, Initial or Renewal License, or Reinstatement.

(1) The following persons shall submit to a test of visual acuity and visual field at the time of application or renewal:

(a) All persons applying for an initial or renewal operator's license;

(b) All persons applying for an initial or renewal instruction permit; and

(c) Any person required to complete an examination under KRS 186.635.

(2) Vision testing under this section shall be administered to any person:

(a) Applying for an initial operator's license, an initial instruction permit, or reinstatement of a license when vision shall be tested as required in KRS 186.480:

1. Prior to the time of application under subsection (5) of this section; or

2. By Kentucky State Police at the time of application;

(b) Applying for operator's license renewal or instruction permit renewal:

1. Prior to the time of application under subsection (5) of this section; or

2. By the Transportation Cabinet at the time of application; or identified in Kentucky administrative regulations promulgated by the

(c) Transportation Cabinet as being required to undergo the exam required by KRS 186.480.

(3) Visual acuity and visual field.

(a) Persons whose visual acuity is 20/40 or better in one (1) eye and who meet or exceed the visual field standard established by the Transportation Cabinet without corrective lenses shall not have a restriction placed on their driving privileges.

(b) Persons whose visual acuity is 20/40 or better in one (1) eye and who meet or exceed the visual field standard established by the Transportation Cabinet with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses.

(c) Persons with a horizontal visual field in the person's better eye of at least thirty (30) degrees to the left and right side of fixation without interruption and a vertical visual field in the person's better eye of at least twenty-five (25) degrees above and below fixation without interruption shall be eligible to test for an instruction permit or operator's license or shall be eligible for an instruction permit or operator's license renewal or reinstatement.

(d) If a person fails to meet a 20/40 visual acuity standard or the visual field standard established by this administrative regulation in an initial screening by the Kentucky State Police, the Division of Driver Licensing, or a credentialed medical specialist, the person shall be referred to a vision specialist for further examination. If a vision specialist performs the initial screening and the person does not meet the visual standards, the vision specialist may conduct any further examination necessary to complete the TC 94-202, Driver Vision Testing Certification.

(e) Any further examination visual field test conducted by a vision specialist after a failed initial vision screening under this administrative regulation shall test the entire field of vision for interruption.

(4) A person referred to a vision specialist under subsection (3) of this section whose visual acuity is 20/60 or better in one eye and who meets or exceeds the visual field standard established by this administrative regulation shall be eligible to test for an instruction permit or operator's license or shall be eligible for operator's license renewal or reinstatement. If corrective lenses were prescribed by a vision specialist, the person's driving privileges shall be restricted to mandate the use of the corrective lenses.

(5) Vision tests administered under subsection (2)(a) of this section shall be deemed to meet the testing provisions outlined in

subsection (3) or (4) of this section, if the person submits a TC 94-202, Driver Vision Testing Certification, and the form has been completed by:

(a) A vision specialist; or

(b) An osteopath, physician, or advanced practice registered nurse who is credentialed by the department to perform vision testing pursuant to KRS 186.577 and this administrative regulation.

(6) All driver vision testing forms completed under subsection (5) of this section shall:

(a) Attest that the applicant meets or exceeds the visual acuity standard and visual field standard established by KRS 186.577 and the department in this administrative regulation;

(b) Only be valid if the vision specialist or the credentialed osteopath, credentialed physician, or credentialed advanced practice registered nurse signed and completed the TC 94-202, Driver Vision Testing Certification, vision testing form less than twelve (12) months prior to the date of application or renewal;

(c) State whether the driving privileges of the applicant shall be restricted to mandate the use of corrective lenses;

(d) Clearly indicate that the vision testing under this section is a screening for minimum vision standards established in this section and is not a complete eye examination;

(e) After any examination requested pursuant to KRS 186.577 and this administrative regulation, the examining vision specialist or credentialed medical specialist shall complete and report the findings of an examination on the TC 94-202, Driver Vision Testing Certification, and shall submit it directly to the department if the person's visual acuity or visual field do not meet the standards in this administrative regulation; and

(f) If the department learns that a person applying for an initial or renewal instruction permit, initial or renewal license, or reinstatement, could have a medical condition that might affect safe driving, the department may, pursuant to 601 KAR 13:090, 601 KAR 13:100, and this administrative regulation require the person to provide the Medical Review Board with information about the person's medical condition and may thereafter take an appropriate licensing action.

(7) Any person seeking application or permit under subsection (1) of this section shall attest that he or she has submitted to and passed the visual acuity and visual field tests required under KRS 186.577 and this administrative regulation.

(8) Any person renewing an operator's license under KRS 186.416 shall be exempt from the vision testing requirements outlined in this administrative regulation.

(9) Persons who meet the requirements of KRS 186.578 and are issued operator's licenses under KRS 186.579 shall:

(a) Have their driving privileges restricted to the use of a bioptic telescopic device; and

(b) Be otherwise exempt from this section.

(10) Pursuant to KRS 186.480, the provisions of KRS 186.577 and of this administrative regulation shall not apply to an applicant who:

(a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident;

(b) At the time of application for a motorcycle instruction permit or motorcycle operator's license, presents evidence of successful completion of an approved rider training course under KRS 176.5062; or

(c) Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his or her operator's license to expire.

(11) A credentialed medical specialist or a vision specialist shall complete the TC 94-202, Driver Vision Testing Certification, after any examination requested pursuant to KRS 186.577 and this administrative regulation and shall submit a copy of the certification of any examination failures to the Division of Driver Licensing. Unless the Division of Driver Licensing or the Kentucky State Police is conducting the initial screening at the time of application, the Kentucky State Police or the department shall require a person to submit a completed original copy of this form for that person to be eligible for an initial operator's license, an initial instruction permit, license renewal, permit renewal, or reinstatement.

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Section 3. Appeal of a Denial of Initial Instruction Permit, Operator's License, Renewal, or Reinstatement for Vision Standards.

(1) After any further examination by a vision specialist requested pursuant to KRS 186.577 and this administrative regulation, an applicant who is deemed ineligible for an initial instruction permit, operator's license, renewal, or reinstatement because their visual acuity or visual field do not meet the applicable standards may appeal their denial to the Division of Driver Licensing, Medical Review Board.

(2) An applicant may file an appeal by submitting a copy of the TC 94-202, Driver Vision Testing Certification, certified by a vision specialist to the Medical Review Board within twenty (20) days of the date the further examination was completed.

Section 4. Credentialing of a Medical Specialist.

(1) A licensed osteopath, physician, or advanced practice registered nurse shall become credentialed by the Department of Vehicle Regulation before they may perform the initial vision testing required under KRS 186.577 and this administrative regulation. To become credentialed, the medical professional shall submit to the department a completed TC 94-203, Medical Specialist Credentialing Certification.

(2) The applicant medical specialist shall thereafter receive an approved copy of the TC 94-203, Medical Specialist Credentialing Certification, from the Division of Driver Licensing credentialing them to perform the initial vision screening required under KRS 186.577 and this administrative regulation prior to completing any driver vision examination, and prior to completing a TC 94-202, Driver Vision Testing Certification.

(3) The credentialed medical professional shall include their Medical Specialist Credential certification number on any completed TC 94-202, Driver Vision Testing Certification.

Section 5. Incorporated by Reference.

(1) The following material is incorporated by reference:

(a) "TC 94-202, Driver Vision Testing Certification," ~~December~~November 2024.

(b) "TC 94-203, Medical Specialist Credentialing Certification," ~~December~~November 2024.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Driver Licensing, 2nd Floor, Transportation Cabinet Office Building, 200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available on the Transportation Cabinet's website at [https://transportation.ky.gov/Organizational-Resources/Pages/Forms-Library-\(TC-94\).aspx](https://transportation.ky.gov/Organizational-Resources/Pages/Forms-Library-(TC-94).aspx).

FILED WITH LRC: March 10, 2025

CONTACT PERSON: Jesse Rowe, Staff Attorney Manager/Assistant General Counsel, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, phone (502) 564-7650, fax (502) 564-5238, email jessew.rowe@ky.gov.

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY
AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(As Amended at ARRS, March 10, 2025)

105 KAR 1:451. Quasi-governmental employer reports on independent contractors and leased employees.

RELATES TO: KRS 61.5991, 61.510, 61.543, 61.552, 61.645, 61.675, 61.685

STATUTORY AUTHORITY: KRS 61.5991(1)(c), 61.645(9)(e) NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(e) requires the Board of Trustees of the Kentucky Retirement Systems to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705, and to conform to federal statutes and regulations. KRS 61.5991 requires certain employers that participate in the Kentucky Employees Retirement System to report information to the Kentucky Public Pensions Authority on some persons providing services for the participating employer as an independent contractor, a leased employee, or by/via any other similar employment arrangement. This administrative regulation establishes quasi-governmental employer reports on independent contractors and leased employees.

Section 1. Definitions.

(1) "Contractor Wizard" means an online interactive form that guides employers to certify their non-contributing service providers by answering a series of questions broken into small, manageable steps["Complete" means all required sections of a form are filled out, the form has been fully executed by an agency head, appointing authority, or authorized designee (such as the reporting official), and all supporting documentation required by the form is included with the form].

(2) "Core services independent contractor" means a person, either personally or through a company or other legal entity, who provides services for a quasi-governmental employer as an independent contractor, other than as a non-core services independent contractor.

(3) "Core services leased employee" means a person who provides services for a quasi-governmental employer as a leased employee through a staffing company, other than as a non-core services independent contractor.

(4) "Direct employment" means employees reported by the quasi-governmental employer in accordance with KRS 61.675 and 105 KAR 1:140.

(5) ~~["Employee" is defined by KRS 61.510(5).]~~

~~[(6)] ["File" means a form has been received at the retirement office by mail, fax, secure email, or in-person delivery or via Employer Self Service on the Web site maintained by the agency (if available).]~~

~~[(7)] ["Fiscal year" is defined by KRS 61.510(19).]~~

~~[(8)] ["KPPA" means the administrative staff of the Kentucky Public Pensions Authority.]~~

~~[(9)] "Noncompliant" means the quasi-governmental employer falsifies, fails to provide, or withholds all, or a portion of, the required documentation or information within the time periods prescribed by this administrative regulation.~~

~~[(6)](140) "Non-core services independent contractor" is defined by KRS 61.5991(9).~~

~~[(7)](141) "Other employment arrangement" means[:]~~

~~[(a)] [Means] any written agreement between a quasi-governmental employer and a third party (including a person, company, or other legal entity) for one (1) or more persons to provide services for the quasi-governmental employer in exchange for the third party receiving monetary compensation, remuneration, or profit that is not:~~

~~[(a) Direct[: and]~~

~~[(b)] [Does not mean direct] employment[: any written~~

~~agreement for one (1) or more persons to provide services for a quasi-governmental employer as]~~

~~(b) A[a] non-core services independent contractor or a non-core service leased employee agreement[:] or~~

~~(c) A person that would be considered[any written agreement for one (1) or more persons to provide services to a quasi-governmental employer if the persons would not be] in a regular full-time position if the person[persons] were directly employed by the quasi-governmental employer.~~

~~[(8)](12) "Prior fiscal year" means the fiscal year beginning July 1 that is immediately prior to the fiscal year in which the agency[KPPA] provides the report to the state budget director's office and the Legislative Research Commission required by KRS 61.5991(3).~~

~~[(9)](13) "Quasi-governmental employer":~~

~~(a) Means an employer participating in the Kentucky Employees Retirement System that is a local or district health department governed by KRS Chapter 212, state-supported university or community college, mental health/mental retardation board, domestic violence shelter, rape crisis center, child advocacy center, or any other employer that is eligible to voluntarily cease participation in the Kentucky Employees Retirement System as provided by KRS 61.522; and~~

~~(b) Does not include county attorneys, the Council on State Governments (CSG), the Kentucky Educational Television (KET) Foundation, Association of Commonwealth's Attorneys, the Kentucky High School Athletic Association (KHSAA), the Municipal Power Association of Kentucky, the Kentucky Office of Bar Admissions, the Nursing Home Ombudsman, the Kentucky Association of Regional Programs (KARP), and the Kentucky Association of Sexual Assault Programs.~~

~~[(14)] ["Regular full-time position" is defined by KRS 61.510(21).]~~

Section 2. Required ~~[Form for]~~Annual Reporting.

~~(1)~~

~~(a) Quasi-governmental[For the fiscal year beginning July 1, 2021, quasi-governmental] employers shall report all persons providing services as core services independent contractors, core services leased employees, or through any other employment arrangement:~~

~~1. For fiscal years July 1, 2021 through June 30, 2023, by completing and submitting a[the] Form 6756, Annual Employer Certification of Non-Contributing Service Providers, on or before the applicable deadline of the fiscal year in which the Form 6756 was required;~~

~~2. For fiscal year July 1, 2023 through June 30, 2024, by completing and submitting the initial Form 6756, Annual Employer Certification of Non-Contributing Service Providers, or the initial Contractor Wizard on or before April 15, 2024; and[filing the Form 6756 at the retirement office on or before May 2, 2022.]~~

~~3. [(b)] Effective with the fiscal year beginning July 1, 2025[2022], and for each fiscal year thereafter, [quasi-governmental employers shall report all persons providing services as core services independent contractors, core services leased employees, or through any other employment arrangement] by completing and submitting the initial Contractor Wizard[the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, and filing the Form 6756 at the retirement office. For each fiscal year beginning on or after July 1, 2022, the Form 6756 shall be filed at the retirement office] on or before April 15 of the fiscal year in which the Contractor Wizard[Form 6756] is required.~~

~~[(b)](e) If a quasi-governmental employer contracts with[for] any additional persons to provide services as core services independent contractors, core services leased employees, or through any other employment arrangement after the submission of a completed Contractor Wizard or Form 6756, Annual Employer Certification of Non-Contributing Service Providers, as applicable in accordance~~

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with paragraph (a) or paragraph (b) of this subsection, [but prior to the end of the fiscal year,] the quasi-governmental employer shall:

1. For fiscal year July 1, 2023 to June 30, 2024, submit [file at the retirement office] a completed supplemental Form 6756 or Contractor Wizard reflecting only those persons not previously reported on the initial Form 6756 or Contractor Wizard. The supplemental Form 6756 or Contractor Wizard shall be submitted [filed at the retirement office] on or before June 30, 2024 [of the fiscal year in which the Form 6756 is required].

2. Effective with the fiscal year beginning July 1, 2024, submit a completed supplemental Contractor Wizard reflecting only those persons not previously reported on the initial Contractor Wizard. The supplemental Contractor Wizard shall be submitted on or before June 30 of the fiscal year in which the Contractor Wizard is required.

(c) All documentation required by the initial or supplemental Form 6756 or Contractor Wizard shall be submitted with the Form 6756 or Contractor Wizard.

(2)

(a) The following persons providing services as core services independent contractors, core services leased employees, or through any other employment arrangement [Persons exempted under Sections 5 and 6 of this administrative regulation] shall not be [required to be] listed on an initial or supplemental Contractor Wizard [the Form 6756, Annual Employer Certification of Non-Contributing Service Providers.]

1. [(b)] Persons [providing services as core services independent contractors, core services leased employees, or through any other employment arrangement] who would not qualify as an employee in a regular full-time position if directly employed by the quasi-governmental employer; and [shall not be listed on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers.]

2. [(c)] Persons [providing services as core services independent contractors, core services leased employees, or through any other employment arrangement] who would be in a position reported to another state-administered retirement system if directly employed by the quasi-governmental employer [shall not be listed on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers].

(b) [(d)]

[4.] On the initial or supplemental Contractor Wizard, Quasi-governmental employers:

1. Shall indicate the number of people who meet a reporting exemption as provided in Section 5 of this administrative regulation;

2. May [may] choose to report persons who meet a reporting exemption as provided in Section 5 of this administrative regulation, and those [providing services as a non-core services independent contractor on an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers.]

[2.] [All] persons [providing services to a quasi-governmental employer as a non-core services independent contractor who are included on an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers,] shall be treated in the same manner as all other persons listed on the Contractor Wizard [Form 6756], including determinations by the agency [KPPA] under Section 3 of this administrative regulation; and

3. Provide documentation required by the Contractor Wizard for persons marked as meeting a reporting exemption.

(3)

(a) [For the fiscal year beginning July 1, 2021, quasi-governmental employers that do not file at the retirement office a completed Form 6756, Annual Employer Certification of Non-Contributing Service Providers, on or before May 2, 2022 shall be reported as noncompliant to the state budget director's office and the Legislative Research Commission in accordance with KRS 61.5991(2)(c) and 61.5991(3)(d).]

[(b)] [For each fiscal year beginning on or after July 1, 2022, quasi-governmental employers that do not file at the retirement office a completed Form 6756, Annual Employer Certification of Non-Contributing Service Providers, as required by subsection (1)(b) of this section shall be reported as noncompliant to the state budget director's office and the Legislative Research Commission in accordance with KRS 61.5991(2)(c) and 61.5991(3)(d).]

[(4)] [If a quasi-governmental employer files at the retirement office an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, without the documentation required by the Form 6756, the Form 6756 shall not be complete and the quasi-governmental employer shall be noncompliant in accordance with KRS 61.5991(2)(c) and 61.5991(3)(d) unless a completed Form 6756 is later filed at the retirement office by the appropriate deadline established in subsections (1), (2), and (5) of this section.]

[(5)]

[(a)] After receiving an initial or supplemental Contractor Wizard [Form 6756, Annual Employer Certification of Non-Contributing Service Providers], the agency [KPPA] may notify the quasi-governmental employer that additional information is required.

(b) If additional information is required [by the KPPA], the agency [KPPA] shall notify the quasi-governmental employer in writing to the attention of the agency head, appointing authority, or authorized designee, such as the reporting official, and shall include the following in its notification:

1. A detailed description of the additional information required; and

2. A deadline by which the additional information required shall [must] be submitted [filed at the retirement office], which shall not be less than fourteen (14) calendar days, but may be longer than fourteen (14) calendar days.

(c) An initial or supplemental Contractor Wizard [Form 6756, Annual Employer Certification of Non-Contributing Service Providers,] shall not be considered complete until all additional information requested by the agency is submitted [KPPA is on file at the retirement office].

(4)

[(a)] [(d)] Except as indicated in paragraph (b) of this subsection, a [quasi-governmental employer fails to provide the additional information to the KPPA by the deadline listed in the notification described in paragraph (b) of this subsection or by the deadline agreed upon by the KPPA and the quasi-governmental employer, then the] quasi-governmental employer shall be reported as noncompliant to the state budget director's office and the Legislative Research Commission in accordance with KRS 61.5991(2)(c) and 61.5991(3)(d) if: [.]

1. It fails to submit a valid Contractor Wizard as required by subsections (1) through (2) of this section;

2. It submits an initial or supplemental Contractor Wizard without the documentation required by the Contractor Wizard; or

3. It fails to submit additional information requested in accordance with subsection (4) of this section.

[(b)] The quasi-governmental employer shall not be reported as noncompliant if, by the appropriate deadline provided in this section, it provides all missing information or documentation, including as applicable:

1. A completed valid Contractor Wizard in accordance with subsections (1) and (2) of this section;

2. The documentation required by the Contractor Wizard in accordance with subsections (1) and (2) of this section; or

3. Additional information requested in accordance with subsection (3) of this section.

[(5)] [(6)] During an audit of the quasi-governmental employer conducted in accordance with KRS 61.5991(2)(a)2., 61.675, and 61.685:

(a) If the agency [KPPA] discovers that a quasi-governmental employer has failed to list all persons [on a Form 6756, Annual Employer Certification of Non-Contributing Service Providers,] as required by this administrative regulation on the Contractor Wizard, or for reporting prior to fiscal year 2025, a Form 6756, Annual Employer Certification of Non-Contributing Service Providers, then the quasi-governmental employer shall be reported as noncompliant to the state budget director's office and the Legislative Research Commission in accordance with KRS 61.5991(2)(c) and 61.5991(3)(d).

(b) If the agency [KPPA] discovers persons performing services as an independent contractor or leased employee for a quasi-governmental employer in multiple part-time positions that, if combined, constitute a regular full-time position [regular full-time

position", then the agency[KPPA] shall make a determination of employee or independent contractor status in accordance with Section 3 of this administrative regulation.

Section 3. Determination of Employee or Independent Contractor.

(1) The agency[KPPA] shall have the authority to determine which persons listed on an initial and supplemental Contractor Wizard[Forms 6756, Annual Employer Certification of Non-Contributing Service Providers, should]

(a) Shall be reported as employees in regular full-time positions; or[and which persons listed on the initial and supplemental Forms 6756, Annual Employer Certification of Non-Contributing Service Providers, are]

(b) Are independent contractors.

(2) In determining whether a person listed on the initial and supplemental Contractor Wizard is an employee of the quasi-governmental employer or an independent contractor of the quasi-governmental employer, the agency:

(a) Shall[The KPPA shall] apply common law factors used by the Internal Revenue Service (IRS), in accordance with IRS Publication 1779; and[, to determine whether a person listed on the initial and supplemental Forms 6756, Annual Employer Certification of Non-Contributing Service Providers, is an employee of the quasi-governmental employer or an independent contractor of the quasi-governmental employer]

(b) May consider rules issued by the United States Department of Labor under federal wage and hour law.

(3)

(a) If the agency[KPPA] determines that a person listed on an initial or supplemental Contractor Wizard[Form 6756, Annual Employer Certification of Non-Contributing Service Providers,] is an employee of the quasi-governmental employer in a regular full-time position, then the quasi-governmental employer shall:

(a) Remit[remit] all reports, records, contributions, and reimbursements for that person as an employee in a regular full-time position in accordance with KRS 61.675 and 105 KAR 1:140 effective the calendar month after the agency[KPPA] has notified the quasi-governmental employer of its determination in accordance with Section 4 of this administrative regulation; and[.]

(b) For all periods during which the person was providing services to the quasi-governmental employer, submit:

1. A valid Form 4225, Verification of Past Employment, for that person; and[If the KPPA determines that a person listed on an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, is an employee of the quasi-governmental employer in a regular full-time position, then the quasi-governmental employer shall complete and file at the retirement office a Form 4225, Verification of Past Employment, for that person for all periods during which the person was providing services to the quasi-governmental employer.]

2. All relevant contracts and other documentation demonstrating the relationship between the quasi-governmental employer and the person.[If the KPPA determines that a person listed on an initial or supplemental Form 6756, Annual Employer Certification of Non-Contributing Service Providers, is an employee of the quasi-governmental employer in a regular full-time position, then the quasi-governmental employer also shall submit all relevant contracts and other documentation demonstrating the relationship between the quasi-governmental employer and the person for all periods during which the person was providing services to the quasi-governmental employer.]

(4)(c) [4-] After reviewing the information from the quasi-governmental employer required by subsection[paragraph](3)(b) of this section[subsection], if the agency[KPPA] determines that a[the] person listed on an initial or supplemental Contractor Wizard was an employee of the quasi-governmental employer in a regular full-time position for previous periods that were not reported by the quasi-governmental employer in accordance with KRS 61.543, KRS 61.675, and 105 KAR 1:140, then:

(a) The[the] person shall be eligible to purchase omitted service in accordance with KRS 61.552(2) for the periods of his or her[their] previous employment by the quasi-governmental employer in a

regular full-time position; and

(b)[2-] The[After reviewing the information from the quasi-governmental employer required by paragraph (b) of this subsection, if the KPPA determines that the person was an employee in a regular full-time position for previous periods that were not reported by the quasi-governmental employer in accordance with KRS 61.543, KRS 61.675, and 105 KAR 1:140, then the] quasi-governmental employer shall be responsible for payment of delinquent omitted employer contributions in accordance with KRS 61.552(2) and 61.675(3)(b) for all periods of the person's previous employment by the quasi-governmental employer in a regular full-time position.

Section 4. Notification to Employers of Determination of Employment Relationship.

(1) Each[For the] fiscal year [beginning July 1, 2021, and for each fiscal year thereafter,] quasi-governmental employers shall be notified by the agency[KPPA] of the determination of which persons shall[should] be reported as employees in regular full-time positions no later than September 30 of the subsequent fiscal year.

(2)

(a) The agency[KPPA] shall notify the quasi-governmental employer of the determination of which persons listed on an initial or supplemental Contractor Wizard shall[Form 6756, Annual Employer Certification of Non-Contributing Service Providers, should] be reported as employees in regular full-time positions in one (1) notification letter.

(b) The notification shall be sent to the agency head, appointing authority, or authorized designee, such as the reporting official.

(c) The notification shall include:

1. The name of each person who shall[should] be reported as an employee in regular full-time position in accordance with KRS 61.675 and 105 KAR 1:140;

2. A description of the contract or other documents for[pursuant to which] each person who shall[should] be reported as an employee in a regular full-time position who are providing or have provided services to the quasi-governmental employer; and

3. A statement that all other persons listed on the initial or supplemental Contractor Wizard shall[Form 6756, Annual Employer Certification of Non-Contributing Service Providers, should] not be reported as employees in regular full-time positions.

Section 5. Reporting Exemptions[Contracts for Professional Services That Have Not Historically Been Provided by Employees].

(1) A person shall meet a reporting exemption if the[quasi-governmental employer shall not be required to report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, if:]

(a) [The] person is providing professional services as a core services independent contractor, core services leased employee, or through any other employment arrangement if the person provides services:

(a) As a non-core services independent contractor or non-core services leased employee;

(b) That[that] have not been performed by direct employees of the quasi-governmental employer since January 1, 2000[;] and

(b) [The professional services] have been [performed] or are being performed for the quasi-governmental employer under a contract on file[filed] at the retirement office and determined by the agency[KPPA] or the Kentucky Retirement Systems to represent services provided by an independent contractor; or[.]

(c)[(2)] That are[Quasi-governmental employers may choose to report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, even if the person is providing professional services under a contract that have not historically been provided by employees.]

[Section 6-] [Original Contracts Entered Prior to January 1, 2021-]

(1) [A quasi-governmental employer shall not be required to report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, if the person is providing services to the quasi-governmental employer as a core services independent contractor, core services leased employee, or through

any other employment arrangement] under an original contract with the person or a company entered into prior to January 1, 2021 if: [; unless one of the exceptions in subsections (2), (3), or (4) of this section applies;]

~~1. [(2)] The [A quasi-governmental employer shall report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, if the person is providing services to the quasi-governmental employer as a core services independent contractor, core services leased employee, or through any other employment arrangement under an original contract with the person or a company entered into prior to January 1, 2021 if the] term of the original contract has not expired, and the contract has not been renewed or continued; [-]~~

~~2. [(3)] The [A quasi-governmental employer shall report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, if the person is providing services to the quasi-governmental employer as a core services independent contractor, core services leased employee, or through any other employment arrangement under an original contract with the person or a company entered into prior to January 1, 2021 if the] contract has not been modified to encompass different services; and [-]~~

~~3. [(4)] The [A quasi-governmental employer shall report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, if the person is providing services to the quasi-governmental employer as a core services independent contractor, core services leased employee, or through any other employment arrangement under an original contract with a company entered into prior to January 1, 2021 if the] person was [not] included in the original contract.~~

~~(2) [(5)] [Quasi-governmental employers may choose to report a person on the Form 6756, Annual Employer Certification of Non-Contributing Service Providers, even if the person is providing services to the quasi-governmental employer as a core services independent contractor, core services leased employee, or through any other employment arrangement under an original contract with the person or a company entered into prior to January 1, 2021.]~~

~~(a) When a quasi-governmental employer submits its Contractor Wizard in accordance with Section 2 [subsection (2)] of this administrative regulation, it shall also submit the employment contract for people indicated as a reporting exemption, except as provided in paragraph (b)1. of this subsection.~~

~~(b) The agency shall review the contracts and determine if the person meets the requirements of a reporting exemption.~~

~~1. If a person is determined by the agency to meet a reporting exemption, the quasi-governmental employer shall not submit the contract in subsequent fiscal years as long as all terms and conditions of the approved contract remain unchanged.~~

~~2. If a person is determined by the agency to not meet a reporting exemption, the agency shall make a determination of employment status in accordance with Section 3 of this administrative regulation.~~

~~Section 6. [Section 7.] Report to the State Budget Director's Office and the Legislative Research Commission.~~

~~(1)~~

~~(a) To determine the number of employees of the quasi-governmental employer reported for the prior fiscal year in accordance with KRS 61.5991(3)(a), the agency [KPPA] shall add together all employees in regular full-time positions reported by the quasi-governmental employer pursuant to KRS 61.675 and 105 KAR 1:140 in the prior fiscal year.~~

~~(b) Persons listed on an initial or supplemental Contractor Wizard [Form 6756, Annual Employer Certification of Non-Contributing Service Providers;] for the prior fiscal year who are ultimately determined by the agency [KPPA] to be employees of the quasi-governmental employer in regular full-time positions shall not be included in the number of employees of the quasi-governmental employer for the prior fiscal year. These persons shall [may] be included in the number of employees of the quasi-governmental employer in a regular full-time position for a subsequent fiscal year if the person is reported by the quasi-governmental employer in the subsequent fiscal year as an employee in a regular full-time position in accordance with KRS 61.675 and 105 KAR 1:140.~~

(2) To determine the number of persons providing services to the quasi-governmental employer who were not reported for the prior fiscal year in accordance with KRS 61.5991(3)(b), the agency [KPPA] shall use the total number of persons listed on initial and supplemental Contractor Wizards [Forms 6756, Annual Employer Certification of Non-Contributing Service Providers;] for the prior fiscal year.

(3) The agency [KPPA] shall report the following information for each quasi-governmental employer determined to have falsified data or been noncompliant in accordance with KRS 61.5991(3)(d):

(a) The name of the quasi-governmental employer;

(b) A description of the type of data falsified and the support the agency [KPPA] has for believing the data to be falsified, if applicable; and

(c) A description of the nature of the noncompliance, if applicable.

Section 7. Retired Reemployed. A retired member who is reemployed with a quasi-governmental employer providing services through an independent contractor, leased employee, or through any other employment arrangement shall also comply with KRS 61.637, 78.5540, and 105 KAR 1:390, including employees:

- (1) In participating positions and non-participating positions; and
- (2) Not reported on the Contractor Wizard.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Contractor Wizard", May 2024 [Form 6756, "Annual Employer Certification of Non-Contributing Service Providers", September 2021];

(b) Internal Revenue Service Publication 1779, "Independent Contractor or Employee", March 2023 [2012]; [-and]

(c) Form 4225, "Verification of Past Employment", March 2024; [April 2021;] and

(d) Form 6756, "Annual Employer Certification of Non-Contributing Service Providers", September 2021.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. This material is also available on the agency's [Kentucky Public Pensions Authority's] Web site at kyret.ky.gov.

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BOARDS AND COMMISSIONS
Board of Veterinary Examiners
(As Amended at ARRS, March 10, 2025)

201 KAR 16:765. Veterinary facilities -- Renewal notice -- Requirements for renewal and reinstatement.

RELATES TO: KRS 321.189, 321.203, 321.205, 321.235 STATUTORY AUTHORITY: KRS 321.175(2)(c), (5), 321.203 [(4), (2), (5), 321.203], 321.205, 321.235(1)(b), (2)(e), [(2)](f) NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.235(1)(b) requires the Kentucky Board of Veterinary Examiners to promulgate administrative regulations to effectively implement [carry out] and enforce the provisions of KRS Chapter 321. KRS 321.236 requires all veterinary facilities to register with the Kentucky Board of Veterinary Examiners. This administrative regulation establishes requirements for the renewal and reinstatement of veterinary facility registrations.

Section 1. Renewal Notices and Timeliness of Renewal Applications.

(1) The board shall, not later than August 31 [July 4] of each odd-numbered year, email or mail to each registered veterinary [allied animal health professional] facility a biennial renewal notice.

(2) The renewal application shall be completed by the permittee

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and returned to the board, including all required attachments and, if required by the board, proof of course completion for the required continuing education.

(3) Timely receipt of renewal application.

(a) Renewals bearing a postmark, or, if an online renewal, a timestamp, of not later than September 30 of every odd numbered year beginning in 2027 and each odd numbered year thereafter~~[or earlier]~~ shall be considered received on time.

(b) Renewals bearing a postmark, or, if an online renewal, a timestamp, on or after October 1 of every odd year shall be considered late and shall cause the registration status to be changed to expired. There shall be no grace period for registered facility renewal~~[between October 1 and November 30 shall be considered late and therefore incur a late fee pursuant to 201 KAR 16:513].~~

(4) Renewal fee.

(a) The renewal fee shall be paid pursuant to 201 KAR 16:515; and

(b) The renewal fee shall be attached to the completed renewal form when it is returned to the board or paid online with the completion of the online renewal form~~[The renewal fee shall be attached to the completed renewal form when it is returned to the board or paid online].~~

Section 2. Renewal Application.

(1) The renewal application for a veterinary facility shall be completed by the registered responsible party or veterinarian manager and returned to the board, including all required attachments.

(2) A renewal application to the board for a veterinary facility registration shall include the following components:

(a) A completed application on a Renewal Application for Registered Veterinary Facilities form or online equivalent form, including all required attachments and fees pursuant to 201 KAR 16:515;

(b) Identification of any changes to the registered responsible party;

(c) Identification of the veterinarian manager;

(d) Identification of the name, phone, or email address of the registered facility;

(e) A current copy of the business registration from the Kentucky Secretary of State;

(f) Identification of the species served from one (1) or more in a list provided by the board;

(g) Identification of the patient services offered at the veterinary facility from one (1) or more in a list provided by the board;

(h) A complete list of veterinarians working at the facility, excluding veterinarians providing locum services on a temporary basis to the facility;

(i) A complete list of licensed veterinary technicians working at the facility;

(j) A complete list of allied animal health professional (AAHP) permittees working at the facility;

(k) A complete list of mobile units affiliated with the veterinary facility;

(l) Disclosure of afterhours care arrangements;

(m) For fixed facilities, county of facility location and counties served;

(n) If the facility offers a haul-in installation for livestock~~[instillation];~~

(o) For mobile units, a list of the counties served by the mobile unit;

(p) Hours of operation;

(q) A copy of any court documents, final orders, settlement agreements, or other information~~[documents]~~ requested by the board in support of the application; and

(r) Any other information requested by the board in support of the application.

(3) A change in fifty (50) percent~~[50%]~~ or more of ownership or of the registered responsible parties shall be cause for the board to deny the renewal for a veterinary facility registration and require a new veterinary facility registration application.

Section 3. Failure to Renew~~[Timely receipt of renewal~~

~~application.]~~

~~(1) [Renewals bearing a postmark, or, if an online renewal, a timestamp, of September 30 of every odd numbered year beginning in 2027 and each odd numbered year thereafter shall be considered received on time.]~~

~~[(2)] [Renewals bearing a postmark or, if an online renewal, a timestamp, after September 30 of the renewal period shall be considered late and shall cause the facility registration status to be changed to expired. There shall be no grace period for registered facility renewal.]~~

~~[(3)] [Renewal fee.]~~

~~[(a)] [The renewal fee shall be paid in accordance with 201 KAR 16:515; and]~~

~~[(b)] [The renewal fee shall be attached to the completed renewal form when it is returned to the board or paid online with the completion of the online renewal form.]~~

~~[(4)] Applicants for renewal that miss the veterinary facility registration renewal deadline shall immediately~~[:]~~~~

~~[(a)] [Immediately] cease operations offering veterinary services~~[: and]~~~~

~~[(2)] [(b)] If the registered responsible party desires to continue offering veterinary services on the fixed premises or from a mobile unit~~[operations], they shall~~ submit a complete [a] reinstatement application in accordance with Section 4 of this administrative regulation.~~

Section 4. Reinstatement. A registered responsible party or veterinarian manager shall apply for reinstatement of an expired veterinary facility registration if not more than five (5) years have elapsed since the last date of registration expiration pursuant to KRS 321.203.

(1) A reinstatement application to the board for a veterinary facility registration shall include the following components:

(a) A completed application on a Reinstatement Application for Registered Veterinary Facilities form or online equivalent form, including the following components, all required attachments, and fees pursuant to 201 KAR 16:515;

(b) Identification of any changes to the registered responsible party;

(c) Identification of the veterinarian manager;

(d) Identification of the name, phone, and email address of the registered facility;

(e) A copy of the business registration from the Kentucky Secretary of State;

(f) Identification of the species served from one (1) or more in a list provided by the board;

(g) Identification of the patient services offered at the veterinary facility from one (1) or more in a list provided by the board;

(h) A complete list of veterinarians working at the facility, excluding veterinarians providing locum services on a temporary basis to the facility;

(i) A complete list of licensed veterinary technicians working at the facility;

(j) A complete list of AAHP permittees working at the facility;

(k) A complete list of all mobile units affiliated with the veterinary facility;

(l) Disclosure of afterhours care arrangements;

(m) For fixed facilities, county of location and counties served;

(n) If the facility offers a haul-in installation for livestock~~[instillation];~~

(o) For mobile units, a list of the counties served by the mobile unit;

(p) Hours of operation;

(q) A copy of any court documents, final orders, settlement agreements, or other information~~[documents]~~ requested by the board in support of the application; and

(r) Any other information requested by the board in support of the application.

(2) Reinstatement fee.

(a) The reinstatement fee shall be paid in accordance with 201 KAR 16:515; and

(b) The reinstatement fee shall be attached to the completed reinstatement form when it is returned to the board or paid online

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with the completion of the online reinstatement form, if available.

Section 5. Background Checks. Pursuant to KRS 321.189, the board may:

(1) Conduct a national or jurisdictional level background check on each veterinarian manager applicant for veterinary facility registration. The check shall be processed by a board approved background check provider and may include a copy of the applicant's fingerprints captured at a board-approved location;

(2) Reject background checks that do not have an official seal or watermark, or that are more than ninety (90) days old; and

(3) Impose additional requirements as a condition of registration or deny registration following the board's review of findings from a background check.

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Renewal Application for Registered Veterinary Facilities", ~~3/2025~~~~2/2025~~~~[10/2024]~~; and

(b) "Reinstatement Application for Registered Veterinary Facilities", ~~3/2025~~~~2/2025~~~~[10/2024]~~.

(2) This material may be inspected, copied, or obtained, subjected to applicable copyright law, at the Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, Kentucky 40511, Monday through Friday, 8:30 a.m. to 4:30 p.m. This material may also be obtained at kbve.ky.gov.

FILED WITH LRC: March 10, 2025

CONTACT PERSON: Michelle M. Shane, Executive Director, Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, Kentucky 40511, phone 502-564-5433, fax 502-753-1458, email Michelle.Shane@ky.gov.

BOARDS AND COMMISSIONS
Board of Veterinary Examiners
(As Amended at ARRS, March 10, 2025)

201 KAR 16:767. Registered veterinary facilities – Duties of registered responsible parties and veterinarian managers.

RELATES TO: KRS ~~321.181~~, 321.203, 321.205, 321.235, 321.236
STATUTORY AUTHORITY: KRS 321.235(1)(b), 321.236(1)(b)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.235(1)(b) requires the Kentucky Board of Veterinary Examiners to promulgate administrative regulations to effectively carry out and enforce the provisions of KRS Chapter 321. KRS 321.236 requires all veterinary facilities to register with the Kentucky Board of Veterinary Examiners. KRS 321.236(5) requires each registered veterinary facility to identify both a veterinarian manager and each registered responsible party who shall be responsible for the operation and management of the veterinary facility. This administrative regulation establishes the responsibilities for registered responsible parties and veterinarian managers.

Section 1. Definitions.

(1) "Fixed facility" is defined by KRS 321.181(38).

(2) "Mobile facility" or "mobile unit" is defined by KRS 321.181(46).

(3) "Practice of veterinary medicine" is defined by KRS 321.181(50).

(4) "Practice of veterinary technology" is defined by KRS 321.181(51).

(5) "Registered responsible party" is defined by KRS 321.181(57).

(6) "Veterinarian manager" is defined by KRS 321.181(68)

(7) "Veterinary facility" is defined by KRS 321.181(71).

Section 2. Duties of Registered Responsible Parties. A registered responsible party shall

(1) Be responsible for maintaining minimum standards as promulgated by the board in **201 KAR Chapter 16[administrative regulation]**;

(2) Designate a veterinarian manager for the registered

veterinary facility;

(3) Comply with the requirements of and ensure employees and volunteers at the veterinary facility comply with the provisions of KRS Chapter 321 and 201 KAR Chapter 16,~~[are met]~~ in addition to all local, state, and federal laws governing operations at the veterinary facility; and

(4) Comply with all duties to report, in accordance with Section 4 of this administrative regulation, including the timely designation of a veterinarian manager for the facility.

Section 3. Duties of Veterinarian Managers.

(1) A veterinarian manager shall:

(a) Be responsible for maintaining minimum standards as promulgated by the board in **201 KAR Chapter 16[administrative regulation]**;

(b) Maintain a Kentucky Board of Veterinary Examiners veterinarian license;

(c) Comply with all provisions of the Kentucky Veterinary Medicine Practice Act and 201 KAR Chapter 16, in addition to all local, state, and federal laws governing operations at the veterinary facility; and

(d) Ensure the current board approved veterinary facility registration is posted in the registered facility and viewable by the public.

(2) The veterinarian manager shall be:

(a) The individual who oversees veterinary services at a veterinary facility;

(b) Knowledgeable about the veterinary facility and its:

1. Daily operations;~~[,]~~

2. Standard protocols;~~[,]~~

3. Drugs and supplies;~~[,]~~

4. Patient areas;~~[,]~~

5. Storage structures;~~[,]~~

6. Other organizational spaces;~~[,]~~ and

7. Parts and spaces, both indoors and outdoors;

(c) Present at the veterinary facility with enough frequency to have knowledge of and control over the facility's methods for complying with minimum standards and the degree to which the minimum standards are being met; and

(d) Available and responsive to the board, its staff, inspectors, or other board designees, ~~if~~~~in the event of~~ a facility inspection or any inquiry or investigation by the board **occurs**.

Section 4. Duty to Report. Either the registered responsible parties or veterinarian managers shall report to the board:

(1) Within thirty (30) days, any change of name, address, phone, or email to the registered facility by completing and submitting to the board the Request for Facility Information Change form or online equivalent form provided by the board, including all required attachments;

(2) Within ten (10) days, a change in the veterinarian manager for the registered veterinary facility on the Request for a New Veterinarian Manager form or online equivalent form, including all required attachments; and

(3) A written response to a grievance or inquiry from the board in accordance with 201 KAR 16:610.

Section 5. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Request for Facility Information Change", ~~2/2025~~~~[10/2024]~~; and~~[,]~~

(b) "Request for a New Veterinarian Manager", ~~3/2025~~~~2/2025~~~~[10/2024]~~.

(2) This material may be inspected, copied, or obtained, subjected to applicable copyright law, at the Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, Kentucky 40511, Monday through Friday, 8:30 a.m. to 4:30 p.m. This material may also be obtained at kbve.ky.gov.

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CONTACT PERSON: Michelle M. Shane, Executive Director, Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, Kentucky 40511, phone 502-564-5433, fax 502-753-1458, email Michelle.Shane@ky.gov.

BOARDS AND COMMISSIONS
Board of Veterinary Examiners
(As Amended at ARRS, March 10, 2025)

201 KAR 16:775. AAHP facilities -- Renewal notice -- Requirements for renewal and reinstatement.

RELATES TO: KRS 321.175, 321.181(1)-(4), 321.189, 321.203, 321.205, 321.235

STATUTORY AUTHORITY: KRS 321.175(2)(c), (5), 321.181(1)-(4), 321.203, 321.205, 321.235(1)(a)-(c), (2)(b)2., 321.236

NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.235(1)(b) requires the board to promulgate administrative regulations to implement and enforce KRS Chapter 321. KRS 321.235(2)(b)2. authorizes[provides] the board [authority—]to promulgate administrative regulations to establish conditions for applications and permitting of allied animal health professional (AAHP) facilities. This administrative regulation establishes requirements for AAHP facility registration renewal and reinstatement applications.

Section 1. Renewal Notices and Timeliness of Renewal Applications.

(1) The board shall, not later than August 31~~[July 4]~~ of each odd-numbered year, email or mail to each registered AAHP facility a biennial renewal notice.

(2) The renewal application shall be completed by the AAHP manager or registered responsible party and returned to the board, including all required attachments and, if required by the board, proof of course completion for the required continuing education.

(3) Timely receipt of renewal application.

(a) Renewals bearing a postmark, or, if an online renewal, a timestamp, of not later than September 30 of every odd-numbered year beginning in 2027 and each odd-numbered year thereafter~~[or earlier]~~ shall be considered received on time.

(b) Renewals bearing a postmark, or, if an online renewal, a timestamp, on or after October 1 of every odd-numbered year shall be considered late and shall cause the registration status to be changed to expired. There shall be no grace period for registered facility renewal.

(4) Renewal fee.

(a) The renewal fee shall be paid pursuant to 201 KAR 16:517; and

(b) The renewal fee shall be attached to the completed renewal form when it is returned to the board or paid online with the completion of the online renewal form.~~[Applicants for renewal that miss the deadline will be required to complete a reinstatement application in accordance with Section 4 of this administrative regulation.]~~

Section 2. Renewal Application.

(1) The renewal application shall be completed by the registered responsible party or AAHP manager and returned to the board, including all required attachments.

(2) A renewal application to the board for an AAHP facility registration shall include the following components:

(a) A completed application on the Renewal Application for Registered AAHP Facilities form or online equivalent form, including all required attachments and fees pursuant to 201 KAR 16:517;

(b) Identification of any changes to the registered responsible party;

(c) Identification of the AAHP manager;

(d) A copy of the business registration from the Kentucky Secretary of State;

(e) Identification of the type of AAHP facility from one (1) or more in a list provided by the board;

(f) Identification of the species served by the facility from one (1) or more in a list provided by the board;

(g) Identification of the patient services offered at the AAHP[veterinary] facility from one (1) or more in a list provided by the board;

(h) A complete list of AAHP permittees working at the facility;

(i) A complete list of all mobile units affiliated with the AAHP facility;

(j) Disclosure of afterhours care arrangements;

(k) For fixed facilities, county of location and counties served;
 (l) For mobile units, a list of the counties served by the mobile unit;

(m) Hours of facility operation; and

(n) A copy of any court documents, final orders, settlement agreements, or other information[documents] requested by the board in support of the application.

(3) A change in fifty (50) percent or more of ownership or of the registered responsible parties shall be cause for the board to deny an AAHP facility renewal and require a new AAHP facility application.

Section 3. Failure to Renew.

(1) Applicants for renewal that miss the AAHP facility registration renewal deadline shall immediately cease operations offering AAHP services.

(2) If the registered responsible party desires to continue offering AAHP services on the premises or from a mobile unit, they shall submit a complete reinstatement application in accordance with Section 4 of this administrative regulation.~~[Renewal fee.]~~

~~[(1)] [The renewal fee shall be paid in accordance with 201 KAR 16:517; and]~~

~~[(2)] [The renewal fee shall be attached to the completed renewal form when it is returned to the board or paid online with the completion of the online renewal form.]~~

Section 4. Reinstatement. A registered responsible party or AAHP manager may apply for reinstatement of an expired AAHP facility registration if not more than five (5) years have elapsed since the last date of registration expiration pursuant to KRS 321.203. Applications to the board for reinstatement of a AAHP facility registration shall include the following components:

(1) A completed application on a Reinstatement Application for Registered AAHP Facilities form or online equivalent form, including the following components and all required attachments and fees pursuant to 201 KAR 16:517;

(2) Identification of any changes to the registered responsible party;

(3) Identification of the AAHP manager;

(4) A copy of the business registration from the Kentucky Secretary of State;

(5) Identification of the type of AAHP facility from one (1) or more in a list provided by the board;

(6) Identification of the type of AAHP facility from one (1) or more in a list provided by the board;

(7) Identification of the species served by the facility from one (1) or more in a list provided by the board;

(8) Identification of the patient services offered at the AAHP[veterinary] facility from one (1) or more in a list provided by the board;

(9) A complete list of AAHP permittees working at the facility;

(10) A complete list of all mobile units affiliated with the AAHP facility;

(11) Disclosure of afterhours care arrangements;

(12) For fixed facilities, county of location and counties served;

(13) For mobile units, a list of the counties served by the mobile unit;

(14) Hours of facility operation; and

(15) A copy of any court documents, final orders, settlement agreements, or other information[documents] requested by the board in support of the application.

Section 5. Background Checks. Pursuant to KRS 321.189, the board may:

(1) Conduct a national or jurisdictional level background check on each AAHP manager applicant for AAHP facility registration. The check shall be processed by a board approved background check provider and may include a copy of the applicant's fingerprints captured at a board-approved location;

(2) Reject background checks that do not have an official seal or watermark, or that are more than ninety (90) days old; and

(3) Impose additional requirements as a condition of registration or deny the AAHP facility application or the designated

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AAHP~~[veterinarian]~~ manager following the board's review of findings from a background check.

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) "Renewal Application for Registered AAHP Facilities", ~~3/2025~~~~2/2025~~~~[10/2024]~~; and
- (b) "Reinstatement Application for Registered AAHP Facilities", ~~3/2025~~~~2/2025~~~~[10/2024]~~.

(2) This material may be inspected, copied, or obtained, subjected to applicable copyright law, at the Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, Kentucky 40511, Monday through Friday, 8:30 a.m. to 4:30 p.m. This material may also be obtained at kbve.ky.gov.

FILED WITH LRC: March 10, 2025

CONTACT PERSON: Michelle M. Shane, Executive Director, Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, Kentucky 40511, phone 502-564-5433, fax 502-753-1458, email Michelle.Shane@ky.gov.

BOARDS AND COMMISSIONS
Board of Veterinary Examiners
(As Amended at ARRS, March 10, 2025)

201 KAR 16:777. Registered AAHP facilities – Duties of registered responsible parties and AAHP managers.

RELATES TO: KRS ~~321.181~~, 321.203, 321.205, 321.235, 321.236
STATUTORY AUTHORITY: KRS 321.235(1)(b), 321.236(1)(b)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 321.235(1)(b) requires the Kentucky Board of Veterinary Examiners to promulgate administrative regulations to effectively carry out and enforce the provisions of KRS Chapter 321. KRS 321.236 requires all allied animal health professional (AAHP) facilities to register with the Kentucky Board of Veterinary Examiners. KRS 321.236(5) requires each registered AAHP facility to identify both an AAHP manager and each registered responsible party who shall be responsible for the operation and management of the AAHP facility. This administrative regulation establishes the responsibilities for registered responsible parties and AAHP managers.

Section 1. Definitions.

- (1) "Allied animal health professional" or "AAHP" **is defined by**~~[has the same meaning as]~~ KRS 321.181(1).
- (2) "Allied animal health professional facility" or "AAHP facility" **is defined by**~~[has the same meaning as]~~ KRS 321.181(2).
- (3) "Fixed facility" **is defined by**~~[has the same meaning as]~~ KRS 321.181(38).
- (4) "Mobile facility" or "mobile unit" **is defined by**~~[has the same meaning as]~~ KRS 321.181(46).
- (5) "Registered responsible party" **is defined by**~~[has the same meaning as]~~ KRS 321.181(57).

Section 2. Duties of Registered Responsible Parties. A registered responsible party shall:

- (1) Be responsible for maintaining minimum standards as promulgated by the board in 201 KAR Chapter 16~~[administrative regulation]~~;
- (2) Designate an AAHP manager for the registered AAHP facility;
- (3) Ensure the requirements of KRS Chapter 321 and 201 KAR Chapter 16 are met in addition to all local, state, and federal laws governing operations at the veterinary facility; **and**
- (4) Comply with all duties to report, in accordance with Section 4 of this administrative regulation, including the timely designation of an AAHP manager for the facility; ~~and~~

Section 3. Duties of AAHP Managers.

- (1) An AAHP manager shall:
 - (a) Be responsible for maintaining minimum standards as promulgated by the board in 201 KAR Chapter 16~~[administrative regulation]~~;
 - (b) Maintain a Kentucky Board of Veterinary Examiners AAHP

permit in good standing;

(c) Comply with all provisions of the Kentucky Veterinary Medicine Practice Act and 201 KAR Chapter 16, in addition to all local, state, and federal laws governing operations at the AAHP facility; and
(d) Ensure the current board approved AAHP facility registration is posted in the registered facility and viewable by the public.

- (2) The AAHP manager shall be:
 - (a) The individual who oversees AAHP services at the AAHP facility;
 - (b) Knowledgeable about the AAHP facility, its:
 - 1. Daily operations;
 - 2. Standard protocols;
 - 3. Drug supplies;
 - 4. Patient areas;
 - 5. Storage structures;
 - 6. Other organizational spaces; and
 - 7. Parts and spaces, both indoors and outdoors;
 - (c) Present at the AAHP facility with enough frequency to have knowledge of and control over the facility's methods for complying with minimum standards and the degree to which the minimum standards are being met; and
 - (d) Available and responsive to the board, its staff, inspectors, or other board designees, ~~if~~~~[in the event of]~~ a facility inspection or any inquiry or investigation by the board **occurs**.

Section 4. Duty to Report. Either the registered responsible party or AAHP managers shall report to the board:

- (1) Within thirty (30) days, any change of name, address, phone, or email to the registered AAHP facility by completing and submitting to the board the Request for Facility Information Change form **incorporated by reference**~~[as found]~~ in 201 KAR 16:767, or online equivalent form, including all required attachments, provided by the board;
- (2) Within ten (10) days, a change in the AAHP manager for the registered facility by completing and submitting to the board a Request for a New AAHP Manager form or online equivalent form, including all required attachments, provided by the board; and
- (3) A written response to a grievance or inquiry from the board pursuant to 201 KAR 16:610.

Section 5. Registration and Inspection of Allied Animal Health Professional Facilities.

- (1) Each AAHP permittee and AAHP facility or mobile facility shall be subject to KRS Chapter 321 and 201 KAR Chapter 16.
- (2) During a facility inspection or investigation, the board or its designee shall be provided unrestricted access to animal use areas.
- (3) Inspections of an AAHP facility shall be limited to the animal treatment areas unless the board or its designee is accompanied by at least one **(1)** representative from the professional licensing board or certifying body in the human area of specialty.

Section 6. Separate Human and Animal Treatment Areas Required. An AAHP permittee who treats both animal and human patients in the same registered facility shall:

- (1) Post a conspicuous sign in the reception area of that facility informing customers that nonhuman patients are treated on the premises;
- (2) Maintain a separate, non-carpeted room for the purpose of practicing on animal patients;
- (3) Utilize separate furniture and equipment for use with animal patients which shall not be used for human patients;
- (4) Apply appropriate biosecurity measures to prevent contamination and the spread of zoonotic disease; **and**
- (5) ~~If~~~~[in the event of]~~ an animal bite **occurs**, report to the local health department within twelve (12) hours and comply with state law regarding required actions and, if necessary, quarantine the animal.

Section 7. Incorporation by Reference.

- (1) "Request for a New AAHP Manager", ~~3/2025~~~~2/2025~~~~[10/2024]~~, is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subjected to applicable copyright law, at the Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104,

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Lexington, Kentucky 40511, Monday through Friday, 8:30 a.m. to 4:30 p.m. This material may also be obtained at kbve.ky.gov.

FILED WITH LRC: March 10, 2025

CONTACT PERSON: Michelle M. Shane, Executive Director, Kentucky Board of Veterinary Examiners, 4047 Iron Works Parkway, Suite 104, Lexington, Kentucky 40511, phone 502-564-5433, fax 502-753-1458, email Michelle.Shane@ky.gov.

BOARDS AND COMMISSIONS
Board of Speech-Language Pathology and Audiology
(As Amended at ARRS, March 10, 2025)

201 KAR 17:120. Audiology and Speech-Language Pathology Interstate Compact.

RELATES TO: KRS 334A.188

STATUTORY AUTHORITY: KRS 334A.080(3), 334A.188
NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.188, Section 15.B.1. requires the Board of Speech-Language Pathology and Audiology to review any rule adopted by the Audiology and Speech-Language Pathology Interstate Compact pursuant to Section 10 of KRS 334A.188 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 **Audiology and Speech-Language Pathology Interstate Counseling** Compact.

Section 1. The Board of Speech-Language Pathology and Audiology shall comply with all rules of the Audiology and Speech-Language Pathology Interstate Compact, which includes the Audiology and Speech-Language Pathology Interstate Compact Rules as of October 7, 2023.

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference: "The Audiology and Speech-Language Pathology Interstate Compact Rules", October 7, 2023, and as revised.

- (a) Chapter 1 – Rule on Definitions, adopted April 17, 2023;
- (b) Chapter 2 – Rule on Data System Reporting Requirements, adopted April 17, 2023; and
- (c) Chapter 3 – Rule on Implementation of Criminal Background Check Requirement, adopted October 7, 2023.

(2)

(a) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Speech-Language Pathology and Audiology, 500 Mero Street, 2 SC 32, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.; or

(b) This material may also be obtained on the Board of Speech-Language Pathology and Audiology Web site at <https://slp.ky.gov/>.

(3) This material may also be obtained at:

(a) The Audiology and Speech-Language Pathology Interstate Compact Commission, 1776 Avenue of the States, Lexington, Kentucky 40511; or

(b) <https://aslpcompact.com/commission/commission-governance-documents/>.

FILED WITH LRC: March 10, 2025

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

BOARDS AND COMMISSIONS
Board of Licensed Professional Counselors
(As Amended at ARRS, March 10, 2025)

201 KAR 36:050. Complaint management process.

RELATES TO: KRS **Chapter 13B, 335.500-335.599, 45 C.F.R. Part 164.512[335.540, 335.545]**

STATUTORY AUTHORITY: KRS 335.515(3), (7), ~~45 C.F.R. 164.512(a), (d), (e)~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.515(3) requires the board to promulgate administrative regulations necessary to carry out and enforce the provisions of KRS 335.500 to 335.599. This administrative regulation establishes the procedures for filing, investigating, and addressing a complaint filed against a professional counselor.

Section 1. Receipt of Complaints.

(1) A complaint:

(a) May be submitted by an:

- 1. Individual;
- 2. Organization; or
- 3. Entity;

(b) Shall be:

1. In writing and provided on the Complaint Form **with Information Sheet and Authorization for Release of Medical and Client Records, DPL-LPC-11, DPL-LPC-12**; and

2. Signed by the person submitting the complaint; and

(c) May be filed by the board based upon information in its possession **without receipt of a third-party complaint if the board has reasonable cause to believe there may be a violation by a licensee.**

(2)

(a) Upon receipt of a complaint, a copy of the complaint shall be sent to the individual named in the complaint along with a request for that individual's response to the complaint.

(b) The individual shall be allowed a period of twenty (20) days from the date of receipt to submit a written response.

(3)

(a) Upon receipt of the written response of the individual named in the complaint, a copy of his or her response shall be sent to the complainant.

(b) The complainant shall have seven (7) days from the receipt to submit a written reply to the response.

Section 2. Initial Review.

(1) After the receipt of a complaint and the expiration of the period for the individual's response or reply, the complaint screening committee shall consider the individual's response, complainant's reply to the response, and any other relevant material available, and make a recommendation to the board. The board shall determine whether there is enough evidence to warrant a formal investigation of the complaint.

(2) If the board determines before formal investigation that a complaint is without merit, it shall:

(a) Dismiss the complaint; and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a complaint warrants a formal investigation, it shall:

(a) Authorize an investigation into the matter; and

(b) Order a report to be made to the complaint screening committee at the earliest opportunity.

Section 3. Results of Formal Investigation; Board Decision on Hearing.

(1) Upon completion of the formal investigation, the investigator shall submit a report to the complaint screening committee of the facts regarding the complaint. The committee shall review the investigative report and make a recommendation to the board. The board shall determine whether there has been a prima facie violation of KRS 335.500 to 335.599 or the administrative regulations promulgated thereunder and **whether** a complaint **shall[should]** be filed.

(2) If the board determines that a complaint does not warrant issuance of a formal complaint, it shall:

(a) Dismiss the complaint or take action pursuant to KRS 335.540(3); and

(b) Notify the complainant and respondent of the board's decision.

(3) If the board determines that a complaint warrants the issuance of a formal complaint against a respondent, the complaint screening committee shall prepare a formal complaint, which states clearly the charge or charges to be considered at the hearing. The formal

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complaint shall be reviewed by the board and, if approved, signed by the chair and served upon the individual as required by KRS Chapter 13B.

(4) If the board determines that a person may be in violation, it shall:

(a) Order the individual to cease and desist from further violations of KRS 335.505;

(b) Forward information to the county attorney of the county of residence of the person allegedly violating KRS 335.505 with a request that appropriate action be taken under KRS 335.599; or

(c) Initiate action in Franklin Circuit Court for injunctive relief to stop the violation of KRS 335.505.

Section 4. Settlement by Informal Proceedings.

(1) The board, through counsel and the complaint screening committee, may, at any time during this process, enter into informal proceedings with the individual who is the subject of the complaint for the purpose of appropriately dispensing with the matter.

(2) An agreed order or settlement reached through this process shall be approved by the board and signed by the individual who is the subject of the complaint and the chair.

(3) The board may employ mediation as a method of resolving the matter informally.

Section 5. Written Admonishment.

(1) If the complaint screening committee determines that a violation has occurred but is not serious, the complaint screening committee may recommend the issuance of a private written ~~admonishment~~[reprimand] to the board. If the board accepts the recommendation, the board shall issue a private written ~~admonishment~~[reprimand] to the credential holder.

(2) A copy of the private written ~~admonishment~~[reprimand] shall be placed in the permanent file of the credential holder.

(3) A private written ~~admonishment~~[reprimand] shall not:

(a) Be subject to disclosure to the public under KRS 61.878(1)(l); or

(b) Constitute disciplinary action.

(4) A private written ~~admonishment~~[reprimand] may be used by the board for statistical purposes or in any subsequent disciplinary action against the credential holder or applicant.

Section 6. Board Ordered Examination. If the board determines that there is reasonable cause to believe that a license holder or applicant for a license is physically or mentally incapable of practicing professional counseling with reasonable skill and safety to clients, the board may order the license holder or applicant to submit to an examination by a mental health professional or a physician designated by the board to determine the license holder's or applicant's mental health or physical status to practice professional counseling.

Section 7. Notice and Service Process. A notice required by KRS 335.500 to 335.599 or this administrative regulation shall be issued pursuant to KRS Chapter 13B and 201 KAR 36:090.

Section 8. Notification. The board shall make public:

(1) Its final order in a disciplinary action under KRS 335.540 with the exception of a written admonishment issued pursuant to KRS 335.540(3); and

(2) An action to restrain or enjoin a violation of KRS 335.505. [**201 KAR 36:050.**]

Section 9. Authorization for Release of Medical and Client Records. If the [your] complaint relates to services provided [to you] by a licensee, the board or its [it's] authorized representative may contact the complainant [you] and request that he or she [you] sign an Authorization for Release of Medical and Client Records, DPL-LPC-012. This involves health oversight activities and administrative proceedings of the board and disclosure is permitted by [under] 45 C.F.R. Section 164.512 [a], [d], and [e], the federal regulations implementing the Health Insurance Portability and Accountability Act (HIPAA).

Section 10. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Complaint Form with Information Sheet and Authorization for Release of Medical and Client Records", DPL-LPC-11, February 2025 [~~August 2024~~]; and [~~DPL-LPC-12, July 2023, is incorporated by reference.~~]

(b) "Authorization for Release of Medical and Client Records", DPL-LPC-12, February 2025 [~~August 2024~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Licensed Professional Counselors, 500 Mero Street, Frankfort, Kentucky 40601, from 8:00 a.m. to 4:00 p.m., Monday through Friday. This material is also available on the board's Web site at ipc.ky.gov.

FILED WITH LRC: March 10, 2025

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

BOARDS AND COMMISSIONS
Board of Licensed Professional Counselors
(As Amended at ARRS, March 10, 2025)

201 KAR 36:100. Counseling compact.

RELATES TO: KRS 335.560

STATUTORY AUTHORITY: KRS 335.515, 335.560

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.560, Section 16.B.1. requires the Board of Licensed Professional Counselors to review any rule adopted by the Counseling Compact pursuant to Section 11 of KRS 335.560 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 Counseling Compact.

Section 1. The Board of Licensed Professional Counselors shall comply with all rules of the Counseling Compact, which includes the Counseling Compact Rules as of February 12, 2025 [~~January 10, 2024~~].

Section 2. Incorporation by Reference.

(1) The following material is incorporated by reference: "The Counseling Compact Rules", February 12, 2025 [~~January 10, 2024~~], and as revised.

(a) Chapter 2 – Definitions, adopted October 25, 2023;

(b) Chapter 3 – Examination Requirements, adopted October 25, 2023; [~~and~~]

(c) Chapter 4 – Data System Reporting Requirements, adopted January 10, 2024; [.]

(d) Chapter 5 – Rulemaking on Legacy Eligibility for Privilege to Practice, adopted October 8, 2024; [~~and~~]

(e) Chapter 6 – [.] Rulemaking on Implementing Criminal Background Checks, adopted October 8, 2024; and

(f) Chapter 7 – Rulemaking on Fees, adopted February 12, 2025.

(2)

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

(b) This material may also be obtained on the Board of Licensed Professional Counselors' Web site at <https://ipc.ky.gov/>.

(3) This material may also be obtained at:

(a) The Counseling Compact Commission, 108 Wind Haven Drive, Suite A, Nicholasville, Kentucky 40356; or

(b) <https://counselingcompact.org/compact-commission/rulemaking/>.

FILED WITH LRC: March 10, 2025

CONTACT PERSON: Sara Boswell Janes, Staff Attorney III, Department of Professional Licensing, Office of Legal Services, 500 Mero Street, 2 NC WK#2, phone (502) 782-2709, fax (502) 564-

4818, email Sara.Janes@ky.gov.

**TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(As Amended at ARRS, March 10, 2025)**

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.

(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 as outline in 301 KAR 5:022 [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.

(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,

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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 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:

(a) Have their number of cumulative years of application reset to zero and be ineligible for the Loyalty Redraw until he or she accumulates the required number of cumulative years of applications necessary to again qualify for the Loyalty Redraw; and

(b) Be 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;

(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

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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, or hunt over an area where bait was present in the preceding thirty (30) days, 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 cooperator permit, a voucher cooperator 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 cooperator permit, a special commission permit, an elk restoration permit, or voucher cooperator 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; or

(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) First Saturday in January for five (5) consecutive days.

~~[(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 Boone's Ridge~~[the Appalachian Wildlife Center Viewing Area]~~ are incorporated by reference.

(2) Boone's Ridge~~[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.

(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;

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- (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.]~~

~~[(4)]~~ (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 cooperators permit, voucher cooperators 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 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 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, 2024[2019] edition; and

(b) "Boone's Ridge[Appalachian Wildlife Center] Viewing Area" map, 2024[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, or on the department's Web site at fw.ky.gov.

FILED WITH LRC: March 10, 2025

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
(As Amended at ARRS, March 10, 2025)**

301 KAR 5:022. License, tag, and permit fees.

RELATES TO: KRS 150.025, 150.180, 150.183, 150.240, 150.275, 150.280, 150.290, 150.450, 150.485, 150.520, 150.525, 150.600, 150.603, 150.660, 150.720

STATUTORY AUTHORITY: KRS 150.175, 150.195(4)(f), 150.225, 150.620

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.175 authorizes the types of licenses, permits, and tags. KRS 150.195(4)(f) requires the Department of Fish and Wildlife Resources to promulgate an administrative regulation establishing the license and permit terms and the expiration date of licenses and permits. KRS 150.225 requires the department to promulgate administrative regulations establishing reasonable license fees relating to hunting, fishing, and trapping. KRS 150.620 authorizes the department to charge reasonable fees for the use of lands and waters it has acquired for wildlife management and public recreation. This administrative regulation establishes fees and terms for licenses, permits, and tags.

Section 1. Licenses, tags, and permits listed in this section shall be valid from March 1 through the last day of February the following year, except the senior lifetime sportsman's license shall be valid for the life of the license holder while the license holder maintains Kentucky residency.

(1) Sport fishing licenses:

(a) Statewide annual fishing license (resident): twenty-three (23) dollars;

(b) Statewide annual fishing license (nonresident): fifty-five (55) dollars;

(c) Joint married couple statewide fishing license (resident): forty-two (42) dollars;

(d) Statewide three (3) year fishing license (resident): fifty-five (55) dollars; and

(e) Trout permit: ten (10) dollars.

(2) Commercial fishing licenses:

(a) Commercial fishing license (resident), plus ten (10) resident commercial gear tags: \$150;

(b) Commercial fishing license (nonresident), plus ten (10) nonresident commercial gear tags: \$600; and

(c) Commercial fishing license for invasive Asian carp and scaled rough fish (nonresident), plus ten (10) nonresident gear tags: \$150.

(3) Commercial fishing gear tags (shall not be sold singly):

(a) Commercial fishing gear tags (resident) block of ten (10)

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tags: fifteen (15) dollars;

(b) Commercial fishing gear tags (nonresident) block of ten (10) tags: \$100; and

(c) Commercial fishing gear tags for *invasive Asian* carp and scaled rough fish (nonresident), block of ten (10) tags: fifteen (15) dollars.

(4) Hunting licenses:

(a) Statewide hunting license (resident): twenty-seven (27) dollars;

(b) Statewide hunting license (nonresident): \$160;

(c) Statewide youth hunting license (resident): six (6) dollars;

(d) Statewide youth hunting license (nonresident): ten (10) dollars;

(e) Shooting preserve hunting license: five (5) dollars; and

(f) Migratory bird and waterfowl permit: fifteen (15) dollars.

(5) Combination hunting and fishing license (resident): forty-two (42) dollars.

(6) Sportsman's licenses:

(a) Sportsman's license (resident), which includes a resident hunting and fishing license, spring turkey permit, fall turkey permit, trout permit, state migratory bird and waterfowl permit, and statewide deer permit: ninety-five (95) dollars;

(b) Youth sportsman's license (resident), which may be issued to a person before he or she has reached his or her sixteenth birthday and for which the privileges remain valid through the end of the applicable license year, and which includes a statewide hunting license, a statewide deer permit, a spring turkey permit, fall turkey permit, migratory game bird and waterfowl permit, statewide annual fishing license, and a Ballard WMA waterfowl hunt permit valid for all days the license holder lawfully waterfowl hunts at Ballard WMA: thirty (30) dollars;

(c) Senior sportsman's licenses, which include a resident hunting and fishing license, spring turkey permit, fall turkey permit, trout permit, state migratory bird and waterfowl permit, and statewide deer permit. Senior licenses shall not be valid unless the holder carries proof of their Kentucky residency and proof of age on the holder's person while performing an act authorized by the license:

1. Annual senior sportsman's license (resident): twelve (12) dollars; and

2. Lifetime sportsman's license (resident): \$180;

(d) Disabled sportsman's license (resident), which includes a resident hunting and fishing license, spring turkey permit, fall turkey permit, trout permit, state migratory bird, waterfowl permit, and statewide deer permit: twelve (12) dollars.

(7) Trapping licenses:

(a) Trapping license (resident): twenty (20) dollars;

(b) Trapping license (resident landowner – tenant): ten (10) dollars;

(c) Trapping license (nonresident): \$130; and

(d) Youth trapping license (resident): five (5) dollars.

(8) Game permits:

(a) Bear permit (resident): thirty (30) dollars;

(b) Youth bear permit (resident): ten (10) dollars;

(c) Bear chase permit (resident): thirty (30) dollars;

(d) Youth bear chase permit (resident): ten (10) dollars;

(e) Combination bear permit (resident), which includes a bear permit and a bear chase permit: fifty (50) dollars;

(f) Bear permit (nonresident): \$250;

(g) Youth bear permit (nonresident): \$100;

(h) Bear chase permit (nonresident): fifty (50) dollars;

(i) Youth bear chase permit (nonresident): fifteen (15) dollars;

(j) Quota cow elk permit (resident): sixty (60) dollars;

(k) Quota cow elk permit (nonresident): \$400;

(l) Quota bull elk permit (resident): \$100;

(m) Quota bull elk permit (nonresident): \$550;

(n) Quota either sex archery and crossbow elk permit (resident): \$100;

(o) Quota either sex archery and crossbow elk permit (nonresident): \$550;

(p) Out-of-zone elk permit (resident): thirty (30) dollars;

(q) Out-of-zone elk permit (nonresident): \$400;

(r) Statewide deer permit (resident): thirty-five (35) dollars;

(s) Statewide deer permit (nonresident): \$235;

(t) Statewide youth deer permit (resident), valid for taking four (4) deer: ten (10) dollars;

(u) Statewide youth deer permit (nonresident), valid for taking four (4) deer: fifteen (15) dollars;

(v) Additional deer permit: fifteen (15) dollars;

(w) Spring turkey permit (resident): thirty (30) dollars;

(x) Spring turkey permit (nonresident): \$110;

(y) Fall turkey permit (resident): thirty (30) dollars;

(z) Fall turkey permit (nonresident): \$110;

(aa) Youth turkey permit (resident), valid for taking one (1) wild turkey during spring or fall seasons: ten (10) dollars;

(bb) Youth turkey permit (nonresident), valid for taking one (1) wild turkey during spring or fall seasons: fifteen (15) dollars;

(cc) Quota youth elk permit (resident): thirty (30) dollars; and

(dd) Quota youth elk permit (nonresident): \$200.

(9) Peabody WMA user permit: fifteen (15) dollars.

(10) Land Between the Lakes hunting permit: as stated at landbetweenthe lakes.us.

(11) Conservation permit: five (5) dollars.

(12) Bobcat hunting permit: Free.

(13) Commercial guide licenses:

(a) Commercial guide license (resident): \$150; and

(b) Commercial guide license (nonresident): \$400.

(14) Experimental commercial fishing methods program permits:

(a) Tier I experimental commercial fishing methods program permit (resident): \$800;

(b) Tier I experimental commercial fishing methods program permit (nonresident): \$1,600;

(c) Tier II experimental commercial fishing methods program permit (resident): \$1,200; and

(d) Tier II experimental commercial fishing methods program permit (nonresident): \$2,400.

Section 2. Licenses, tags, and permits listed in this section shall be valid for the calendar year issued.

(1) Live fish and bait dealer's licenses:

(a) Live fish and bait dealer's license (resident): fifty (50) dollars; and

(b) Live fish and bait dealer's license (nonresident): \$150.

(2) Commercial taxidermist license: \$150.

(3) Shooting area permit: \$150.

(4) Dog training area permit: fifty (50) dollars.

(5) Collecting permits:

(a) Educational wildlife collecting permit: twenty-five (25) dollars; and

(b) Scientific wildlife collecting permit: \$100.

(6) Nuisance wildlife control operator's permit: \$100.

(7) Pay lake license:

(a) Pay lakes obtaining all fish from private hatcheries only:

1. Lakes with two (2) acres or less: \$250; and

2. Each additional acre or part of an acre: Fifty (50) dollars; and

(b) Pay lakes obtaining all or a portion of catfish from public waters:

1. Lakes with two (2) acres or less: \$600; and

2. Each additional acre or part of an acre: fifty (50) dollars.

(8) Commercial captive wildlife permit: \$150.

(9) Commercial fish propagation permit: fifty (50) dollars.

(10) Wildlife rehabilitator's permit: twenty-five (25) dollars.

(11) Annual wildlife transportation permit: \$250.

(12) Peabody Wildlife Management Area annual event permit: \$250.

Section 3. Licenses, tags, and permits listed in this section shall be valid for three (3) years from the date of issue.

(1) Falconry permit: seventy-five (75) dollars.

(2) Noncommercial captive wildlife permit: seventy-five (75) dollars.

Section 4. Licenses, tags, and permits listed in this section shall be valid for the date or dates specified on each.

(1) Short-term licenses:

(a) One (1) day fishing license (resident): seven (7) dollars;

(b) One (1) day fishing license (nonresident): fifteen (15) dollars;

(c) Seven (7) day fishing license (nonresident): thirty-five (35)

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dollars;

(d) One (1) day hunting license (resident) (not valid for deer, elk, bear, or turkey hunting): seven (7) dollars;

(e) One (1) day hunting license (nonresident) (not valid for deer, elk, bear, or turkey hunting): twenty-five (25) dollars; and

(f) Seven (7) day hunting license (nonresident) (not valid for deer, elk, bear, or turkey hunting): sixty-five (65) dollars.

(2) Individual wildlife transportation permit: twenty-five (25) dollars.

(3) Special resident commercial fishing permit: \$600.

(4) Special nonresident commercial fishing permit: \$900.

(5) Commercial waterfowl shooting area permit: \$150.

(6) Shoot-to-retrieve field trial permits:

(a) Per trial (maximum four (4) days): seventy-five (75) dollars; and

(b) Single day: twenty-five (25) dollars.

(7) Boat dock permit: \$100 per ten (10) year permit period beginning January 1, 2008, except that the fee shall be pro-rated for the number of years remaining in the ten (10) year period.

(8) Shoreline use permit: Valid for a fifteen (15) year permit period beginning January 1, 2010, pro-rated to the nearest five (5) year interval remaining in the fifteen (15) year period, and containing three (3) tiers, including:

(a) Tier I: \$100;

(b) Tier II: \$200; and

(c) Tier III: \$300.

(9) Peabody individual event permit: twenty-five (25) dollars.

(10) Commercial roe-bearing fish buyer's permit:

(a) Commercial roe-bearing fish buyer's permit (resident): \$500; and

(b) Commercial roe-bearing fish buyer's permit (nonresident): \$1,000.

(11) Commercial roe-bearing fish harvester's permit:

(a) Commercial roe-bearing fish harvester's permit (resident): \$500; and

(b) Commercial roe-bearing fish harvester's permit (nonresident): \$1,500.

(12) Otter Creek Outdoor Recreation Area:

(a) Daily Entry Permit: three (3) dollars, with children under twelve (12) free; and

(b) Daily Special Activities Permit: seven (7) dollars.

(13) Commercial foxhound training enclosure permit: \$150.

(14) Noncommercial foxhound training enclosure permit: twenty-five (25) dollars.

(15)[(14)] Fish transportation permit: twenty-five (25) dollars.

Section 5. Licenses, tags, and permits listed in this section shall be valid on a per-unit basis as specified.

(1) Ballard WMA waterfowl hunt permit (per person, per day; youths under age sixteen (16) exempted): fifteen (15) dollars.

(2) Pheasant hunt permit (per person, per day): twenty-five (25) dollars.

(3) Horse stall rental (per space, per day): two (2) dollars.

(4) Dog kennel rental (per dog, per day): fifty (50) cents.

(5) Captive cervid permit (per facility, per year): \$150.

(6) Noncommercial captive cervid permit (per facility, per three (3) years): seventy-five (75) dollars.

Section 6. The following licenses listed in this section shall be valid from April 1 through March 31 of the following year:

(1) Fur processor's license (resident): \$150;

(2) Fur buyer's license (resident): fifty (50) dollars; and

(3) Fur buyer's license (nonresident): \$300.

Section 7. The following Otter Creek Outdoor Recreation Area permits shall be valid from July 1 through June 30 of the following year:

(1) Annual Entry Permit: thirty (30) dollars, with children under twelve (12) free; and

(2) Annual Special Activities Permit: seventy (70) dollars.

Section 8. The following non-refundable application fees listed in this section shall be valid for the application to hunt in a department administered quota hunt or for a chance to be drawn for permits as specified.

(1) Pheasant quota hunt application fee: three (3) dollars.

(2) Antlered elk firearms quota hunt application fee: ten (10) dollars.

(3) Antlerless elk firearms quota hunt application fee: ten (10) dollars.

(4) Either-sex elk archery and crossbow quota hunt application fee: ten (10) dollars.

(5) Youth quota elk hunt application fee: ten (10) dollars.

(6) Deer quota hunt application fee: three (3) dollars.

(7) Waterfowl quota hunt application fee: three (3) dollars.

(8) Sandhill crane quota hunt application fee: three (3) dollars.

(9) Elk hunt sweepstakes and premium combination big game permit application fee:

(a) Five (5) dollars for residents and ten (10) dollars for one (1) application;

(b) Ten (10) dollars for residents and twenty (20) dollars for nonresidents per bundle of three (3) applications; and

(c) Twenty-five (25) dollars for residents and fifty (50) dollars for nonresidents per bundle of ten (10) applications.

(10) Standard combination big game permit application fee:

(a) Three (3) dollars for residents and six (6) dollars for nonresidents for one (1) application;

(b) Eight (8) dollars for residents and sixteen (16) dollars for nonresidents per bundle of three (3) applications; and

(c) Twenty (20) dollars for residents and forty (40) dollars for nonresidents per bundle of ten (10) applications.

FILED WITH LRC: March 10, 2025

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.

**EDUCATION AND LABOR CABINET
Kentucky Board of Education
Department of Education
(As Amended at ARRS, March 10, 2025)**

704 KAR 3:315. Certification of Nonpublic Schools.

RELATES TO: KRS ~~156.160~~~~159.030~~, ~~159.040~~, 158.070, ~~158.080~~, ~~159.030~~, ~~159.040~~~~159.080~~, ~~156.160~~.]

STATUTORY AUTHORITY: KRS 156.070

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160(3) provides that nonpublic schools may voluntarily comply with the curriculum, certification, and textbook standards established by the Kentucky Board of Education (KBE) and be certified upon application to the board. KRS 156.070(4) authorizes the KBE to promulgate regulations necessary to the efficient management and operation of programs under the KBE's jurisdiction. KRS 158.080 outlines the required courses to be taught in nonpublic schools. KRS 158.070 establishes the minimum required length of the school term. KRS 159.040 provides the records that shall~~must~~ be maintained by nonpublic schools.

Section 1. Definitions. (1) "Nonpublic school" means any private, parochial, home-based, or church school. A public charter school as defined by KRS 160.1592 is not a nonpublic school.

Section 2. Procedures for Certification.

(1) Nonpublic schools seeking voluntary certification from the Kentucky Board of Education (KBE) shall seek accreditation from an accrediting agency approved by the Kentucky Nonpublic Schools Commission (KNPSC).

(2) Following successful accreditation, nonpublic schools seeking voluntary certification shall apply with the KNPSC.

(3) The KNPSC shall annually produce a list of nonpublic schools that have successfully completed the accreditation process and are recommended for certification by the KBE. The list shall be submitted to the Kentucky Department of Education (KDE) by April 15 of each year for consideration by the KBE at its next regularly scheduled meeting.

(4) Upon the recommendation of the KNPSC, any certified

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nonpublic school may have its certification revoked by the KBE at any point during the school year. ~~The~~**Such** recommendations shall be heard at the next regularly scheduled meeting of the KBE.

Section 3. KNPSC Required Policies.

(1) The KNPSC shall develop a policy for the screening and selection of eligible accrediting agencies. The policy shall include at a minimum:

(a) A procedure for accrediting agencies to seek approval by the KNPSC.[-]

(b) Detailed criteria for the screening and selection of eligible accrediting agencies.[-]

(c) A timeline for completing the screening and selection process.[-]

(d) Procedures for the periodic re-screening of approved accrediting agencies; **and**[-]

(e) A list of approved accrediting agencies.

(2) The KNPSC shall develop a policy for recommending nonpublic schools to the KBE for certification. The policy shall include at a minimum:

(a) A process for nonpublic schools to apply for certification through the KNPSC.[-]

(b) A process to ensure that the nonpublic school is accredited by an approved accrediting agency.[-]

(c) A process to ensure the nonpublic school is in compliance with the reporting requirements in KRS 159.030.[-]

(d) A process to ensure the nonpublic school is in compliance with the record keeping requirements in KRS 159.040.[-]

(e) A process to ensure the nonpublic school is in compliance with the course requirements in KRS 158.070; **and**[-]

(f) A process to ensure the nonpublic school is in compliance with the required length of school term in KRS 158.080.

(3) The KNPSC shall develop a policy to govern the recommended certification revocation of nonpublic schools. The policy shall include at a minimum:

(a) The conditions under which the KNPSC shall undergo consideration for certification revocation.[-]

(b) A process for investigating and collecting evidence to support a recommendation for certification revocation.[-]

(c) A process for the certified nonpublic school to appeal a decision to recommend certification revocation to the full KNPSC board of directors; **and**[-]

(d) A prohibition against recommending certification revocation for the failure to pay certification or accreditation fees.

(4) The KDE shall provide technical assistance as requested by the KNPSC.

(5) The KNPSC shall annually submit the three **(3)** required policies along with a letter explaining any updates to the policies by April 15 for review by the KBE at its next regularly scheduled meeting. Changes to the policies shall not be implemented until they are reviewed and approved by the KBE.

Section 4. Posting Requirements.

(1) The KNPSC and KDE shall post on their websites a list of certified nonpublic schools that includes:

(a) The name of the certified nonpublic school.[-]

(b) The public school district in which the nonpublic school is physically located.[-]

(c) The grade levels served.[-]

(d) The physical address.[-]

(e) The telephone number.[-]

(f) A static email address.[-]

(g) The school's website URL.[-] and

(h) The expiration date for the nonpublic school's voluntary certification.

(2) The KNPSC and KDE shall post on their websites the list of approved accrediting agencies in Section 2(1)(e) of this regulation.

(3) The KNPSC and KDE shall post on their websites the three **(3)** required policies found in Section 3 of this regulation.

FILED WITH LRC: March 10, 2025

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EDUCATION AND LABOR CABINET Department of Workplace Standards Division of Occupational Safety and Health Compliance Division of Occupational Safety and Health Education and Training (As Amended at ARRS, March 10, 2025)

803 KAR 2:320. Toxic and hazardous substances.

RELATES TO: KRS 338.015, 338.031, 29 C.F.R. **1902.3(c)(1), (d)(2), 1902.37(b)(3)**, 1910.134, 1910.141, 1910.1000-1910.1450, **1953.1(a), (b), 1953.5, 1956.2(a), 1956.10(d)(1)**

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations and authorizes the chairman to reference federal standards without board approval if necessary to meet federal time requirements. KRS 338.061 authorizes the board to establish, modify, or repeal standards and reference federal standards. 29 C.F.R. 1910.1000 through 1910.1450 **establishes the**[~~establish~~] federal requirements relating to toxic and hazardous substances. This administrative regulation establishes the toxic and hazardous substances standards enforced by the Department of Workplace Standards in [the area of] general industry.

Section 1. Definitions.

(1) "Absolute filter" means a filter capable of retaining 99.97 percent of a mono disperse aerosol of zero and three-tenths (0.3) mu particles.

(2) "Area director" means Director, Division of Occupational Safety and Health Compliance, Kentucky Education and Labor Cabinet.

(3) "Authorized employee" means an employee whose duties require the employee to be in the regulated area and who has been specifically assigned to that area by the employer.

(4) "Clean change room" means a room where employees put on clean clothing or protective equipment in an environment free of 4,4' Methylene bis (2-chloroaniline).

(5) "Closed system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) if containment prevents the release of 4,4' Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(6) "Decontamination" means the inactivation of 4,4'-Methylene bis (2-chloroaniline) or its safe disposal.

(7) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by the director or the Secretary of Health, Education, and Welfare to act for the director.

(8) "Disposal" means the safe removal of 4,4'-Methylene bis (2-chloroaniline) from the work environment.

(9) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of 4,4'-Methylene bis (2-chloroaniline) that could result in exposure to or contact with 4,4'-Methylene bis (2-chloroaniline).

(10) "Employee" is defined by KRS 338.015(2).

(11) "Employer" is defined by KRS 338.015(1).

(12) "External environment" means any environment external to regulated and nonregulated areas.

(13) "Isolated system" means a fully enclosed structure, other than the vessel of containment, of 4,4'-Methylene bis (2-chloroaniline), which is impervious to the passage of entry of 4,4'-Methylene bis (2-chloroaniline).[-] and which would prevent the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, or the external environment, if leakage or spillage from the vessel of containment occurs.

(14) "Laboratory type hood" means a device:

(a) Enclosed on three (3) sides with the top and bottom designed and maintained to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; and

(b) Designed, constructed, and maintained so that an operation

involving 4,4'-Methylene bis (2-chloroaniline) within the hood does not require the insertion of any portion of an employee's body other than hands and arms.

(15) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(16) "Open vessel system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(17) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to 4,4'-Methylene bis (2-chloroaniline).

(18) "Regulated area" means an area where entry and exit is restricted and controlled.

(19) "Standard" means "occupational safety and health standards" as defined by KRS 338.015(3).

Section 2. 4,4'-Methylene bis (2-Chloroaniline).

(1) Scope and application.

(a) This section shall apply to any area in which 4,4'-Methylene bis (2-chloroaniline), Chemical Abstracts Service Registry Number 101144, is manufactured, processed, repackaged, released, handled, or stored. This section shall not apply to trans-shipment in sealed containers, except for the labeling requirements under subsection (4)(b) ~~through~~, ~~(c)~~, and ~~(d)~~ of this section.

(b) This section shall not apply to solid or liquid mixtures containing less than one and zero-tenths (1.0) percent by weight of 4,4'-Methylene bis (2-chloroaniline).

(2) Requirements for areas containing 4,4'-Methylene bis (2-chloroaniline). A regulated area shall be established by an employer where 4,4'-Methylene bis (2-chloroaniline) is manufactured, processed, used, repackaged, released, handled, or stored. Those areas shall be controlled in accordance with the requirements established in paragraphs (a) through (g) of this subsection for the category or categories describing the operations involved.

(a) Isolated systems. Employees working with 4,4'-Methylene bis (2-chloroaniline) within an isolated system such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(b) Closed system operation. Within regulated areas if 4,4'-Methylene bis (2-chloroaniline) is stored in a sealed container, or contained in a closed system including piping systems, with any sample ports or openings closed while 4,4'-Methylene bis (2-chloroaniline) is contained within:

1. Access shall be restricted to authorized employees only; and
2. Employees shall be required to wash hands, forearms, face, and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(c) Open vessel system operations. Open vessel system operations shall be prohibited.

(d) Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system. In operations involving a "laboratory type hood," or in locations where 4,4'-Methylene bis (2-chloroaniline) is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this paragraph shall apply.

1. Access shall be restricted to authorized employees only.
2. Each operation shall be provided with continuous local exhaust ventilation so that air movement shall always be from ordinary work areas to the operation.
 - a. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.
 - b. Clean make-up air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.
3. Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers, and gloves prior to entering the regulated area.

4. Employees engaged in 4,4'-Methylene bis (2-chloroaniline) handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with 29 C.F.R. 1910.134. A respirator affording a higher level of protection may be substituted.

5. Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day and to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b) ~~through~~, ~~(c)~~, and ~~(d)~~ of this section.

6. Employees shall be required to wash hands, forearms, face, and neck upon each exit from the regulated area, close to the point of exit, and before engaging in other activities.

7. Employees shall be required to shower after the last exit of the day.

8. Drinking fountains shall be prohibited in the regulated area.

(e) Maintenance and decontamination activities. In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with 4,4'-Methylene bis (2-chloroaniline) could result, each authorized employee entering that area shall be:

1. Provided with and required to wear clean, impervious garments, including gloves, boots, and continuous-air supplied hood in accordance with 29 C.F.R. 1910.134;
2. Decontaminated before removing the protective garments and hood; and
3. Required to shower upon removing the protective garments and hood.

(f) Laboratory activities. The requirements of this paragraph shall apply to research and quality control activities involving the use of 4,4'-Methylene bis (2-chloroaniline).

1. Mechanical pipetting aids shall be used for all pipetting procedures.
2. Experiments, procedures, and equipment that could produce aerosols shall be confined to laboratory-type hoods or glove boxes.
3. Surfaces on which 4,4'-Methylene bis (2-chloroaniline) is handled shall be protected from contamination.

4.

- a. Contaminated wastes and animal carcasses shall be collected in impervious containers that ~~shall be~~ **are** closed and decontaminated prior to removal from the work area.

b. The wastes and carcasses shall be incinerated so that ~~no~~ **are** carcinogenic products ~~shall not be~~ **are** released.

5. All other forms of 4,4'-Methylene bis (2-chloroaniline) shall be inactivated prior to disposal.

6. Employees engaged in animal support activities shall be:

- a. Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices;

b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day and to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b) ~~through~~, ~~(c)~~, and ~~(d)~~ of this section;

c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities; and

d. Required to shower after the last exit of the day.

7. Employees, except for those engaged in animal support activities, each day shall be:

a. Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;

b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day and to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be

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identified as required under subsection (4)(b) ~~through~~, (c), and (d) of this section; and

c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities.

8. Air pressure in laboratory areas and animal rooms where 4,4'-Methylene bis (2-chloroaniline) is handled and bioassay studies are performed shall be negative in relation to the pressure in the surrounding area. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

9. There shall not be a connection between regulated areas and any other areas through the ventilation system.

10. A current inventory of 4,4'-Methylene bis (2-chloroaniline) shall be maintained.

11. Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification of maintenance operations, by personnel fully qualified to certify correct containment and operation.

(g) Premixed solutions. If 4,4'-Methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area shall not be required, except:

1. Only authorized employees ~~may~~ shall be permitted to handle the materials;

2. Each day employees shall be provided with and required to wear a clean change of protective clothing (smocks, coveralls, or long-sleeved shirts and pants), gloves, and other protective garments and equipment necessary to prevent contact with the solution in the process used;

3. Employees shall be required to remove and leave protective clothing and equipment if leaving the work area at the end of the work day or if solution is spilled on the clothing or equipment. Used clothing and equipment shall be placed in impervious containers for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b) ~~through~~, (c), and (d) of this section;

4. Employees shall be required to wash hands and face after removing protective clothing and equipment and before engaging in other activities;

5. Employees assigned to work covered by this paragraph shall be deemed to be working in regulated areas for the purposes of subsection (4)(a) ~~through~~, (b), and (c) of this section; and

6. Work areas where solution could be spilled shall be:

- a. Covered daily or after any spill with a clean covering; and
- b. Cleaned thoroughly daily and after any spill.

(3) General regulated area requirements.

(a) Employee identification.

1. A daily roster of employees entering regulated areas shall be established and maintained.

2. The rosters or a summary of the rosters shall be retained for a period of at least twenty (20) years.

3. The rosters or summaries shall be provided upon request to authorized representatives of the assistant secretary and the director.

4. If the employer ceases business without a successor, rosters shall be forwarded by registered mail to the director.

(b) Emergencies. In an emergency, immediate measures, including the requirements of this paragraph, shall be implemented.

1. The potentially affected area shall be evacuated as soon as the emergency is determined.

2. Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

3.

a. Special medical surveillance by a physician shall be instituted within twenty-four (24) hours for employees present in the potentially affected area at the time of the emergency.

b. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with subsection (5)(b) of this section.

4. If an employee has a known contact with 4,4'-Methylene bis (2-chloroaniline), the employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

5. An incident report on the emergency shall be reported as established in subsection (5)(b) of this section.

(c) Hygiene facilities and practices.

1. **The following shall be prohibited in regulated areas:**

a. Storage or consumption of food;

b. Storage or use of containers of or for beverages; ~~Storage~~

~~of~~ c. Consumption of beverages;

d. Storage or application of cosmetics;

e. Smoking;

f. Storage of smoking materials, tobacco products, or other products for chewing; or

g. The chewing of tobacco or other chewing ~~those~~ products; **shall be prohibited in regulated areas.**

2. If employees are required by this section to wash, washing facilities shall be provided in accordance with 29 C.F.R. 1910.141.

3. If employees are required by this section to shower, facilities shall be provided in accordance with 29 C.F.R. 1910.141(d)(3).

4. If employees wear protective clothing and equipment, clean change rooms shall be provided in accordance with 29 C.F.R. 1910.141(e), for the number of employees required to change clothes.

5. If toilets are located in regulated areas, the toilets shall be in a separate room.

(d) Contamination control.

1. Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas.

a. Local exhaust ventilation may be used to satisfy this requirement.

b. Clean make-up air in equal volume shall replace air removed.

2. Any equipment, material, or other item taken or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

3. Decontamination procedures shall be established and implemented to remove 4,4'-Methylene bis (2-chloroaniline) from the surface of materials, equipment, and the decontamination facility.

4. Dry sweeping and dry mopping shall be prohibited.

(4) Signs, information, and training.

(a) Signs.

1. Entrance to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT Authorized Personnel Only

2. Entrances to regulated areas containing operations established in subsection (2)(e) of this section shall be posted with signs bearing the legend:

Cancer-Suspect Agent Exposed In this Area Impervious Suit Including Gloves, Boots, and Air-Supplied Hood Required At All Times Authorized Personnel Only

3. Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that shall be followed in entering and leaving a regulated area.

(b) Container labeling. Containers shall be labeled in accordance with the requirements of 29 C.F.R. 1910.1200.

(c) Lettering.

1. Lettering on signs and instructions required by paragraph (a) of this subsection shall be a minimum letter height of two (2) inches.

2. Labels on containers required by paragraph (b) of this subsection shall:

a. Not be less than one-half (1/2) the size of the largest lettering on the package, up to a maximum required size of one (1) inch in height; and

b. Not use less than eight (8) point type.

(d) Prohibited statements. A statement shall not appear on or near any required sign, label, or instruction that contradicts or detracts from the effect of any required warning, information, or instruction.

(e) Training and indoctrination.

1. Each employee, prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including:

a. The nature of the carcinogenic hazards of 4,4'-Methylene bis

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(2-chloroaniline), including local and systemic toxicity;

b. The specific nature of the operation involving 4,4'-Methylene bis (2-chloroaniline) that could result in exposure;

c. The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

d. The purpose for and application of decontamination practices and procedures;

e. The purpose for and significance of emergency practices and procedures;

f. The employee's specific role in emergency procedures;

g. Specific information to aid the employee in recognition and evaluation of conditions and situations that could result in the release of 4,4'-Methylene bis (2-chloroaniline); and

h. The purpose for and application of specific first-aid procedures and practices.

2. Each employee shall receive a review of this section at the employee's first training and indoctrination program and at least annually thereafter.

3. Specific emergency procedures shall be established and posted, and employees shall:

a. Be familiarized with emergency procedure~~[their]~~ terms; and

b. Rehearse emergency procedures~~[rehearsed in their application]~~.

4. All materials relating to the program shall be provided if requested by authorized representatives of the assistant secretary and the director.

(5) Reports.

(a) Operations. Not later than March 1 of each year, the information required by this paragraph shall be reported in writing by the employer to the nearest Area Director. Any change in the reported information shall be reported in writing within fifteen (15) calendar days of the change. The report shall contain:

1. A brief description and in-plant location of the areas regulated and the address of each regulated area;

2. The names and other identifying information as to the presence of 4,4'-Methylene bis (2-chloroaniline) in each regulated area;

3. The number of employees in each regulated area~~[,]~~ during normal operations~~,~~ including maintenance activities; and

4. The manner in which 4,4'-Methylene bis (2-chloroaniline) is present in each regulated area, such as whether or not it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(b) Incidents. Incidents that result in the release of 4,4'-Methylene bis (2-chloroaniline) into any area where employees may be exposed shall be reported in accordance with this paragraph.

1. A report of the incident and the facts obtainable at that time, including a report on any medical treatment of affected employees, shall be made within twenty-four (24) hours to the nearest area director.

2. A written report shall be filed with the nearest area director within fifteen (15) calendar days of the initial report and shall include:

a. A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

b. A description of the area involved, and the extent of known and possible employee and area contamination;

c. A report of any medical treatment of affected employees and any medical surveillance program implemented; and

d. An analysis of the steps to be taken, with specific completion dates, to avoid further similar release.

(6) Medical surveillance. At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.

(a) Examinations.

1. Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family, and occupational background, including genetic and environmental factors.

2. Authorized employees shall be provided with periodic physical examinations at least annually, following the preassignment examination.

3. In all physical examinations, the examining physician shall consider whether or not there exist conditions of increased risk, including reduced immunological competence, current treatment with steroids of cytotoxic agents, pregnancy, and cigarette smoking.

(b) Records.

1. Employers of employees examined pursuant to this subsection shall maintain complete and accurate records of all medical examinations. Records shall be maintained for at least the duration of the employee's employment. If the employee's employment is terminated, including by retirement or death, or if the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the director.

2. Records required by this paragraph shall be provided if requested by authorized representatives of the assistant secretary or the director. If requested by an employee or former employee, the records shall be provided to a physician designated by the employee or to a new employer.

3. Any physician who conducts a medical examination required by this subsection shall submit~~[furnish]~~ to the employer~~,~~ a statement of the employee's suitability for employment in the specific exposure.

Section 3. Laboratory Activities. The requirements of this section shall apply to research and quality control activities involving the use of chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016.

(1) Mechanical pipetting aids shall be used for all pipetting procedures.

(2) Experiments, procedures, and equipment that could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(3) Surfaces on which chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 are handled shall be protected from contamination.

(4) Contaminated wastes and animal carcasses shall be collected in impervious containers that shall be~~[are]~~ closed and decontaminated prior to removal from the work area. The wastes and carcasses shall be incinerated so that carcinogenic products shall not be released.

(5) All other forms of chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 shall be inactivated prior to disposal.

(6) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposal absolute filters.

(7) Employees engaged in animal support activities shall be:

(a) Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls~~[,]~~ or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices;

(b)

1. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal; and

2. The contents of the impervious containers shall be identified as required under Section 2(4)(b) through~~[, (c), and]~~ (d) of this administrative regulation;

(c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to point of exit, and before engaging in other activities; and

(d) Required to shower after the last exit of the day.

(8) Employees, except for those engaged only in animal support activities, each day shall be:

(a) Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;

(b)

1. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal; and

2. The contents of the impervious containers shall be identified as required under Section 2(4)(b) through~~[, (c), and]~~ (d) of this administrative regulation; and

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(c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to point of exit^[j] and before engaging in other activities.

(9) Air pressure in laboratory areas and animal rooms where chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 are handled and bioassay studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

(10) There shall not be a connection between regulated areas and any other areas through the ventilation system.

(11) A current inventory of chemicals covered by 29 C.F.R. 1910.1003 through 1910.1016 shall be maintained.

(12) Ventilated apparatus such as laboratory-type hoods shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation.

Section 4. Access to Exposure or Medical Records.

(1) The language relating to the access to exposure or medical records in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1020(e)(1)(i).

(2) If an employee or designated representative requests access to an exposure or medical record, the employer shall ensure that access is provided in a reasonable time, place, and manner, but not longer than fifteen (15) days after the request for access is made unless sufficient reason is given why that time is unreasonable or impractical.

(3) The language relating to the access to exposure or medical records in subsection (4) of this section shall apply in lieu of 29 C.F.R. 1910.1020(e)(1)(iii).

(4) If an employee or designated representative requests a copy of a record, the employer shall, except as established specified in 29 C.F.R. 1910.1020(e)(1)(v) of this section, within the period of time established in subsection (2) of this section, ensure that either:

(a) A copy of the record shall be provided without cost to the employee or representative;

(b) The necessary mechanical copying facilities (for example, photocopying) shall be made available without cost to the employee or representative for copying the record; or

(c) The record shall be loaned to the employee or representative for a reasonable time to enable a copy to be made.

Section 5.

(1) The language relating to gloves in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1030(d)(3)(ix).

(2) Gloves shall be worn if it can be reasonably anticipated that the employees might have hand contact with blood, other potentially infectious materials, mucous membranes, or and nonintact skin if performing vascular access procedures or if handling or touching contaminated items or surfaces.

Section 6. Except as established by Sections 1 through 5 of this administrative regulation, general industry shall comply with 29 C.F.R. Subpart Z, Toxic and Hazardous Substances, published by the Office of the Federal Register, National Archives and Records Administration~~[Services, General Services Administration and the revisions to 29 C.F.R. 1910.1024 published in the July 14, 2020 Federal Register, Volume 85, Number 135].~~

FILED WITH LRC: March 10, 2025

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**HORSE RACING AND GAMING CORPORATION
(As Amended at ARRS, March 10, 2025)**

810 KAR 2:070. Thoroughbred and other flat racing associations.

RELATES TO: KRS 137.180, 230.215(2)(a), 230.260(8)

STATUTORY AUTHORITY: KRS 230.215(2)(a), 230.260(8)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2)(a) and 230.260(8) authorize the corporation to promulgate administrative regulations establishing conditions governing horse racing. This administrative regulation establishes requirements for thoroughbred and other flat racing associations.

Section 1. Maintenance of Grounds, Facilities and Uniform Track.

(1) The grounds and facilities of an association shall be maintained in a manner that provides for the:

(a) Comfort and safety of patrons, employees, and other persons whose business requires their attendance; and

(b) Health and safety of horses that are stabled, exercised, or entered to race at the association.

(2) The grounds and facilities of an association shall be:

(a) Neat and clean;

(b) Painted; and

(c) In good repair.

(3) An association shall have implements adequate to maintain a uniform track, weather conditions permitting.

Section 2. Results Boards, Totalizators Required. An association shall provide and maintain mechanically operated totalizators and electronic boards that show odds, results, and other race information in plain view of patrons.

Section 3. Starting Gate.

(1) An association shall provide and maintain a working starting gate on every day horses are allowed,permitted to exercise on an association's[its] racing strip.

(2) An association shall have in attendance one (1) or more persons qualified to keep the starting gates in good working order while[whenever] the gates are in use.

(3) An association shall provide for periodic inspections of the starting gates.

Section 4. Stabling.

(1) An association barn and stall shall be:

(a) [~~Constructed of fire-resistant material;~~

~~](b)] Clean, sanitary, and equipped for adequate drainage; and~~

~~](c)] Maintained in good repair.~~

(2)

(a) Prior to the opening of a race meeting, the corporation shall submit to the racing secretary, a list of locations of approved off-track stabling facilities from which horses shall be allowed,permitted to race.

(b) The locations shall be considered association grounds.

Section 5. Stands for Officials.

(1) An association shall provide and maintain stands commanding an uninterrupted view of the entire racing strip for racing officials.

(2) The stands and their locations shall be approved by the corporation through the track's licensure process.

(3) The floor of patrol judge stands shall be at least six (6) feet higher than the track rail.

Section 6. Distance Pole Markings.

(1) A thoroughbred or other flat racing association shall have:

(a) Red and white quarter poles;

(b) Green and white eighth poles; and

(c) Black and white 16th poles.

(2)

(a) Permanent markers shall be located at each standard Arabian, quarter horse, paint horse, and appaloosa distance as applicable.

(b) Distance pole markers and permanent markers shall be located where they can be seen clearly from the stewards' stand.

(c) Each post shall be identified by color as follows: 110 yds., black and white stripes; 220 yds., white; 250 yds., blue; 300 yds., yellow; 330 yds., green; 350 yds., red; 400 yds., black; 440 yds., orange; 550 yds., blue and white stripe; 660 yds., yellow and white stripes; 770 yds., green and white stripes; 870 yds., red and white

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stripes; and 1,000 yds., red and blue stripes.

(d) In addition to the requirements established in paragraph (c) of this subsection, for appaloosa races, markers shall be located at six (6) and six and one-half (6 1/2) furlongs and shall be painted yellow and white and orange and white, respectively.

Section 7. Lighting.

(1) An association shall provide and maintain flood lights that provide adequate illumination in the stable area and parking area.

(2) If an association conducts night racing, it shall provide adequate track lighting.

Section 8. Facilities for Stable Employees.

(1) An association shall provide and maintain in good repair, adequate living quarters and conveniently located sanitary facilities that shall include showers, toilets, and wash basins for stable employees.

(2) Personnel shall not be allowed~~permitted~~ to sleep in a stall or barn loft.

Section 9. Facilities for Jockeys.

(1) An association shall provide and maintain adequate facilities for jockeys scheduled to ride each day.

(2) The facilities shall include accommodations for rest and recreation of jockeys on racing days, showers, toilets, wash basins, mirrors, arrangements for safekeeping of apparel and personal effects, and snack bar.

Section 10. Facilities for Corporation.

(1) An association shall provide adequate office space for the corporation on its grounds.

(2) To assist in the conduct of official business, an association shall provide the following to the corporation:

(a) A season box, marked "Kentucky Horse Racing and Gaming Corporation[]", of six (6) to eight (8) seats; and

(b) A number of parking places sufficient for the corporation and corporation staff.

(3) An association shall honor for access to preferred parking facilities and other areas on its grounds, a corporation or Association of Racing Commissioners International ring, lapel button, or automobile emblem.

Section 11. Sanitary Facilities for Patrons. An association shall, on every racing day, provide sanitary toilets and wash rooms, and free drinking water adequate for the number of patrons and persons having business at the association that comply with applicable statutes, administrative regulations, codes, or ordinances.

Section 12. Manure Removal.

(1) An association shall provide and maintain manure pits of the size and construction adequate to handle refuse from stalls.

(2) The contents of the manure pits shall be removed from the stable area as promptly as is possible.

Section 13. Photo Finish Cameras.

(1) An association shall provide and maintain at the finish line, two (2) photo finish cameras for photographing the finish of races. For Quarter Horse races, the photo finish cameras shall be equipped with mirror image to photograph the finish of each race and shall record the running time for each horse to the nearest 1/1000th second.

(2) One (1) of the photo finish cameras shall be held in reserve. The photo finish photographer shall promptly provide~~furnish~~ to the stewards and placing judges, the number of prints of finishes requested.

(3) An association shall maintain at least a one (1) year file of all photo finishes.

Section 14. Race Replays.

(1) During a race meeting, an association shall provide and maintain personnel and equipment necessary to record and produce race replays that clearly record each race from start to finish.

(2) Projection or viewing equipment shall be adequate to allow~~permit~~ simultaneous showing of head-on and side-angle

views of the running of each race.

(3)

(a) A race replay shall be:

1. Retained and secured by an association for at least one (1) year; and

2. Made available to the corporation and stewards upon demand.

(b) Upon order of the stewards, a visual record of a race that has raised a question, dispute, or controversy shall be filed with the corporation.

(4) Race replays shall be made available:

(a) For viewing at the track by licensees who owned, trained, or rode a horse in the race requested to be viewed; and

(b) To members of the press.

Section 15. Ambulances.

(1) An association shall provide and maintain at least one (1) human ambulance and one (1) horse-ambulance while horses are allowed~~whenever horses are permitted~~ to exercise or race.

(2) An ambulance shall be:

(a) Equipped;

(b) Manned;

(c) Ready for immediate duty; and

(d) Located at an entrance to the racing strip.

Section 16.

(1) Except as established~~provided~~ by subsection (2) of this section, an association shall equip and maintain a first aid facility that is:

(a) Equipped with at least two (2) beds; and

(b) Attended by a licensed physician and registered nurse or a board-certified athletic trainer during race hours.

(2) An association shall not be required to maintain a first aid facility, if the association has an ambulance on standby on its premises during racing hours, The ambulance shall be~~which~~:

(a) Able to~~Can~~ transport or make arrangements to transport an injured individual to a fully-equipped hospital emergency room in five (5) minutes or less; and

(b) ~~Is~~ Manned by a certified paramedic and certified emergency medical technician.

(3) A paramedic provided pursuant to subsection (2) of this section shall be at a minimum equipped with:

(a) Heart monitor and defibrillator;

(b) Cellular phone; and

(c) Airways intubation equipment.

Section 17. Track Kitchen. An association shall provide a track kitchen within the stable area, maintained in a clean and sanitary manner that complies with applicable statutes, administrative regulations, codes, or ordinances, at all times horses are stabled on association grounds.

Section 18. Communication System. An association shall install and maintain in good working service, a communication system between the stewards' stand and:

(1) Outriders;

(2) Pari-mutuel department;

(3) Starting gate;

(4) Public address announcer; and

(5) Clerk of the scales.

Section 19. Fire Prevention.

(1) An association shall have a fire prevention and suppression program.

(2) The corporation shall not approve the commencement of a race meeting unless, within fifteen (15) days before commencement of the race meeting, the state or local fire marshal:

(a) Has inspected the association; and

(b) Certified that the association plant and stable area meets fire safety requirements.

(3) An association shall maintain a firefighting unit of trained personnel that has high-expansion foam fire extinguishers and other equipment required by the local fire inspection authority.

(4) An association shall prohibit:

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- (a) Smoking in stalls, under shed rows, and in feed rooms;
- (b) Open fires and oil or gas lamps in the stable area; and
- (c) Locking of stalls occupied by horses.

Section 20. Association Security.

- (1) An association shall provide and maintain security services, night and day, on and about association grounds.
- (2) An association shall ~~provide the stewards with~~ **furnish to the stewards** a report on any disturbances or disorderly conduct committed by a person on association grounds.
- (3) An association shall exclude from association grounds, a person designated to be denied access by order of the corporation or stewards.
- (4) An association shall implement security measures to protect a horse on association grounds from being injured by being frightened or tampered with.
- (5) An association shall exclude from the paddock area, race strip, and winner's entrance a person who:
 - (a) Does not have an immediate connection with the horses entered; and
 - (b) Is not a corporation member, racing official, or accredited member of the news media.

Section 21. Vendors and Suppliers.

- (1) A vendor shall comply with procedures and requirements established by an association.
- (2) An association shall not attempt to control or monopolize sales to owners, trainers, or stable employees.
- (3) An association shall not grant an exclusive concession to a vendor of feed, racing supplies, or racing services.
- (4) A vendor of horse feeds or medications shall file with the corporation veterinarian a list of products that he or she proposes to sell, including a new preparation or medication.
- (5) An association shall not ~~allow~~ **permit** the sale of an alcoholic beverage, except beer within the stable area.

Section 22. Ejection or Exclusion from Association Grounds.

- (1) An association shall, for probable cause, eject or exclude from association grounds a person:
 - (a) Believed to be engaged in:
 - 1. A bookmaking activity;
 - 2. Solicitation of bets; or
 - 3. Touting;
 - (b) Who as a business or for compensation, either directly or indirectly:
 - 1. Accepted anything of value to be wagered, transmitted, or delivered for wager to a pari-mutuel wagering enterprise; or
 - 2. Participated in the transaction; or
 - (c) Who attempted to use tax exempt admissions credentials not issued to him by the association.
- (2) An association shall eject or exclude from its stable area, a person who is not:
 - (a) Licensed to conduct an activity that requires his presence in the stable area;
 - (b) An accredited member of the news media;
 - (c) A guest of a licensed owner or trainer accompanied by the owner or trainer; or
 - (d) Accompanied by, and under the control and supervision of a:
 - 1. Racing official;
 - 2. Association security guard; or
 - 3. Association public relations department representative.
- (3)
 - (a) A report of an ejection or exclusion from association grounds shall be made immediately to the stewards, judges, and corporation director of security.
 - (b) A report shall state the:
 - 1. Name of person ejected or excluded;
 - 2. Reasons for the ejection or exclusion; and
 - 3. Facts relating to the ejection or exclusion.

Section 23. Ownership of Associations. An association shall file with the corporation, a revised list of persons whose identity is required by 810 KAR 3:010, **Section 8**, immediately upon transfer

of a beneficial interest or control in the association.

Section 24. Plan of Association Grounds.

- (1) An association shall file with the corporation, maps and plans of association grounds, showing:
 - (a) Structures;
 - (b) Piping;
 - (c) Fire hydrants;
 - (d) Fixed equipment;
 - (e) Racing strip, noting elevation as filled, drained, and gapped;
- and
- (f) Composition of track base and cushion.
- (2) An association shall file revised maps or plans of association grounds upon any material change.

Section 25. Attendance and Badge List Reports; Tax Exempt Credentials.

- (1) An association shall file with the corporation, a copy of the form, ~~required by KRS 137.180 and 138.480,~~ Race Track Pari-mutuel and Admissions Report, Revenue Form 73A100.
- (2) A tax exempt admission credential shall not be transferable.

Section 26. Financial Report. Within sixty (60) days after the close of its fiscal year, an association shall file:

- (1) Three (3) copies of **the association's** ~~its~~ balance sheet; and
- (2) A comparison to the prior year.

Section 27. Horseman's Account and Horseman's Bookkeeper.

- (1) An association shall maintain a bank account that shall:
 - (a) Be separate from its other accounts;
 - (b) Be titled "horsemen's account"; and
 - (c) Contain sufficient funds to pay money owing to horsemen for:
 - 1. Purses;
 - 2. Stakes;
 - 3. Rewards;
 - 4. Claims; and
 - 5. Deposits.
- (2) Withdrawals from the horsemen's account shall be **audited** ~~subject to audit~~ by the corporation at any time.
- (3)
 - (a) For all races, purse money shall be available to earners after the result of the race in which the money was earned has been declared official and **for race dates in which**:
 - 1. ~~For race dates where~~ All samples are reported by the corporation laboratory as passed at the screening level, within twenty-four (24) hours after receipt of the report by the corporation; or
 - 2. ~~For race dates where~~ One (1) or more sample is reported by the corporation laboratory as suspicious at the screening level, within twenty-four (24) hours after receipt of the final report by the corporation.
 - (b) If a horse is disqualified and an appeal has been filed, purse money shall be available to other participants entitled to purse money in the amount they would have earned had a horse not been disqualified. The purse money to which the disqualified participant would be entitled shall be held in escrow by the association until final adjudication of a dispute over which persons are entitled to money.
- (4)
 - (a) Except for jockey fees, a deduction from purse money shall not be made, unless the deduction has been requested in writing by the:
 - 1. Person to whom purse money is payable; or
 - 2. Authorized representative of the person to whom purse money is payable.
 - (b) Whether or not a deduction request is made, at the close of a race meeting, the horsemen's bookkeeper in charge of the horsemen's account shall mail to an owner, a duplicate of each record of a deposit, withdrawal, or transfer of funds that affects his racing account.
- (5) The horsemen's bookkeeper in charge of the horsemen's account shall be bonded.

Section 28. Outriders.

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- (1) An association shall employ at least two (2) outriders.
- (2) An outrider shall:
 - (a) Escort starters to the post;
 - (b) Assist in the returning of horses to the unsaddling area;
 - (c) Only lead a horse that has demonstrated unruliness; and
 - (d) Assist in the control of a horse that might cause injury to a jockey or others.

(3) ~~While~~~~Whenever~~ horses are ~~allowed~~~~permitted~~ on the racing strip for exercising or racing, an outrider shall be:

- (a) Present on the racing strip;
- (b) Mounted; and
- (c) Ready to assist in the:
 1. Control of an unruly horse; or
 2. Recapture of a loose horse.

Section 29. Safety Equipment.

(1) A person mounted on a horse or stable pony at a location under the jurisdiction of the corporation shall wear a properly secured safety helmet at all times. If requested by a corporation official, the person shall provide sufficient evidence that his helmet has a tag, stamp, or similar identifying marker indicating that it ~~complies with or exceeds~~~~meets one of the following safety standards~~:

- (a) ASTM International Standard, ASTM F1163-04a;
- (b) British Standards, BS EN 1384:1997 or PAS 015:1999; or
- (c) Australian/New Zealand Standard, AS/NZS 3838:2006.

(2) A person mounted on a horse or stable pony on a location under the jurisdiction of the corporation, assistant starters, and a person handling a horse in a starting gate shall wear a safety vest at all times. If requested by a corporation official, the person shall provide sufficient evidence that his safety vest has a tag, stamp, or similar identifying marker indicating that it ~~complies with~~~~meets~~ or exceeds ~~one (1) of the following safety standards~~:

- (a) British Equestrian Trade Association (BETA):2000 Level 1;
- (b) Euro Norm (EN) 13158:2000 Level 1;
- (c) ASTM International Standard, ASTM F2681-08;
- (d) Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3; or
- (e) Australian Racing Board (ARB) Standard 1.1998.

Section 30. Valets.

(1) An association shall employ a number of licensed valets sufficient to attend each rider on a day's racing program.

(2) A valet shall be under the immediate supervision and control of the clerk of scales.

(3) A rider shall not employ a valet or be attended by a person other than the valet assigned to him by the clerk of scales.

(4) A valet shall:

- (a) Be responsible for the care and cleaning up of the apparel and equipment of his assigned rider;
- (b) Ensure his rider has the proper equipment and colors for a race;

(c) Present the proper equipment and attend the saddling of his rider's mount; and

(d) Attend the weighing out of his rider.

(5) A valet or other jockey room attendant shall not place a wager, directly or indirectly, on races run while he serves as a valet for himself or another.

(6) An association shall provide uniform attire for all valets that shall be worn ~~while the valets~~~~whenever they~~ perform their duties within public view.

Section 31. Minimum Purse and Stakes Values.

(1) An association shall not program or run any race for which the purse is less than \$2,000 in cash, without ~~special~~ permission of the corporation.

(2) An association shall not program or run a stakes race for which the added value is less than \$10,000 in cash added by the association to stakes fees paid by owners.

(3) The minimum cash amounts paid by the association shall be exclusive of:

- (a) Nomination;
- (b) Eligibility;
- (c) Entrance;

- (d) Starting fees;
- (e) Cash awards;
- (f) Premiums;
- (g) Prizes; or
- (h) Objects of value.

Section 32. Maximum Number of Races. An association shall not program or run more than nine (9) races on a racing day without permission of the corporation ~~through the track's licensure process~~.

Section 33. Two (2) Year Old Races.

~~[(1)] Beginning on March 1 of each year, an association shall program in the conditions book at least four (4) two (2) year old races each week.]~~

~~[(2)] Quarter horse race conditions for two (2) [-] year-olds shall not be offered in the condition book prior to March 1 of that corresponding year.~~

Section 34.

(1)

(a) Exculpatory clauses. Stall applications, entry forms, condition books, and other agreements between persons or entities licensed by the Kentucky Horse Racing and Gaming Corporation regarding the stabling of horses, the racing of horses, the training of horses, or other activities at tracks owned or operated by licensed associations, and conditions of racing established by licensed associations, shall not contain provisions that absolve or hold harmless a licensee from liability, or limit the liability of a licensee, for loss, loss of use, injury, or damage caused or contributed to by the acts or omissions of any licensee, its agents, or employees, except for:

1. Ordinary negligence that causes or contributes to loss, injury, or damage to horses while on the premises of a licensed association; and

2. Ordinary negligence that causes or contributes to personal injury or property damage, including loss, loss of use, injury, or damage to horses arising from the use of grass fields or gallops owned or controlled by the licensed association.

(b) ~~With Subject to~~ the exception in paragraph (a) of this subsection, licensees participating in the stabling of horses, the racing of horses, the training of horses, and related activities at tracks owned or operated by licensed associations shall be responsible for their own acts and omissions and those of their agents and employees to the same extent as provided by law. A licensee shall not attempt to limit liability of a person or entity for gross negligence or intentional wrongdoing.

(2)

(a) Constructive notice to and consent of licensees. Persons licensed by the Kentucky Horse Racing and Gaming Corporation shall be deemed, as a condition of licensure, to have notice of and to have consented to exculpatory provisions, which comply with the limitations ~~established~~~~set forth~~ in this administrative regulation, included in agreements between licensees and in conditions of racing established by a licensed association.

(b) Exculpatory provisions that exceed the limitations ~~established~~~~set forth~~ in this administrative regulation shall be void and unenforceable in their entirety.

(3) Model provision. The following provision shall be deemed to comply with the limitations ~~established~~~~set forth~~ in this administrative regulation: All Kentucky Horse Racing and Gaming Corporation licensees, including but not limited to the host association, owners, trainers, jockeys, and grooms (~~licensees~~), participating in stabling, racing, training, and related activities at (name of licensed association) recognize that hazards and risks inherent in these activities ~~could~~~~may~~ cause the injury or death of horses. Therefore, in consideration of participating in stabling, racing, training, and related activities at (name of licensed association), all licensees assume the risks of, and release, hold harmless, and covenant not to sue other participating licensees for:

(a) Ordinary negligence that causes or contributes to loss, loss of use, injury, or damage to horses while on the premises of (name of licensed association); and

(b) Ordinary negligence that causes or contributes to personal

injury or property damage, including but not limited to loss, loss of use, injury, or damage to horses arising from the use of grass fields or gallops owned or controlled by (name of licensed association), whether arising from alleged acts or omissions of a licensee, its agents, or employees, the condition of the premises of (name of licensed association), or any other cause. Except as provided above, all licensees participating in racing, training, and related activities at (name of licensed association) shall be responsible for their own acts and omissions and those of their agents and employees to the same extent as provided by law.

FILED WITH LRC: March 10, 2025

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**HORSE RACING AND GAMING CORPORATION
(As Amended at ARRS, March 10, 2025)**

810 KAR 4:030. Entries, subscriptions, and declarations.

RELATES TO: KRS 230.215, 230.240, 230.260, 230.290, 230.310, 230.320

STATUTORY AUTHORITY: KRS 230.215(2)(a), [~~(c)~~], 230.260(8)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2)(a) authorizes and (c) authorize the Kentucky Horse Racing and Gaming Corporation to promulgate administrative regulations to establish prescribing the conditions under which all horse racing is conducted in Kentucky. KRS 230.260(8) authorizes the corporation to regulate conditions under which horse racing shall be conducted in Kentucky. This administrative regulation establishes requirements for entry, subscription, and declaration of horses in order to race.

Section 1. Definition. "Subscriber" means an owner who enters a horse into a stakes race and pays the requisite entry fee.

Section 2. Entering Required.

(1) A horse shall not be qualified to start in any race unless the horse if has been, and continues to be, entered in the race.

(2) Entries or subscriptions for any horse, or the transfer of entries or subscriptions for any horse, may be refused or cancelled by the association without notice or reason given.

Section 3. Procedure for Making Entries.

(1) An entry, subscription, declaration, or scratch shall be filed with the racing secretary and shall not be effective until received by the racing secretary. The racing secretary shall maintain a record of the time of receipt of an entry, subscription, declaration, or scratch for a period of at least one (1) year.

(2) An entry shall be made by the owner, the trainer, or an authorized agent of the owner or trainer. An entry shall be in the name of a horse's licensed owner, as completely disclosed and registered with the racing secretary pursuant to subsection (3) of this section.

(3) An entry shall be submitted in writing or by telephone to the racing secretary. A telephone entry shall be confirmed [~~promptly~~] in writing if requested by the stewards, the racing secretary, or an assistant to the racing secretary.

(4) An entry shall clearly designate the horse entered as reflected by the horse's[its] registration certificate, racing permit, or virtual certificate.

(a) A horse shall not race unless registered pursuant to 810 KAR 4:010 or otherwise correctly identified to the satisfaction of the stewards.

(b) Establishing the identity of a horse shall be the responsibility of its owner and of any other person required to certify the identity of the horse. Incorrect identification shall be grounds for disciplinary action as established in 810 KAR 8:030. A person shall be subject to appropriate disciplinary action under 810 KAR 8:030 for incorrect identification.

(5) The entry shall indicate usage of furosemide pursuant to 810

KAR 8:010.

(6) An entry shall not be altered after the closing of entries, except to correct an error with permission of the stewards.

(7)

(a) A horse shall not be entered in two (2) races to be run on the same day, unless:

1. Both races are graded-stakes races;

2. The horse will not be in the body of both races; and

3. The horse is not entered in either race to the exclusion of any horse.

(b) [~~Regardless of Section 15(1)(a),~~] A horse entered in two (2) races to be run on the same day shall be scratched must scratch from at least one (1) of the races at the earliest posted scratch time applicable to either race.

(8)

(a) A horse that has not started in the past forty-five (45) days shall not [~~be permitted to~~] start unless the horse if has at least one (1) published workout within twenty (20) days of entry at a distance satisfactory to the stewards. If a horse has performed the requisite workout, but the workout does not appear in the past performances, the horse may shall be permitted to start if the stewards determine that the workout failed to be published through no fault of the trainer.

(b) A horse that has not started in the past ninety (90) days shall not [~~be permitted to~~] start unless the horse if has at least two (2) published workouts during the past ninety (90) day period, one (1) of which occurs within twenty (20) days of entry at a distance satisfactory to the stewards. If a horse has performed the requisite workouts, but the workouts do not appear in the past performances, the horse may shall be permitted to start if the stewards determine that the workout failed to be published through no fault of the trainer.

(c) A horse that has not started in the past 180 days shall not [~~be permitted to~~] start unless the horse if has at least three (3) published workouts during the past 180-day period, one (1) of which occurs within twenty (20) days of entry, at a distance satisfactory to the stewards. If a horse has performed the requisite workouts, but the workouts do not appear in the past performances, the horse may shall be permitted to start if the stewards determine that the workouts failed to be published through no fault of the trainer.

(d) A horse starting for the first time shall not [~~be permitted to~~] start unless the horse if has at least three (3) workouts, one (1) of which is from the starting gate, one (1) of which is within twenty (20) days of entry, and at least one (1) of which is published.

(e) A workout not appearing in the official program shall be publicly displayed on television monitors, the tote board, and, if available, the bulletin boards where photo finishes are shown at the time when mutuel windows are opened and shall be displayed until the conclusion of the race in which the horse is entered.

(f) A horse that has never started shall not be entered until the trainer has produced a document or card issued by the starter indicating that the horse has been adequately trained to race from the starting gate.

(g) Quarter horses that have never raced around a turn shall have completed at least one (1) workout at 660 yards or farther within thirty (30) days prior to entry.

(h) Quarter horses that have previously started in a race around a turn, but have not started in such a race within sixty (60) days, shall complete at least one (1) workout at 660 yards or farther within thirty (30) days prior to entry.

(9) If the published conditions of the race allow permit, an association may accept in a turf race, an entry designated "main track only." Preference shall apply to all horses drawn into a race, except that horses entered as "main track only" shall be listed as also-eligible and be considered only if the race is taken off the turf.

(10) A horse shall not only be permitted to enter if at the time of entry, the owner, trainer, or an authorized agent of the owner or trainer has not submitted submits a complete medical record for the horse for the fourteen (14) day period prior to the entry date.

(11) As a condition of entry, quarter horses shall either submit non-positive[negative] hair samples with a test date within thirty (30) days of the race or have a hair sample pulled by a corporation veterinarian prior to the race and sent to a testing laboratory. If a hair sample taken by a corporation veterinarian returns a positive finding, the horse shall be disqualified and the owner and trainer may incur

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penalties established in 810 KAR 8:030. In addition, all quarter horses shall submit to out-of-competition testing as established by 810 KAR 8:040.

Section 4. Limitation as to Spouses.

(1) An entry in a race shall not be accepted for a horse owned wholly or in part or trained by a person whose spouse is under license suspension, revocation, or is otherwise ineligible to be licensed~~[.]~~ at the time of the entry, except as established in subsection (2) of this section.

(2) If the license of a jockey has been suspended for a routine riding offense, depending on the severity of the offense, the stewards may waive the application of this section as to the licensed spouse of the suspended jockey.

Section 5. Mutuel Entries.

(1) More than two (2) horses having common ties through ownership or training shall not be entered in a purse race.

(2) Horses entered in the same race and owned wholly or in part by the same owner or spouse, may be joined as a mutuel entry and single betting interest.

(3) More than two (2) horses having common ties through ownership or training shall not be joined as a mutuel entry in a purse race. If making a double entry of horses owned wholly or in part by the same owner or spouse~~[, or having common ties through training]~~, a preference for one (1) of the horses shall be made.

(4)

(a) Two (2) horses having common ties through ownership ~~[or training]~~ shall not start in a purse race to the exclusion of a single entry.

(b) In any race, the racing secretary may uncouple entries having common ties through training or ownership to make two (2) separate betting interests.

Section 6. Subscriptions.

(1) A subscriber to a stakes race may transfer or declare a subscription. Transfer or declaration of a subscription shall be made prior to the closing of entries for the race.

(2) Joint subscriptions and entries may be made by any one (1) of the joint owners of a horse. Each owner shall be jointly and severally liable for all payments due.

(3) Death of a horse or a mistake in a horse's[its] entry if the horse is eligible shall not release the subscriber or transferee from liability for all stakes fees due. Fees paid in connection with a subscription to a stakes race that is run shall not be refunded, except as otherwise stated in the conditions of the stakes race.

(4) Death of a nominator or original subscriber to a stakes race shall not render void any subscription, entry, or right of entry. All rights, privileges, and obligations shall attach to the successor owner, including the legal representatives of the decedent.

(5) If a horse is sold privately, sold at public auction, or claimed, stakes engagements for the horse[it] shall be transferred automatically with the horse to the horse's[its] new owner. If the horse is transferred to a person whose license is suspended, revoked, or is otherwise ineligible to be licensed, the subscription shall be void as of the date of the transfer.

(6) All stakes fees paid toward a stakes race shall be allocated to the winner unless otherwise provided by the condition for the stakes race. If a stakes race is cancelled for any reason, all subscription fees paid shall be refunded.

Section 7. Closings.

(1) Entries for purse races and subscriptions to stakes races shall close at the time designated by the association in previously published conditions for the races.

(a) If a race is not split, an entry, subscription, or declaration shall not be accepted after closing time.

(b) If a purse race fails to fill, or in an emergency, the racing secretary may extend the closing time, if the approval of a steward has been obtained.

(2) Entries that have closed shall be compiled without delay by the racing secretary and shall be posted along with declarations.

Section 8. Number of Starters in a Race.

(1) The maximum number of starters in any race shall be limited to the number of starting positions afforded by the association starting gate and any extensions approved by the corporation as can be positioned across the width of the track at the starting point for the race. The maximum number of starters further shall be limited by the number of horses that, in the opinion of the stewards after considering the safety of the horses and riders and the distance from the start to the first turn, may be afforded a fair and equal start.

(2)

(a) A maiden, starter, or claiming race shall be run if:

1. Eight (8) or more horses are entered;

2. The horses entered represent different betting interests; and

3. The race is listed in the printed condition book.

(b) Except as established in paragraph (c) of this subsection, any other purse race shall be run if:

1. Six (6) or more horses are entered;

2. The horses entered represent different betting interests; and

3. The race is listed in the printed condition book.

(c) If a purse race under paragraph (b) of this subsection includes two (2) horses having common ties through training or ownership, the race shall be run if eight (8) or more horses are entered.

(3) If a purse race in the printed condition book fails to fill with the minimum number of entries required by subsection (2) of this section, the association may cancel or declare the race off. The names of all horses entered in the race shall be publicly posted in the office of the racing secretary on the date of entry.

Section 9. Split or Divided Races.

(1) If a race is cancelled or declared off, the association may split any race programmed for the same day that may previously have been closed. Races printed in the condition book shall have preference over substitute and extra races.

(2) If a purse race is split, forming two (2) or more separate races, the racing secretary shall give notice of the split not less than fifteen (15) minutes before the races are closed in order to grant time for the making of additional entries to the split races.

(3) Division of entries upon the splitting of any race shall be made in accordance with the conditions under which entries and subscriptions were made and the conditions established in paragraphs (a) through (c) of this subsection.

(a) Horses originally joined as a mutuel entry may be placed in different divisions of a split race unless the person making the multiple entry, at the time of the entry, indicates the coupling of horses is not to be uncoupled if the race is split.

(b) Division of entries in any split stakes race may be made according to age, sex, or both.

(c) Entries for any split race not divided by any method provided for in this administrative regulation shall be divided by lot so as to provide a number of betting interests as nearly equal as possible for each division of the split race.

Section 10. Post Positions.

(1) Post positions for all races shall be determined by lot, except as established in Section 11(5) of this administrative regulation. Owners, trainers, and their representatives shall have the opportunity to be present at the drawing.

(2) The racing secretary shall assign program numbers for each starter to conform with the post position drawn, except if a race includes two (2) or more horses joined as a single betting interest.

Section 11. Also-Eligible List.

(1) If the number of entries for a race exceeds the number of horses allowed[permitted] to start, as established by Section 8 of this administrative regulation, the names of no more than eight (8) horses entered, but not drawn~~[.]~~ into the race as starters, shall be posted on the entry sheet as "also-eligible" to start.

(2) After a horse has been excused from a race at scratch time, also-eligible horses shall be drawn into the body of the race based on preference. If preference is equal, horses shall be drawn by lot, unless otherwise stipulated in the conditions of the race.

(3)

(a) An owner or trainer of a horse on the also-eligible list not wishing to start the horse in a race shall notify the racing secretary

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prior to scratch time for the race. The horse shall not forfeit any preference to which the horse[~~it~~] may have been entitled.

(b) If there are no scratches in the body of a race, a horse on the also-eligible list not drawn into the race shall retain the horse's[its] previously established preference.

(4) A horse on the also-eligible list for a race on the present day that has been drawn into the body of a race on a future race day, shall not be allowed[permitted] to run in the race on the present day for which the horse[~~it~~] had been listed as also-eligible. This shall not include stakes, handicaps, races at subsequent meets, or races in other jurisdictions.

(5) A horse on the also-eligible list shall be assigned a post position by preference. If preference is equal, post positions shall be drawn by lot, unless otherwise stipulated in the published conditions of the race.

(6) If there is a scratch in a straightaway quarter horse race that has an also eligible list, the also eligible horse shall take the post position of the scratched horse. If there is a scratch in a quarter horse race around a turn, the also eligible horse shall take the outside post position in the order drawn from the also eligible list.

Section 12. Preferred List.

(1) The racing secretary shall maintain a list of horses that were entered, but denied an opportunity to race because they were eliminated from a race included in the printed condition book either by overfilling or failure to fill.

(2) The racing secretary shall submit, for approval of the corporation at least thirty (30) days prior to the opening date of a race meeting, a detailed description of the manner in which preference will be allocated.

(3) Preferences shall not be given to a horse otherwise eligible for a race if that horse[~~it~~] is also entered for a race on a future race day. This shall not include stakes and handicaps.

Section 13. Arrears. Unless approved by the racing secretary, a horse shall not be entered or raced unless the horse's[its] owner has paid all stakes fees owed.

Section 14. Declarations.

(1) Declarations shall be made in the same form, time, and procedure as required for the making of entries.

(2) Declarations shall be irrevocable.

(3) A declaration fee shall not be required by any licensed association.

Section 15. Scratches.

(1) Scratches shall be irrevocable and shall be allowed[permitted] under the conditions established in this section.

(a) Except as established in Section 2(7)(b) and paragraph (b) of this subsection, a horse may be scratched from a stakes race for any reason at any time until four (4) hours prior to post time for the race by obtaining approval from the stewards. Upon receiving a scratch from a stakes race, the racing secretary shall immediately[promptly] notify the stewards and pari-mutuel manager, and shall cause public announcement of the scratch to be made.

(b) If a list of also-eligible horses has been drawn, scratches shall be filed at the regular scratch time as posted by the racing secretary. Scratch time may be extended by the stewards at their discretion if warranted. Thereafter, a horse shall not be scratched unless:

1. A valid physical reason exists; or
2. The scratch is related to adverse track conditions or change of racing surface.

(c) A horse shall not be scratched from a purse race unless:

1. The approval of the stewards has been obtained; and
2. Intention to scratch has been filed in writing with the racing secretary or the secretary's assistant at or before scratch time.

(2) A scratch of one (1) horse coupled in a mutuel entry in a purse race shall be made at or before scratch time, unless permission is granted by the stewards to allow both horses to remain in the race until a later appointed scratch time.

(3) In a purse race, a horse that is physically disabled or sick shall be permitted to be scratched first. If horses representing more

than eight (8) betting interests remain in after horses with physical excuses have been scratched, an owner or trainer may scratch horses without physical excuses at scratch time, down to a minimum of eight (8) betting interests. This privilege shall be determined by lot if an excessive number of owners or trainers wish to scratch their horses.

(4) A horse that has been scratched or excused from starting by the stewards because of a physical disability or sickness shall be placed on the corporation's veterinarian list for six (6) calendar days beginning the day after the horse was scratched or excused.

(5) Each association shall keep records and statistics documenting the effect upon field sizes of the six (6) day veterinarian list requirement in subsection (4) of this section. Records and statistics kept pursuant to this section shall be retained by the licensed racing association for at least one (1) year.

Section 16. Official Publication Statistics. In determining eligibility, allowances and penalties, the reports, records, and statistics as published in the Daily Racing Form or similar publication as the corporation considers appropriate to advise the public and the monthly chart books, or corresponding official publications of any foreign country, shall be considered official, but may be corrected until forty-five (45) minutes prior to post time of the race.

Section 17. Entry Examination by Attending Veterinarian.

(1) ~~A[Subject to the exception in subsection (4) of this section, a] horse shall only start[be entered] if:~~

(a) ~~The horse has been examined by an attending veterinarian licensed by the veterinary regulatory body in the jurisdiction where the examination occurs within[no more than] three (3) days after the close of entries and no later than two (2) days before the race; and[prior to entry];~~

(b) ~~The attending veterinarian certifies and electronically submits a report to the Equine Medical Director or its designee[~~in writing~~] that the horse is in serviceable, sound racing condition[; and]~~

~~[(c)] [The written certification is provided to the Equine Medical Director or designee no later than the time of entry.]~~

(2) ~~The examination required by subsection (1)(a) of this section shall include at a minimum, examination of the legs and observation of the horse at rest and while jogging.[watching the horse jog in hand.]~~

(3) ~~If the attending veterinarian who examines the horse prescribes a diagnostic test as part of the evaluation of the horse's soundness, the results of the test shall be provided to the corporation's veterinarian no later than one (1) day before the horse is set to start.~~

~~[(4)] [If a racing secretary contacts a trainer to fill a race, the trainer may enter a horse prior to obtaining the examination and written certification required in this section, if the certification required in this section is provided to the Equine Medical Director or designee on the day that the horse is entered.]~~

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CABINET FOR HEALTH AND FAMILY SERVICES

Department for Community Based Services

Division of Child Care

(As Amended at ARRS, March 10, 2025)

922 KAR 2:020. Child Care Assistance Program (CCAP) improper payments, claims, and penalties.

RELATES TO: KRS 13B, 23A.010, 45.237-45.241, 194A.060, 45 C.F.R. 98, 205.50, 42 U.S.C. 601-619, 9857-9858q

STATUTORY AUTHORITY: KRS 45.237(4), 194A.050(1), 199.8994, 45 C.F.R. 98.60(i)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary[Secretary] of the Cabinet for Health and

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Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.8994 requires the cabinet to administer all child care funds to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. 45 C.F.R. 98.60(i) and KRS 45.237(4) require the cabinet, as the lead agency for Kentucky, to recover child care payments that are the result of fraud or improper payment. This administrative regulation establishes procedures for improper payments, claims, and penalties used by the cabinet in the administration of the Child Care Assistance Program (CCAP).

Section 1. Definitions.

- (1) "Agency error" means an error on the part of the cabinet or its designee.
- (2) "Cabinet" means the Cabinet for Health and Family Services or its designee.
- (3) "Child Care Assistance Program" or "CCAP" means Kentucky's child care subsidy program providing families, who meet the eligibility requirements of 922 KAR 2:160, with the financial resources to find and afford quality child care.
- (4) "Child care provider" means the individual, business, or business proprietor who is receiving, or has received, payment for child care services under CCAP.
- (5) "Claim" means an amount owed to the cabinet as a result of an overpayment of CCAP.
- (6) "Claimant" means a current or former CCAP recipient, or child care provider subject to a claim.
- (7) "Compromise a claim" means accepting less than the full value of a claim.
- (8) "Hearing officer" is defined by KRS 13B.010(7).
- (9) "Improper payment" is defined by KRS 45.237(1)(f) or 45 C.F.R. 98.100(d).
- (10) "Inadvertent error claim" means an overpayment resulting from a misunderstanding or unintended error on the part of a recipient or a child care provider.
- (11) "Intentional program violation" or "IPV" means a CCAP recipient, or child care provider having intentionally:
 - (a) Made a false or misleading statement; or
 - (b) Misrepresented, concealed, or withheld facts.
- (12) "Overpayment" means a CCAP payment which exceeded the amount a CCAP recipient, or a child care provider was eligible to receive.
- (13) "Recipient" means a family who has been found eligible for CCAP.
- (14) "Terminate a claim" means ceasing all collection actions on a claim.
- (15) "Underpayment" means a payment which was less than the amount a recipient or a child care provider was eligible to receive.

Section 2. Responsibility for a Claim.

- (1) A parent of a recipient household or a child care provider shall be responsible for paying a claim which resulted from an:
- (a) Overpayment due to an action or inaction on the part of the recipient or the child care provider, including failure to report a change in circumstance in accordance with 922 KAR 2:160, Section ~~12~~14; or
 - (b) Agency error that provided the recipient or the child care provider with an overpayment.
- (2) The cabinet shall make an exception to subsection 1(b) of this section if the recipient:
- (a) Is approved for CCAP in accordance with 922 KAR 2:160, Section 5 or 6; and
 - (b) Complied with the requirements of the recipient's:
 1. Case plan developed in accordance with 922 KAR 1:430; or
 2. Kentucky Works Program self-sufficiency plan developed in accordance with 921 KAR 2:370.

Section 3. Claim Category.

- (1) A claim shall be classified in one (1) of the following three (3) categories:
- (a) A claim resulting from an IPV;

- (b) Inadvertent error claim; or
- (c) Agency error claim.

(2) The cabinet shall establish an IPV against a recipient or a child care provider if:

(a) A court of appropriate jurisdiction issues a conviction, or accepts an Alford or guilty plea, related to an IPV in CCAP against a parent of the recipient household or the child care provider;

(b) A parent of the recipient household or a child care provider completes, signs, and returns the:

1. DCC-84 Supplement A, Voluntary Waiver of Administrative Disqualification Hearing, 2024~~02~~46; or
2. DCC-83, Deferred Adjudication Disqualification Consent Agreement, 2024~~02~~46; or

(c) A hearing officer or an agency head makes a determination finding an IPV as a result of an administrative disqualification hearing.

Section 4. Action on an Improper Payment.

- (1) The cabinet shall investigate each:
- (a) Instance of an improper payment; or
 - (b) Allegation of an IPV related to a:
 1. Recipient; or
 2. Child care provider.
- (2) The cabinet shall initiate action to correct an improper payment in a CCAP case.
- (3) If an overpayment has occurred, the cabinet shall:
- (a) Determine the amount of overpayment in accordance with Section 5 of this administrative regulation; and
 - (b) Categorize and establish a claim to recover the amount of the overpayment.
- (4) If the cabinet has sufficient documentary evidence to confirm that a recipient or child care provider has committed an IPV, the cabinet shall:
- (a)
 1. Refer the case to the cabinet's Office of Inspector General (OIG) for investigation or referral for prosecution if warranted by the facts of the case;
 2. Initiate an administrative disqualification hearing in accordance with Section 9 of this administrative regulation; or
 3. Accept a parent of a recipient household or a child care provider's waiver of an administrative disqualification hearing through the parent or child care provider's completing, signing, and returning a DCC-84 Supplement A as specified in Section 3(2)(b) of this administrative regulation; and
 - (b) Take an action necessary to establish a claim to collect any overpayment resulting from the suspected IPV.

Section 5. Calculating a Claim.

- (1) The cabinet shall calculate the amount of an overpayment for an:
- (a) Agency error back to the month that the error first occurred, but not more than twelve (12) months prior to the date that the cabinet became aware of the overpayment;
 - (b) Inadvertent error back to the month that the misunderstanding or error first occurred, but not more than three (3) years prior to date that the cabinet became aware of the overpayment; and
 - (c) IPV back to the month of the fraudulent act first occurred, but not more than five (5) years prior to the date that the cabinet became aware of the overpayment.
- (2) If an overpayment occurred as a result of a change during the period of CCAP eligibility, the first day of the claim shall begin thirty-one (31) days from the date of the change.
- (3) If the overpayment occurred due to the failure of a parent of a recipient household to report information at application or recertification for eligibility in accordance with 922 KAR 2:160, Section 2, ~~or~~ 8, or 9, the claim shall start the first day of the approval of the application or recertification.
- (4)
 - (a) The cabinet shall:
 1. Calculate the amount of CCAP for each month that a recipient or a child care provider received the improper payment; and
 2. Subtract the correct amount of CCAP from the CCAP actually received.

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(b) The difference shall be the amount of the overpayment.

(5) If the overpayment exists for the entire period of CCAP eligibility, the cabinet shall calculate the full amount of benefits overpaid:

(a) On behalf of the recipient; or

(b) To the child care provider.

(6) If an overpayment and an underpayment exist for a recipient or a child care provider, the amounts of the overpayment and the underpayment shall be offset to determine the total amount of the claim.

(7) The amount of a claim may differ from a calculation obtained through the methods outlined in this section if a different claim amount is ordered by:

(a) An administrative hearing officer or agency head in accordance with[.]

[1.] [Until April 1, 2017, 922 KAR 1:320; or]

[2.] [Effective April 1, 2017,]922 KAR 2:260; or

(b) A court of appropriate jurisdiction.

(8) Child care provider claims with an estimated value of \$10,000 ten thousand (\$10,000) or more will be referred to the Office of Inspector General (OIG).

(9) CCAP recipient claims with an estimated value of \$5,000 five thousand (\$5,000) or more will be referred to the Office of Inspector General (OIG).

Section 6. General Claim Notices.

(1) A KCD-2, General Claims Notice, 02/16, shall serve many purposes in the administration of CCAP claims collections, including the use as:

(a) An appointment letter;

(b) A demand letter;

(c) A notification of benefit reduction;

(d) A past due notice;

(e) A repayment agreement;

(f) A claim adjustment notice;

(g) A claim termination notice;

(h) A payment receipt;

(i) Notice of a claim being paid in full; or

(j) Notice of a delinquent claim's referral for collection in accordance with Section 11(2) of this administrative regulation.

(2) The language on the KCD-2 shall differ according to the purpose of the notice as described in subsection (1) of this section.

Section 7. Notification of a Claim.

(1) The cabinet shall:

(a) Provide initial notice in accordance with Section 6 of this administrative regulation to a recipient or a child care provider suspected of having a claim;

(b) Provide notice of a suspected IPV, if applicable, with a:

1. DCC-84, Notice of Suspected Intentional Program Violation, 2024(02/16); and

2. DCC-84 Supplement A, 2024(02/16); and

(c) Offer the recipient or the child care provider an opportunity to meet with the cabinet to:

1. Discuss the potential claim;

2. Determine the category of the claim as specified in Section 3 of this administrative regulation; and

3. Sign the DCC-84 Supplement A, if an IPV is suspected.

(2) If a recipient or a child care provider requests to reschedule the meeting within ten (10) days of the date of the notice provided in accordance with subsection (1) of this section, the cabinet shall reschedule the meeting.

(3) The cabinet shall determine the claim's category in accordance with Section 3 of this administrative regulation and the amount of the claim based on the information available to the cabinet if the recipient or the child care provider:

(a) Fails to attend the meeting to discuss the claim; and

(b) Does not contact the cabinet to reschedule the meeting in accordance with subsection (2) of this section.

(4) If the cabinet determines the category and amount of a claim in accordance with subsections (1) through (3) of this section:

(a) Collection shall be initiated in accordance with Section 10 of this administrative regulation; and

(b) Subsequent notice pursuant to Section 6 of this

administrative regulation shall be mailed to the recipient or the child care provider to give the claim:

1. Amount;

2. Time period;

3. Reason; and

4. Classification in accordance with Section 3 of this administrative regulation.

(5) A recipient or a child care provider shall return the notice made pursuant to subsection (4)(b) of this section within ten (10) days of receipt if the recipient or child care provider chooses to request an administrative hearing on the establishment of the claim in accordance with this administrative regulation.

Section 8. Disqualification Period.

(1) A recipient or a child care provider determined to have committed an IPV in accordance with Section 3(2) of this administration regulation shall have a period of disqualification from CCAP pursuant to subsection (2) of this section.

(2)

(a) A disqualification period from CCAP shall adhere to the following guidelines:

1. Twelve (12) months disqualification for a first occurrence of IPV;

2. Twenty-four (24) months disqualification for a second occurrence of IPV; and

3. Permanent disqualification for a third occurrence of IPV.

(b) The cabinet shall make an exception to paragraph (a) of this subsection if:

1. The recipient is approved for CCAP in accordance with 922 KAR 2:160, Section 5 or 6; and

2. CCAP is necessary for the recipient to comply with the requirements of the recipient's:

a. Case plan developed in accordance with 922 KAR 1:430; or

b. Kentucky Works Program self-sufficiency plan developed in accordance with 921 KAR 2:370.

(3) If a court of appropriate jurisdiction issues a disqualification period upon conviction of a charge, or acceptance of an Alford or guilty plea, related to the IPV, the cabinet:

(a) May make exception to a disqualification period specified in subsection (2) of this section; and

(b) Shall enforce the court-ordered disqualification period.

(4) Unless subsection (2)(b) of this section applies, the disqualification period shall continue uninterrupted until it is completed regardless of the eligibility of the recipient or the child care provider.

(5) Regardless of the disqualification period, the recipient or the child care provider shall continue to be responsible for the payment of a claim resulting from the IPV.

(6) Eligibility of a recipient or payment to a child care provider shall not be affected by a suspected IPV until a disqualification is established in accordance with subsection (1) of this section.

(7) If a court of appropriate jurisdiction fails to impose a disqualification period for an IPV, the cabinet shall impose a penalty in accordance with this section.

(8) The cabinet shall not separate the same act of IPV repeated over a period of time for the imposition of multiple, separate penalties.

Section 9. Administrative Disqualification Hearing.

(1) The cabinet shall initiate an administrative disqualification hearing on the establishment of an IPV if the:

(a) Facts of the IPV do not warrant civil or criminal prosecution through a court of appropriate jurisdiction;

(b) Referral for prosecution is declined by prosecutorial authorities;

(c) Referral for prosecution is withdrawn by the cabinet; or

(d) Recipient or child care provider declines to sign the DCC-84 Supplement A.

(2) If the facts of the case arise out of the same or related circumstances, the cabinet shall not initiate an administrative disqualification hearing against a recipient or a child care provider:

(a) Whose case is currently referred for prosecution; or

(b) Subsequent to an action taken against the recipient or the child care provider by the prosecutor or a court of appropriate

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jurisdiction.

(3) Unless a different procedure is specified in this section, an administrative disqualification hearing shall:

(a) Be conducted in accordance with KRS Chapter 13B and 922 KAR 2:260[-];

[1.] [Until April 1, 2017, 922 KAR 1:320; or]

[2.] [Effective April 1, 2017, 922 KAR 2:160; and]

(b) Include:

1. The issuance of a recommended order;
2. Procedures for written exceptions; and
3. The issuance of a final order.

(4) The cabinet may initiate an administrative disqualification hearing regardless of the current eligibility of a recipient or the payment status of a child care provider.

(5)

(a) In accordance with KRS 13B.050, an administrative disqualification hearing notice shall be sent by:

1. Certified mail, return receipt requested, to the individual; or
2. Another method, such as electronic or first class mail, if the individual waives his or her right to certified mail delivery under KRS 13B.050.

(b) An administrative disqualification hearing notice shall provide information in accordance with KRS 13B.050.

(6) Timeframes for an administrative disqualification hearing shall be in accordance with KRS 13B.110 and 13B.120.

(7)

(a) The cabinet shall combine a request for an administrative hearing in accordance with Section 16 of this administrative regulation and an administrative disqualification hearing into a single hearing if the:

1. Factual issues arise out of the same or related circumstances; and
2. Recipient or the child care provider receives prior notice that the hearings are being combined.

(b) If the hearings are combined for the purpose of settling the amount of the claim concurrent with a determination of whether an IPV occurred, the recipient or the child care provider subject to the claim shall lose the right to a subsequent administrative hearing on the amount of the claim.

(8) During an administrative disqualification hearing, the hearing officer shall advise the recipient or child care provider accused of an IPV of the option to refuse to answer questions during the hearing.

(9)

(a) If a recipient or child care provider does not appear for the administrative disqualification hearing, the hearing officer shall proceed in accordance with KRS 13B.080(6).

(b) The cabinet shall conduct a new administrative disqualification hearing if the:

1. Recipient or the child care provider was not represented at the hearing;
2. Recipient or the child care provider was determined to have committed an IPV; and
3. Hearing officer determined the household had good cause for not appearing, in accordance with[-]

[a.] [Until April 1, 2017, 922 KAR 1:320, Section 6(7); or]

[b.] [Effective April 1, 2017, 922 KAR 2:260, Section 5(7).]

(10)

(a) The determination of an IPV made through an administrative disqualification hearing shall not be reversed by a subsequent administrative hearing decision.

(b) A recipient or child care provider shall be entitled to seek relief through a court of appropriate jurisdiction in accordance with:

1. KRS 13B.140 to 13B.160; or
2. KRS 23A.010.

Section 10. Collection of a Claim.

(1) The cabinet shall collect a claim from a claimant through:

- (a) Voluntary payment arrangement, negotiated either orally or in writing, which includes a payment schedule;
- (b) Court-ordered repayment;
- (c) State tax refund interception in accordance with KRS 45.238;
- (d) Lottery offsets;
- (e) Wage garnishment; or

(f) Referral to a collection agency.

(2)

(a) The cabinet shall accept a lump sum payment on a claim from a recipient or a child care provider.

(b) The lump sum payment may be a full or partial payment.

(3)

(a) If a claimant who is a child care provider submits a completed DCC-97 Supplement A, Voluntary Payment Reduction, indicating the amount the provider wishes to have applied to the claim, the child care provider currently receiving CCAP payment may choose to have an amount withheld from the provider's CCAP payment to be applied towards a claim.

(b) The amount indicated on the DCC-97 shall not be less than ten (10) percent of the total CCAP payment.

(4) The cabinet shall refund to a claimant any amount the claimant pays in excess of the amount of the claim.

Section 11. Delinquent Claims.

(1) In accordance with KRS 45.237(4), a claim shall be considered delinquent if:

(a) A claimant has not made a payment or entered into a satisfactory payment arrangement with cabinet sixty (60) calendar days from the date on the notice provided in accordance with Section 7(4)(b) of this administrative regulation; or

(b) Sixty (60) days have lapsed since the claimant has missed a scheduled payment pursuant to the payment arrangement with the cabinet.

(2) The cabinet shall pursue collection on a delinquent claim through a collection method specified in Section 10(1)(b) through (f) of this administrative regulation.

(3)

(a) If the cabinet determines that a claimant who is a recipient is delinquent on a payment in accordance with subsection (1) of this section for ninety (90) days, the cabinet shall:

1. Terminate the recipient's CCAP; and
2. Not reapprove the recipient for CCAP until the recipient has paid all delinquent payments.

(b) The cabinet shall make an exception to paragraph (a) of this subsection if:

1. The recipient is approved for CCAP in accordance with 922 KAR 2:160, Section 5 or 6; and
2. CCAP is necessary for the recipient to comply with the requirements of the recipient's:

- a. Case plan developed in accordance with 922 KAR 1:430; or
- b. Kentucky Works Program self-sufficiency plan developed in accordance with 921 KAR 2:370.

(4) If the cabinet determines that a claimant who is a child care provider is delinquent on a payment in accordance with subsection (1) of this section for ninety (90) days, the cabinet shall:

- (a) Disallow any CCAP payments to the child care provider; and
- (b) Not approve the child care provider for further CCAP payments until the provider has paid all delinquent payments.

(5) The cabinet shall provide notice in accordance with Section 6 of this administrative regulation prior to an action specified in subsection (3) or (4) of this section.

(6) If the cabinet is unable to determine a claim's delinquency status because the claim collection is coordinated through the court system, the cabinet shall not subject a claim to the requirements for delinquent debts in accordance with this section.

(7) A claim shall not be considered delinquent if:

- (a) Another claim for the same claimant is currently being paid through a repayment agreement or court order; and
- (b) The cabinet expects to begin collection on the claim once the prior claim is settled.

(8)

(a) A claim awaiting an administrative hearing shall not be considered delinquent.

(b) If a hearing officer or agency head determines that a claim does exist as result of an administrative hearing, the cabinet shall:

1. Send subsequent notice of the claim in accordance with Section 6 of this administrative regulation; and
 2. Base delinquency on the due date of the subsequent notice.
- (c) If a hearing officer or agency head determines that a claim

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does not exist as a result of an administrative hearing, the cabinet shall terminate the claim in accordance with Section 12(2) of this administrative regulation.

Section 12. Compromising or Terminating a Claim.

(1) Except for a claim that is established by a court of appropriate jurisdiction, the cabinet may compromise a claim or a portion of a claim if:

(a) A request for a compromise is received from the claimant; and

(b) The cabinet makes a determination that the claimant will be unable to pay the claim within five (5) years.

(2) Except for a claim that is established by a court of appropriate jurisdiction the[The] cabinet shall terminate a claim if the:

(a) Claim:

1. Is invalid, unless pursuing the overpayment as a different type of claim is appropriate;

2. Balance is twenty-five (25) dollars or less, and the claim has been delinquent for ninety (90) days or more, unless another claim is pending against the same claimant resulting in an aggregate claim total of greater than twenty-five (25) dollars; or

3. Has been delinquent for at least three (3) years;

(b) Claimant dies; or

(c) Cabinet is unable to locate the claimant.

(3) The cabinet shall provide notice in accordance with Section 6 of this administrative regulation if the cabinet:

(a) Compromises or terminates a claim; and

(b) Has a mailing address for the claimant.

Section 13. Underpayments and CCAP Restoration.

(1) If an underpayment has occurred, the cabinet shall issue a payment to the child care provider that includes the difference between the amount that the child care provider:

(a) Was entitled to receive; and

(b) Actually received.

(2) CCAP shall be restored for no more than twelve (12) months to a recipient or a child care provider if benefits were lost:

(a) Due to an agency error; or

(b) By a disqualification period for an IPV that is subsequently reversed through an order of a court of appropriate jurisdiction.

Section 14. Disclosure of Information. The disclosure or the use of CCAP information shall be restricted in accordance with:

(1) KRS 194A.060; and

(2) 45 C.F.R. 205.50(a)(1)(i).

Section 15. Retention of Records.

(1) Records for CCAP shall be retained in accordance with 45 C.F.R. 98.90(e).

(2) The cabinet shall retain:

(a) The official records of an administrative disqualification hearing until all appeals have been exhausted; and

(b) A CCAP record with an IPV disqualification indefinitely.

Section 16. A parent in the recipient household or a child care provider may request an appeal of the establishment of a claim in accordance with[.]

[(1)] [Until April 1, 2017, 922 KAR 1:320, Section 2(10); or]

[(2)] [Effective April 1, 2017,] 922 KAR 2:260, Section 2(4).

Section 17. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "DCC-83, Deferred Adjudication Disqualification Consent Agreement", 2024[02/16];

(b) "DCC-84, Notice of Suspected Intentional Program Violation", 2024[02/16];

(c) "DCC-84 Supplement A, Voluntary Waiver of Administrative Disqualification Hearing", 2024[02/16];

(d) "DCC-97 Supplement A, Voluntary Payment Reductions", 2024[11/09]; and

(e) "KCD-2, General Claims Notice", 02/16.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family

Services, Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 am through 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: March 10, 2025

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

VOLUME 51, NUMBER 10– APRIL 1, 2025
ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

NONE

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](#).

BOARDS AND COMMISSIONS
Board of Pharmacy
(Amendment)

201 KAR 2:045. Technicians.

RELATES TO: KRS 315.010(12), (20), (26), 315.020(4)(b), 315.191(1)(a), (g), (l)
 STATUTORY AUTHORITY: KRS 315.010(21)(20), 315.020(4)(b), 315.191(1)(a), (g), (l)
 NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(a) authorizes the board to promulgate administrative regulations governing pharmacy technicians. KRS 315.020(4)(b) authorizes the board to establish the scope of practice for pharmacy technicians. KRS 315.010(20) and 315.191(1)(l) authorize the board to promulgate administrative regulations establishing when a pharmacy technician ~~may~~^{can} practice under the general, rather than immediate, supervision of a pharmacist. This administrative regulation establishes the qualifications required for a pharmacy technician to practice under the general supervision of a pharmacist[,] and establishes the scope of practice for a pharmacy technician.

Section 1. Certified Pharmacy Technician Recognition.[A person shall be recognized by the board as a certified pharmacy technician, if:]

- (1)
 - (a) A person shall be recognized by the board as a certified pharmacy technician, if:
 - (b)[(a)] The person has successfully completed the Pharmacy Technician Certification Exam (PTCE) administered by the Pharmacy Technician Certification Board (PTCB) or the Examination for the Certification of Pharmacy Technicians (ExCPT) by the National Healthcareer Association (NHA); and
 - (c)[(b)] The certificate issued by the PTCB or NHA is current; or
 - (2) The person has successfully completed the Nuclear Pharmacy Technician Training Program at the University of Tennessee or other entity approved by the Board of Pharmacy.

Section 2. Registered Technician.

(1) A registered pharmacy technician may, under the immediate supervision of a pharmacist, engage in the following activities at a permitted location to the extent that the activities do not require the exercise of professional judgment:

- (a) Initiate or receive telephonic or electronic communication from a practitioner or practitioner's agent concerning refill authorization. If the practitioner or practitioner's agent communicates information that does not relate to the refill authorization:
 - 1. The technician shall immediately inform the pharmacist; and
 - 2. The pharmacist shall receive the communication;
- (b) Enter information into and retrieve information from a database or patient profile, including order entry;
- (c) Prepare and affix labels;
- (d) Stock and retrieve, or return product to or from the pharmacy inventory including the stocking and loading of an automated filling or dispensing system with the use of barcode technology;
- (e) Count and pour prescription drugs into patient storage containers;
- (f) Obtain, record or maintain information for a patient record;
- (g) Make an offer to counsel;
- (h) Sell and record the sale of an over-the-counter ephedrine, pseudoephedrine, or phenylpropanolamine product;
- (i) Prepare for delivery unit dose mobile transport systems that have been refilled by another technician in an institutional pharmacy;
- (j) Receive diagnostic orders within a nuclear pharmacy; and,
- (k) Non-sterile and sterile drug compounding.

(2) A registered pharmacy technician may, under electronic supervision, perform order entry from a location outside of the permitted pharmacy pursuant to KRS 315.020(5)(b) and (c).

(3) A registered pharmacy technician may, under general supervision:

- (a) Administer a vaccine to an individual if the technician:
 - 1. Completes a minimum of two (2) hours of immunization-related continuing education accredited by the Accreditation Council for Pharmacy Education (ACPE) per each state registration period;
 - 2. Completes, or has completed, a practical training program accredited by ACPE that includes hands-on injection technique and the recognition and treatment of emergency reactions to vaccines; and
 - 3. Possesses a current certificate in basic cardiopulmonary resuscitation.
- (b) Stock an automated dispensing system in a residential hospice facility if a pharmacist is on-site; and
- (c) Administer point of care tests.

Section 3. Certified Pharmacy Technician. A certified pharmacy technician, under the general supervision of a pharmacist, may be delegated by the supervising pharmacist to perform any function within the practice of pharmacy except the following:[the following functions under the general supervision of a pharmacist:]

- (1) Patient counseling, including clinical advisement necessary to all areas of a patient's health;
 - (2) Drug evaluation, utilization, and regimen review;
 - (3) Interpretation of medical orders and prescriptions;
 - (4) Final product verification;
 - (5) Receipt of new verbal prescription drug or medical orders;
- and
- (6) Other acts, services, or decisions that require professional judgement.

[(1)] [Certify for delivery unit dose mobile transport systems that have been refilled by another technician;]

[(2)] [Within a nuclear pharmacy, receive diagnostic orders; and]

[(3)] [Initiate or receive a telephonic communication from a practitioner or practitioner's agent concerning refill authorization, after the certified pharmacy technician clearly identifies himself or herself as a certified pharmacy technician; and]

[(b)] [If a practitioner or practitioner's agent communicates information that does not relate to the refill authorization:]

- [1-] [A technician shall immediately inform the pharmacist; and]
- [2-] [The pharmacist shall receive the communication.]

Section 4.[Section 3.] Directing Pharmacist Responsibility.

(1) [A technician who has not been certified by PTCB or NHA may perform the functions specified by Section 2 of this administrative regulation under the immediate supervision of a pharmacist.]

[(2)] A function performed by a certified pharmacy technician or registered pharmacy technician shall be performed subject to the review of the pharmacist who directed the technician to perform the function.

[(3)] A pharmacist who directs a certified pharmacy technician or registered pharmacy technician to perform a function shall be responsible for the technician and the performance of the function.

Section 5. Pharmacy Technician Application. An applicant shall provide the following information as part of their initial technician registration application:

- (1) Name, maiden, and other names used currently or previously;
- (2) Telephone number;
- (3) Address;
- (4) Social Security number;

- (5) NABP eprofile number;
- (6) Email address;
- (7) Place of employment;
- (8) Record of convictions of any felony or misdemeanor offense, other than traffic offenses, and whether or not a sentence was imposed or suspended;
- (9) Record of any technician registration revocation, suspension, restriction, termination, or other disciplinary action by any board of pharmacy or other state authority;
- (10) Record of licensure, certification or registration as a pharmacy technician in any other state, if applicable;
- (11) Record of certification as a pharmacy technician with a national organization, if applicable; and
- (12) If they are seeking registration solely as a charitable pharmacy technician.

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Registration as a Pharmacy Technician", 03/2025; and

(b) "Application for Pharmacy Technician Renewal", 03/2025.

(2) This material may be inspected, copied, or obtained subject to applicable copyright law, at the Kentucky Board of Pharmacy, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the Board's website at: <https://pharmacy.ky.gov/statutesandregulations/Documents/Applications%20for%20Individuals%20-%20Incorporated%20By%20Reference.pdf>.

CHRISTOPHER HARLOW, Pharm.D, Executive Director

APPROVED BY AGENCY: March 6, 2025

FILED WITH LRC: March 6, 2025 at 4:00 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 28, 2025, at 10:00 a.m. Eastern Time at 125 Holmes Street, First Floor Conference Room and via zoom teleconference. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through May 31, 2025. 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: Christopher Harlow, Executive Director, Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806, email Christopher.harlow@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Christopher Harlow

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes the functions that pharmacy technicians are authorized to perform. This regulation also establishes the criteria for registration as a certified pharmacy technician.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary to assist pharmacists in the practice of pharmacy. Without this regulation there is no indication as to what a pharmacy technician may or may not do.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 315.191(1)(a) provides the Board with the authority to promulgate administrative regulations necessary to regulate and control all matters set forth in KRS 315 relating to pharmacy technicians.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative

regulation provides clarity as to what technicians may or may not do. KRS 315.135 and KRS 315.136 authorize the registration of pharmacy technicians.

- (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 provides detailed tasks that pharmacy technicians may perform and it creates delegated tasks that certified pharmacy technicians may perform.
 - (b) The necessity of the amendment to this administrative regulation: This amendment was necessary to ensure that pharmacists were assisted in the practice of pharmacy to prevent pharmacies from being overwhelmed with prescription volume. This amendment is also narrowly tailored to ensure public protection.
 - (c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to KRS 315.191(1)(a) and the authority to promulgate regulations to control and regulate pharmacy technicians.
 - (d) How the amendment will assist in the effective administration of the statutes: This amendment provides clarity as to what technicians may or may not do. KRS 315.135 and KRS 315.136 authorize the registration of pharmacy technicians.
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Pharmacies, pharmacists, pharmacy technicians and pharmacist interns will be impacted 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: Pharmacies, pharmacists, pharmacy technicians and pharmacist interns will have to familiarize themselves with the changes in tasks that pharmacy technicians may perform.
 - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): It will not cost regulated entities anything to comply with the amendment.
 - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Pharmacists will have a greater ability to have assistance from technicians, allowing them more time to spend with patients and providing clinical services.
- (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: 0
 - (b) On a continuing basis: 0
 - (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Board will enforce this regulation through regular pharmacy inspections which are already funded through the Board's budget.
 - (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will be no fee increase with this administrative regulation.
 - (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees established directly or indirectly by this regulation.
 - (9) TIERING: Is tiering applied? Certified technicians are provided with the ability to perform more tasks, as delegated by a supervising pharmacist, because they have attained a level of competency with a national exam. A non-certified technician has no special education or credential.

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 315.191(1)(a)
- (2) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency is the Kentucky

Board of Pharmacy. We do not anticipate any other state units to be impacted by this regulation.

(a) Estimate the following for the first year:

Expenditures: 0

Revenues: 0

Cost Savings: 0

(b) How will expenditures, revenues, or cost savings differ in subsequent years? They will still remain 0.

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

(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): Regulated entities will include pharmacies, pharmacists, and pharmacy technicians.

(a) Estimate the following for the first year:

Expenditures: 0

Revenues: 0

Cost Savings: There could be some cost savings because a pharmacy technician may be able to perform a task previously reserved for a pharmacist only.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? They should remain the same.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This regulation has no fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: An analysis of the Board's budget and what it will take regulated entities to comply with this 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: The Board reviewed what it would cost permitted entities to comply with this statute.

(b) It is made through an online real-time computer system that provides documentation of the presence of a pharmacist or an individual located in a state or U.S. Territory or District outside the Commonwealth and similarly credentialed as a pharmacist by that state or U.S. Territory or District when the information is transferred;

(c) It is made through the use of a facsimile machine and all the information required by this administrative regulation is provided to the sending and receiving pharmacist or an individual located in a state or U.S. Territory or District outside the Commonwealth and similarly credentialed as a pharmacist by that state or U.S. Territory or District; or

(d) It is made through the use of voice recording technology and all information required by this administrative regulation is provided to the sending and receiving pharmacist or an individual located in a state or U.S. Territory or District outside the Commonwealth and similarly credentialed as a pharmacist by that state or U.S. Territory or District.

(2) If in the Commonwealth the transferring pharmacist shall record the following information:

(a) That the prescription is void;

(b) The name and address of the pharmacy or the establishment located in a state or U.S. Territory or District outside the Commonwealth that is similarly credentialed as a pharmacy by that state or U.S. Territory or District to which it was transferred and the name of the pharmacist or the individual located in a state or U.S. Territory or District outside the Commonwealth that is similarly credentialed as a pharmacist by that state or U.S. Territory or District receiving the prescription information; and

(c) The date of the transfer and the name of the pharmacist transferring the information.

(3) If in the Commonwealth the pharmacist receiving the transferred prescription shall record the following information:

(a) That the prescription is a transfer;

(b) The date of issuance of the original prescription;

(c) The refill authorization on the original prescription;

(d) The date of original dispensing, if applicable;

(e) The refill authorization remaining and the date of the last refill if applicable;

(f) The name and address of the pharmacy or the establishment located in a state or U.S. Territory or District outside the Commonwealth that is similarly credentialed as a pharmacy by that state or U.S. Territory or District and the original prescription number from which the prescription was transferred; and

(g) The name of the transferor pharmacist or the individual located in a state or U.S. Territory or District outside the Commonwealth that is similarly credentialed as a pharmacist by that state or U.S. Territory or District.

(4) Both the original prescription and the transferred prescription shall be maintained for a period of five (5) years from the date of the last refill.

(5) Pharmacies electronically accessing the same prescription record shall satisfy all information of a manual mode for a prescription transfer.

(6) A pharmacist may delegate the transferring and the documentation of a transfer of a previously dispensed noncontrolled substance prescription to a certified pharmacy technician.

(7) For verbal prescriptions, the certified pharmacy technician shall document that they read back and verify the prescription information when transferring or receiving a prescription transfer.

Section 2.

(1) The transfer for an initial or new dispensing of an electronic prescription for schedules II-V may occur if the transfer complies with the requirements of 21 C.F.R. 1306.08.

(2) The transfer of prescription information for a controlled substance prescription for schedule III, IV, and V for the purposes of refill dispensing may occur if the transfer complies with the requirements of 21 C.F.R. 1306.25.

(3) Transfers the recordkeeping requirements in 201 KAR 2:171, Section 1.

Section 3. Pharmacies shall maintain documentation, as required in 201 KAR 2:171, of transferred prescriptions for a period

BOARDS AND COMMISSIONS

Board of Pharmacy (Amendment)

201 KAR 2:165. Transfer of prescription information.

RELATES TO: KRS 217.215(2), 315.191(1)(f), 21 C.F.R. 1306.08, 1306.25

STATUTORY AUTHORITY: KRS 217.215(2), 315.191(1)(a), (f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(f) authorizes the Board of Pharmacy to promulgate administrative regulations to control the transfer of prescription drug orders between pharmacy personnel[pharmacists] and pharmacies. This administrative regulation establishes the procedures by which a prescription may be transferred between pharmacies in the Commonwealth or between a pharmacy and an establishment located in a state or United States Territory or District outside the Commonwealth and similarly credentialed as a pharmacy by that state or U.S. Territory or District for the purpose of dispensing.

Section 1.

(1) The transfer of prescription information for any noncontrolled substance prescription for the purpose of new or refill dispensing may occur if:

(a) It is orally communicated directly between two (2) pharmacists or pharmacist interns in the Commonwealth or between a pharmacist and an individual located in a state or U.S. Territory or District outside the Commonwealth and similarly credentialed as a pharmacist by that state or U.S. Territory or District;

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of five (5) years.

Section 4. Violation of a provision of this administrative regulation may constitute unethical or unprofessional conduct in accordance with KRS 315.121(2)(d), (f), and (g).

CHRISTOPHER HARLOW, Pharm.D., Executive Director

APPROVED BY AGENCY: March 6, 2025

FILED WITH LRC: March 6, 2025 at 4:00 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 28, 2025, at 10:00 a.m. Eastern Time via zoom teleconference or in-person at 125 Holmes Street, First Floor Conference Room, 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 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 May 31, 2025. 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: Christopher Harlow, Executive Director, Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806, email Christopher.harlow@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Christopher Harlow

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for transferring prescription records for both controlled and non-controlled substances.

(b) The necessity of this administrative regulation: KRS 315.191(1)(a) authorizes the Board of Pharmacy to promulgate administrative regulations with minimum requirements for pharmacies to operate. Part of pharmacy operation is the ability for a pharmacy to transfer a prescription drug order when a patient makes such request.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes the requirements for transferring prescription information.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes rules for the transfer of prescription information, as required when a patient wishes to have a different pharmacy from the originating pharmacy dispense their prescription drug order.

(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 only clarifies the process that a certified technician shall utilize in transferring a prescription. It ensures accuracy of the transfer of the prescription drug order.

(b) The necessity of the amendment to this administrative regulation: This amendment to an existing administrative regulation is necessary to assist pharmacists in the performance of their duties and give them more time to focus on clinical patient care and other aspects of pharmacy practice.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment to an existing administrative regulation, authorized by KRS 315.191 (1)(a), establishes the process for a certified pharmacy technician to transfer a previously dispensed prescription drug order to ensure accuracy.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation establishes rules for the transfer of prescription information, as required when a patient wishes to have a different pharmacy from the originating pharmacy

dispense their prescription drug order. This amendment specifically authorizes certified pharmacy technicians to transfer previously dispensed prescription drug orders that are non-controlled substances.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The board anticipates that pharmacists, pharmacies and certified pharmacy technicians will be impacted by this regulation.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Pharmacists will need to know that they can delegate the transfer of a previously dispensed non-controlled substance prescription to a certified pharmacy technician. Certified pharmacy technicians will need to be made aware of a change to their authority authorizing them to perform this function. Pharmacies will need to be made aware of this change so that they can update operating procedures.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Pharmacists will be able to delegate transfers of previously dispensed non-controlled substance prescription drug orders to certified pharmacy technicians. This will reduce their load of work and allow them to focus on other tasks. (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: There is no cost to implement this administrative regulation.

(b) On a continuing basis: There is no cost to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Board revenues from pre-existing fees provide the funding to enforce the regulation during routine pharmacy inspections.

(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, this amendment will not necessitate an increase in fees or funding.

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

(9) TIERING: Is tiering applied? Tiering is not applied because the regulation is applicable to all pharmacies, pharmacists and certified pharmacy technicians 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 315.191(1) authorizes the Board to regulate the practice of pharmacy. Part of the practice of pharmacy requires the transfer of prescription drug orders.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The promulgating agency, the Board of Pharmacy, is the only affected state unit impacted.

(a) Estimate the following for the first year:

Expenditures: This regulation does not have any expenditures.

Revenues: This regulation does not produce revenue for the Board. Cost Savings: none.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? It will zero for expenditures and revenue.

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

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: There could be cost savings due to certified pharmacy technicians being authorized to perform a function previously reserved for a pharmacist.

(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): Resident and non-resident pharmacies, pharmacists and certified pharmacy technicians that are permitted or licensed with us will be regulated.

(a) Estimate the following for the first year:

Expenditures: n/a

Revenues: n/a

Cost Savings: There could be cost savings due to certified pharmacy technicians being authorized to perform a function previously reserved for a pharmacist.

(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: This regulation does not cost anything for regulated parties to implement nor does it have a cost on the Board to oversee.

(b) Methodology and resources used to determine the 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) No, this administrative regulation does not have an overall negative or adverse major economic impact to regulated entities or those entities identified in questions (2)-(4).

(b) The methodology and resources used to reach this conclusion: Analysis of the Board's expenditures as well as an assessment regarding cost of compliance for regulated entities.

(e) Renewal of license - fifty-five (55) dollars;

(f) Retired status - twenty-five (25) dollars;

(g) Reinstatement of license - \$135;

(h) ~~[Paper copy of an application—forty (40) dollars;]~~

~~[(#)] Full verification of licensure, credential or registration history - fifty (50) dollars;~~

~~[(i)][(#)] Licensure as an advanced practice registered nurse - \$165;~~

~~[(j)][(#)] Renewal of licensure as an advanced practice registered nurse - fifty-five (55) dollars;~~

~~[(k)][(#)] Reinstatement of licensure as an advanced practice registered nurse - \$135;~~

~~[(l)][(#)] Name change - twenty-five (25) dollars;~~

~~[(m)][(#)] Application to establish a registered nurse or licensed practical nurse prelicensure program of nursing pursuant to 201 KAR 20:280 - \$2,000;~~

~~[(n)][(#)] Information submitted to establish an advanced practice registered nurse program pursuant to 201 KAR 20:062 - \$2,000; or~~

~~[(o)][(#)] Information submitted to establish an additional track pursuant to 201 KAR 20:062 - \$500.~~

(3) In addition to the renewal application fees under this section, the board shall assess and collect the fees established in KRS 314.027(2) and 314.171(4).

(4) [(3)] An application or information submitted under this section shall not be evaluated by the board unless the current fee is submitted.

Section 2. Fees for Applications for Continuing Education Approvals. The fee for an application for approval of a provider of continuing education or for a renewal or reinstatement of the approval shall be:

(1) Initial provider approval - \$400;

(2) Reinstatement of provider approval - \$400;

(3) Renewal of approval - \$100; or

(4) Individual review of continuing education offerings - ten (10) dollars.

Section 3. Fees for Services.

(1) The fee for a service shall be:

(a) ~~[Validation of the current status of a temporary work permit, provisional license, license, or credential;]~~

~~[1-] [If requested in writing in individual nurse format—fifty (50) dollars; or]~~

~~[2-] [If requested in writing in list format—fifty (50) dollars for the first name and twenty (20) dollars for each additional name;]~~

~~[(b)] Copy of a ~~[an examination result or]~~ transcript - twenty-five (25) dollars;~~

~~[(b)][(e)] Nursing certificate - thirty (30) dollars; or~~

~~[(c)][(d)] [Release of NCLEX results to another state board of nursing - seventy-five (75) dollars; or]~~

~~[(e)] Review a request from an advanced practice nurse to be exempt from the Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances - fifty (50) dollars.~~

(2) An applicant for licensure who takes or retakes the licensure examination shall pay:

(a) The current examination fee required by the national council of state boards of nursing; and

(b) Application for licensure fee pursuant to Section 1 of this administrative regulation.

(3) A graduate of a foreign school of nursing shall be responsible for:

(a) Costs incurred to submit credentials translated into English;

(b) Immigration documents; and

(c) Other documents needed to verify that the graduate has met Kentucky licensure requirements.

(4) A program of nursing that requires a site visit pursuant to 201 KAR 20:360, Section 5, shall pay the cost of the site visit to the board.

Section 4. An application shall lapse and the fee shall be forfeited if the application is not completed as follows:

(1) For an application for licensure by endorsement, within one

BOARDS AND COMMISSIONS

Board of Nursing (Amendment)

201 KAR 20:240. Fees for applications and services.

RELATES TO: KRS 61.874(3), 314.027(2), 314.041(11), (13)(c), 314.042(7)~~[(3)], (10)~~[(6)], (17)~~[(14)](b)4., 314.051(2), (13)(c), 314.071(1), (2), (4), 314.073(8)~~[(7)], 314.075(1), 314.101(4), 314.142(1)(b), 314.161, 314.171(4)~~~~~~~~

STATUTORY AUTHORITY: KRS 314.041(11), (13)(c), 314.042(7)~~[(3)], (10)~~[(6)], (17)~~[(14)](b)4., 314.051(2), (13)(c), 314.071(1), (2), (4), 314.073(8)~~[(7)], 314.131(1), 314.142(1)(b), 314.161~~~~~~~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131 authorizes the board to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 314. KRS 314.142(1)(b) requires the board to establish an application fee for a registered nurse who applies to the board to be credentialed as a "sexual assault nurse examiner". KRS 314.161 authorizes the board to establish fees necessary to implement KRS Chapter 314. KRS 314.041(11), (13)(c), 314.042(7)~~[(3)], (10)~~[(6)], (17)~~[(14)](b)4., 314.051(2), (13)(c), 314.071(1), (2), and 314.073(8)~~[(7)]~~~~~~ require the board to establish fees for licensure, examination, renewal, reinstatement, and continuing education. This administrative regulation establishes those fees.~~

Section 1. Fees for Licensure Applications.

(1) The board shall collect a fee for:

(a) An application for licensure; and

(b) Licensure renewal or reinstatement.

(2) The fee for an application shall be:

(a) Licensure by endorsement as a registered nurse - \$165;

(b) Licensure by endorsement as a licensed practical nurse - \$165;

(c) Licensure by examination as a registered nurse - \$125;

(d) Licensure by examination as a licensed practical nurse - \$125;

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(1) year from the date the application form is filed with the board office;

(2) For an application for licensure by examination, within one (1) year from the date the application form is filed with the board office;

(3) For an application for reinstatement of license, within one (1) year from the date the application form is filed with the board office; or

(4) For all other applications, except for renewal of license applications, within one (1) year from the date the application form is filed with the board office.

Section 5. An applicant who meets all requirements for approval, licensure, or credential shall be issued the appropriate approval, license, or credential without additional fee.

Section 6. Fees for Sexual Assault Nurse Examiners.

(1) The application fee shall be \$120.

(2) The credential renewal fee shall be fifty (50) dollars.

(3) The credential reinstatement fee shall be \$120.

Section 7. A payment for an application fee that is in an incorrect amount shall be returned and the application shall not be posted until the correct fee is received.

Section 8. Bad Transaction Fee. Any transaction, including paper or electronic, submitted to the board for payment of a fee which is returned for nonpayment shall be assessed a bad transaction fee of thirty-five (35) dollars.

AUDRIA DENKER, President

APPROVED BY AGENCY: February 20, 2025

FILED WITH LRC: March 4, 2025 at 10:08 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 27, 2025, at 10:00 a.m. at Kentucky Board of Nursing, 312 Whittington Parkway, Ste 300, Louisville, KY 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by May 20, 2025, 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 May 31, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person or submit a comment at: <https://secure.kentucky.gov/formservices/Nursing/PendReg>.

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 338-2851, email Jeffrey.Prather@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jeffrey Prather

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets fees.

(b) The necessity of this administrative regulation: This regulation is required by statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting fees.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting fees.

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

(a) How the amendment will change this existing administrative regulation: The amendments update statutory references and remove obsolete fees.

(b) The necessity of the amendment to this administrative regulation: Amendment is needed to conform with statutes and to remove obsolete language.

(c) How the amendment conforms to the content of the authorizing statutes: By removing fees that are no longer required.

(d) How the amendment will assist in the effective administration of the statutes: By clarifying existing fees and removing obsolete fees.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Board licensees and credential holders, approximately \$100,000.

(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): No additional cost beyond the existing fees.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Some fees have been eliminated due to electronic processing.

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

(a) Initially: There is no additional cost.

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

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

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

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

(9) TIERING: Is tiering applied? Tiering is not applicable.

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 314.041(11), (13)(c), 314.042(7), (10), (17)(b)4., 314.051(2), (13)(c), 314.071(1), (2), (4), 314.073(8), 314.131(1), 314.142(1)(b), 314.161.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Nursing.

(a) Estimate the following for the first year:

Expenditures: No expenditures to estimate.

Revenues: No revenues to estimate.

Cost Savings: No cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Not applicable.

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

(a) Estimate the following for the first year:

Expenditures: No expenditures to estimate.

Revenues: No revenues to estimate.

Cost Savings: No cost savings.

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

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

(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? There will be no difference to expenditures, revenues, or cost savings. N/A.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: None.

(b) Methodology and resources used to determine the fiscal impact: N/A.

(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 a major economic impact.
- (b) The methodology and resources used to reach this conclusion:
N/A.

BOARDS AND COMMISSIONS
Board of Nursing
(Amendment)

201 KAR 20:600. Standards for training programs for licensed certified professional midwives.

RELATES TO: KRS 314.400 – 314.414
STATUTORY AUTHORITY: KRS 314.131(1), 314.404
NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(1) requires the board to promulgate an administrative regulation to establish required standards for training programs for licensed certified professional midwives. This administrative regulation establishes the required standards for training programs for licensed certified professional midwives.

Section 1. Definition. "Preceptor" means a licensed certified professional midwife (LCPM), an APRN designated Certified Nurse Midwife, or a physician, who serves as a role model and mentor to assist in the development and validation of the competencies of a student.

Section 2.

(1) A training program that prepares an individual to become a licensed certified professional midwife (LCPM)[which is] located in this state shall be accredited by the Midwifery Education Accreditation Council (MEAC).

(2) The board shall retain jurisdiction over accredited programs and may conduct a site visit or other investigation into any allegation that may constitute a violation of this administrative regulation and 201 KAR 20:610. The board may also conduct a site visit when an accreditation visit is scheduled.

(3) The training program shall submit all correspondence and reports to and from MEAC to the board within thirty (30) days of submission or receipt.

Section 3. A training program that prepares an individual to become an[a] LCPM[which is] located in this state shall meet the standards established by this administrative regulation.

Section 4. Program Administrator.

(1)

(a) There shall be a program administrator who is administratively responsible for overseeing the program.

(b) The program administrator shall be appointed by and be responsible to the governing institution.

(2) A program shall develop and implement a plan of organization and administration that clearly establishes the lines of authority, accountability, and responsibility for each program location.

(3) The program administrator shall have the following qualifications:

(a) A minimum of a master's degree from an accredited college or university;

(b) A minimum of the equivalent of two (2) years of full time teaching experience in midwifery;

(c) Have at least two (2) years of experience in the independent practice of midwifery, nurse-midwifery, or obstetrics;

(d) Demonstrated experience or preparation in education that includes teaching adults, adult learning theory teaching methods, curriculum development, and curriculum evaluation;

(e) Have been the primary care giver for at least seventy-five (75) births including provision of prenatal, intrapartum, and

postpartum care; and

(f) Hold a license as an LCPM.

(4) An APRN or physician may be appointed as a program administrator if they meet the requirements of this section other than holding a license as an LCPM if, in the opinion of the governing institution, the individual being considered has a sufficient understanding of the LCPM scope of practice.

(5) A program administrator without previous program administrator experience shall have a mentor assigned by the governing institution and an educational development plan implemented. The mentor shall have documented experience in program administration.

Section 5. Faculty.

(1) There shall be at least one (1) faculty member besides the program administrator.

(2) The faculty shall be adequate in number to implement the curriculum as determined by program outcomes, course objectives, the level of the student, the number of students and classes admitted annually, and the educational technology utilized.

(3) The faculty shall be approved by the administrator and shall include didactic and clinical faculty.

(4) Didactic faculty.

(a) Didactic faculty shall have a minimum of a baccalaureate degree from an accredited college or university.

(b) Didactic faculty licensed as an LCPM shall document a minimum of two (2) years full time or equivalent experience as an LCPM.

(c) Didactic faculty who hold a license other than as an LCPM shall document a minimum of two (2) years full time or equivalent experience in their profession.

(d) Didactic faculty shall document preparation in educational activities ~~regarding~~[in the area of] teaching and learning principles for adult education, including curriculum development and implementation. The preparation shall be acquired through planned faculty in-service learning activities, continuing education offerings, or academic courses.

(e) Didactic faculty hired without prior teaching experience shall have a mentor assigned and an educational development plan implemented.

(5) Clinical faculty and preceptors.

(a) Clinical faculty or a preceptor shall hold a current, unencumbered license as a certified professional midwife or related profession.

(b) Clinical faculty or a preceptor shall have evidence of clinical competencies related to midwifery.

(6) There shall be documentation of orientation to the course, program outcomes, student learning objectives, evaluation methods to be used by the faculty, and documented role expectations.

Section 6. Standards for Curriculum.

(1) Philosophy, mission, and outcomes.

(a) The philosophy, mission, and outcomes of the training program shall be clearly defined in writing by the faculty and shall be consistent with those of the governing institution.

(b) The program outcomes shall encompass the standards for accreditation set forth by MEAC[~~The Midwives Alliance of North America Core Competencies, and the Standards and Qualifications for the Art and Practice of Midwifery of the Midwives Alliance of North America and describe the expected competencies of the graduate~~].

(c) The program shall conduct an evaluation to validate that identified program outcomes have been achieved and provide evidence of improvement based on an analysis of those results.

(d) The training program shall be an accredited midwifery education program that meets the requirements of Section 7 of this regulation[~~include a minimum of 900 contact hours of didactic course work~~].

(2) Organization of the curriculum.

(a) There shall be a written plan, including supporting rationale, which describes the organization and development of the curriculum.

(b) The curriculum plan shall reflect the philosophy, mission, and

outcomes of the program and prepare the student to meet the qualifications for certification by the North American Registry of Midwives.

(c) A course syllabus shall be developed for each course to include outcomes, planned instruction, learning activities, and method of evaluation.

1. Each course shall be implemented in accordance with the established course syllabus.

2. A copy of each course syllabus shall be on file in the program office and shall be available to the board upon request.

(d) The curriculum plan shall be logical and sequential, and it shall demonstrate an increase in difficulty and complexity as the student progresses through the program.

(e) A course may be offered as a distance learning course. A distance learning course shall meet the same standards as established in this administrative regulation.

(f) The curriculum shall have written measurable program outcomes that reflect the role of the graduate.

(3) The curriculum shall require that the student hold a current American Heart Association Basic Life Support (BLS) certificate for health care providers and include instruction in neonatal resuscitation resulting in a Neonatal Resuscitation Program (NRP) certificate.

Section 7. Clinical Experience or Preceptorship.

~~[(1)] The training program shall include a clinical experience determined by North American Registry of Midwives (NARM)[or preceptorship of at least two (2) years but no more than five (5) years and is equivalent to 1350 clinical contact hours. The training program shall maintain a log of clinical hours for each student.]~~

~~[(2)] [The clinical experience or preceptorship shall include:]~~

~~[(a)] [Serving as an active participant in attending twenty (20) births;]~~

~~[(b)] [Serving as the primary midwife, under supervision, in attending twenty (20) additional births, at least ten (10) of which shall be out of hospital births. A minimum of three (3) of the twenty (20) births attended as primary midwife under supervision shall be with women for whom the student has provided primary care during at least four (4) prenatal visits, births, newborn exams, and one (1) postpartum exam;]~~

~~[(c)] [Serving as the primary midwife, under supervision, in performing:]~~

~~[1.] [Seventy five (75) prenatal exams, including at least twenty (20) initial history and physical exams;]~~

~~[2.] [Twenty (20) newborn exams; and]~~

~~[3.] [Forty (40) postpartum exams].~~

Section 8. Students.

(1) A student enrolled in the training program shall have a high school diploma or its equivalent.

(2) The training program shall maintain in the student's file evidence of compliance with the requirements in Section 6(3) of this administrative regulation, in Section 7 of this administrative regulation, and in subsection (1) of this section.

(3) Admission requirements shall be stated and published in the governing institution's publications.

(4) Program information communicated by the training program shall be accurate, complete, consistent, and publicly available.

Section 9. Student Policies.

(1) Written LCPM student policies shall be accurate, clear, and consistently applied.

(2) Upon admission to the training program, each student shall be advised in electronic or written format of policies pertaining to:

(a) Evaluation methods to include the grading system;

(b) Tuition, fees, and expenses associated with the training program and refund policies;

(c) Availability of counseling resources;

(d) Health requirements and other standards as required for the protection of student health;

(e) Grievance procedures;

(f) Financial aid information;

(g) Student responsibilities; and

(h) A plan for emergency care on campus or in clinical settings.

Section 10. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Midwifery Education Accreditation Council Handbook Section B" (MM/2020)~~["The Midwives Alliance of North America Core Competencies", (December 2014)]; and~~

(b) "Certified Professional Midwife (CPM) Candidate Information Booklet (CIB)", North American Registry of Midwives, (01/2025)~~["Standards and Qualifications for the Art and Practice of Midwifery", Midwives Alliance of North America, (October 2005)].~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8:00 am to 4:30 p.m. This material is also available on the board's Web site at <https://kbn.ky.gov/document-library/Pages/default.aspx>.

AUDRIA DENKER, President

APPROVED BY AGENCY: February 20, 2025

FILED WITH LRC: March 4, 2025 at 10:08 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 27, 2025, at 10:00 a.m. at Kentucky Board of Nursing, 312 Whittington Parkway, Ste 300, Louisville, KY 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by May 20, 2025, 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 May 31, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person or submit a comment at: <https://secure.kentucky.gov/formservices/Nursing/PendReg>.

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, KY 40222; phone (502) 338-2851, email Jeffrey.Prather@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jeffrey Prather

(1) Provide a brief summary of:

(a) What this administrative regulation does: Sets training standards for Licensed Professional Certified Midwives ("LCPMs").

(b) The necessity of this administrative regulation: It is required by KRS 314.404.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting standards.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting standards for LCPM training programs.

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

(a) How the amendment will change this existing administrative regulation: The regulation is being updated to use the standards for accreditation set forth by Midwifery Education and Accreditation Council ("MEAC"), instead of the Midwives Alliance of North America ("MANA") Core Competencies, and the Standards and Qualifications for the Art and Practice of Midwifery of MANA, because it was permanently dissolved on March 1, 2024. The amendments also standardize the clinical Experience or Preceptorship requirements for an LCPM training program with national standard. The associated material incorporated by reference is updated.

(b) The necessity of the amendment to this administrative regulation: To update accreditation standards.

(c) How the amendment conforms to the content of the authorizing statutes: By setting standards of accreditation.

(d) How the amendment will assist in the effective administration of the statutes: By setting standards of accreditation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: LCPM training programs in Kentucky. Currently none.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The programs will need to meet the accreditation standards.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The entities will need to be reviewed and approved by the Board.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The programs will be allowed to train LCPMs in Kentucky.

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

(a) Initially: There is no additional cost.

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

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

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

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

(9) TIERING: Is tiering applied? Tiering is not applicable.

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 314.131(1), 314.404

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Nursing.

(a) Estimate the following for the first year:

Expenditures: No expenditures to estimate.

Revenues: No revenues to estimate.

Cost Savings: No cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? They will not differ.

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

(a) Estimate the following for the first year:

Expenditures: No expenditures to estimate.

Revenues: No revenues to estimate.

Cost Savings: No cost savings.

(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):

(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? There will be no difference to expenditures, revenues, or cost savings. N/A.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: None.

(b) Methodology and resources used to determine the fiscal impact: None.

(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 a major economic impact.

(b) The methodology and resources used to reach this conclusion: N/A.

BOARDS AND COMMISSIONS

Board of Nursing

(Amendment)

201 KAR 20:620. Licensing requirements for licensed certified professional midwives.

RELATES TO: KRS 194A.540, 314.400 – 314.414, 620.020

STATUTORY AUTHORITY: KRS 314.131(1), 314.404

NECESSITY, FUNCTION, AND CONFORMITY: KRS 314.131(1) authorizes the Board of Nursing to promulgate administrative regulations as may be necessary to enable it to carry into effect the provisions of KRS Chapter 314. KRS 314.404(2) requires the board to promulgate an administrative regulation to establish licensing requirements for licensed certified professional midwives. KRS 314.404(5) requires the board to promulgate an administrative regulation to establish fees. This administrative regulation establishes the fees and requirements for initial licensure, renewal, and reinstatement for licensed certified professional midwives.

Section 1. Fees.

(1) The fee for initial licensure shall be ~~\$165~~[\$500].

(2) The fee for licensure renewal shall be ~~\$165~~[\$500].

(3) The fee for licensure reinstatement shall be ~~\$165~~[\$500].

(4) Unless otherwise specified in this section, fees enumerated in 201 KAR 20:240 shall apply.

Section 2. Initial Licensure. An applicant for initial licensure as a licensed certified professional midwife (LCPM) shall complete the Application for Licensure as a Licensed Professional Midwife and pay the fee for initial licensure as established in Section 1 of this administrative regulation.

Section 3. Educational Requirements.

(1) An applicant for initial licensure as an LCPM shall provide evidence that the program from which the applicant graduated is accredited by the Midwifery Education Accreditation Council (MEAC).

(2) An applicant shall also provide a copy of his or her official transcript.

(3)

(a) If the applicant was certified by the North American Registry of Midwives (NARM) before January 1, 2020, through an educational pathway not accredited by MEAC, the applicant shall provide evidence of having earned the Midwifery Bridge Certificate issued by NARM. This shall be in lieu of an official transcript.

(b) If the applicant is licensed in another state that does not require an accredited education, the applicant shall provide evidence of having earned the Midwifery Bridge Certificate issued by NARM and proof of licensure in the other state.

(4) An applicant shall provide evidence of current American Heart Association Basic Life Support (BLS) for health care providers and Neonatal Resuscitation Program (NRP) certifications.

(5) An applicant shall complete a pediatric abusive head trauma course described in KRS 620.020(8) and a domestic violence course described in KRS 194A.540 and provide evidence to the board at the time of application.

Section 4. Competency Validation. An applicant shall provide evidence of having passed the North American Registry of Midwives (NARM) Examination and been granted certification by NARM.

Section 5. Criminal Record Check.

(1) Within six (6) months of the date of the application, an applicant shall request a criminal record check by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI) using the FBI Applicant Fingerprint Card and including any required fee to the KSP and the FBI.

(2) An applicant shall provide a certified or attested copy of the court record of any misdemeanor or felony conviction and a letter of explanation that addresses each conviction at the time of application.

Section 6. Action in Another Jurisdiction. An applicant shall

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provide a certified copy of any disciplinary action taken on any professional or business license in another jurisdiction and a letter of explanation at the time of application.

Section 7. License.

(1) An applicant who meets the requirements of KRS 314.404 and Sections 1 through 6 of this administrative regulation shall be issued a license to practice as an LCPM.

(2) The Application for Licensure as a Licensed Professional Midwife shall follow the periods for length and renewal in accordance with 201 KAR 20:085, Sections 1 and 2~~[The license shall be issued for one (1) year from the date of initial licensure]~~ and may be renewed pursuant to Section 8 of this administrative regulation.

Section 8. Renewal.

(1) A license to practice as an LCPM may be renewed by completing the Licensure Renewal Application for a Licensed Professional Midwife and paying the fee established in Section 1 of this administrative regulation.

(2) The LCPM shall provide evidence of current certification with NARM at the time of renewal.

(3) The LCPM shall provide evidence of current BLS and NRP certifications at the time of renewal.

~~[(4) Upon approval of the Renewal Application for a Licensed Professional Midwife, the license shall be renewed for one (1) year.]~~

Section 9. Reinstatement.

(1) If the LCPM license has lapsed, an applicant may file the Application for Licensure as a Licensed Professional Midwife to request reinstatement and pay the fee established in Section 1 of this administrative regulation.

(2) The LCPM shall provide evidence of current certification with NARM at the time of application for reinstatement.

(3) The LCPM shall provide evidence of current BLS and NRP certifications at the time of application for reinstatement.

(4) An applicant for reinstatement shall also meet the requirements of Sections 5 and 6 of this administrative regulation.

Section 10. For the purposes of the practice as an LCPM, an LCPM shall use the name under which he or she is licensed with the board of nursing.

Section 11. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Licensure as a Licensed Professional Midwife", 2/2023; and

(b) "Licensure Renewal Application for a Licensed Professional Midwife", 2/2023.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, Monday through Friday, 8:00 a.m. to 4:30 p.m.

(3) This material is also available on the agency's Web site at <https://kbn.ky.gov/document-library/Pages/default.aspx>.

AUDRIA DENKER, President

APPROVED BY AGENCY: February 20, 2025

FILED WITH LRC: March 4, 2025 at 10:08 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 27, 2025, at 10:00 a.m. at Kentucky Board of Nursing, 312 Whittington Parkway, Ste 300, Louisville, KY 40222. Individuals interested in being heard at this hearing shall notify this agency in writing by May 20, 2025, 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 May 31, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person or submit a comment at: <https://secure.kentucky.gov/formservices/Nursing/PendReg>.

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, KY 40222, phone (502) 338-2851, email Jeffrey.Prather@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jeffrey Prather

(1) Provide a brief summary of:

(a) What this administrative regulation does: It sets licensing requirements for Licensed Certified Professional Midwives (LCPM) and miscellaneous requirements.

(b) The necessity of this administrative regulation: It is required by statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: By setting requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By setting requirements.

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

(a) How the amendment will change this existing administrative regulation: The amendment reduces assessed fees.

(b) The necessity of the amendment to this administrative regulation: The changes were deemed necessary to reduce fees.

(c) How the amendment conforms to the content of the authorizing statutes: By establishing fees.

(d) How the amendment will assist in the effective administration of the statutes: By adopting the changes to the fees.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: LCPMs, approximately 30.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action is needed.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Application and licensing fees will be reduced.

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

(a) Initially: There is no additional cost.

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

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

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

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

(9) TIERING: Is tiering applied? Tiering is not applicable. The changes will apply equally, there is no tiering.

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 314.131, 314.410.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Nursing.

(a) Estimate the following for the first year:

Expenditures: No expenditures to estimate.

Revenues: No revenues to estimate.

Cost Savings: No cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? They will not differ.

(3) Identify affected local entities (for example: cities, counties, fire

departments, school districts):

(a) Estimate the following for the first year:
Expenditures: No expenditures to estimate.
Revenues: No revenues to estimate.
Cost Savings: No cost savings.

(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):

(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? There will be no difference to expenditures, revenues, or cost savings. N/A.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The reduction in fees should reduce a financial hurdle for individuals wanting to be credentialed as LCPMs in Kentucky.

(b) Methodology and resources used to determine the fiscal impact: None.

(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 a major economic impact.

(b) The methodology and resources used to reach this conclusion: N/A.

(b) To purchase fire apparatus;

(c) To purchase a fire station; or

(d) For the maintenance or repair of a fire station.

(2)

[(a)] Funds shall not be expended for ineligible items unless the commission receives a written request from the chief explaining the need for the items and the request is approved by the commission staff, in accordance with this section.

[(b)] If the request is denied and the volunteer department does not desire to use the funds for approved items, the allotment shall be refunded to the commission.

(3) Each fire department receiving aid shall submit the State-Aid Report of Purchase form to the commission staff by September 30 ~~July 31~~ of the following year the aid was granted. Failure to do so shall disqualify the department from receiving aid the following year.

(a) The commission or its designee may make an inspection of the applicant's fire department to determine comparative needs within the department before making the allotment.

(b) The inspection may include an accounting to assure that equipment previously purchased is currently in the possession of the fire department.

Section 5. Holding of Funds.

(1)

[(a)] If the approved allotment is insufficient to cover the cost of equipment or other approved purpose, the full aid granted for a fiscal year may be held by the fire department for a period not to exceed five (5) years from the initial granting of funds.

[(a)][(b)] If the funds will be held, a written explanation for the holding request shall be submitted to the commission upon receiving the funds.

[(b)][(e)] The funds shall be held in a special and separate bank account marked "Fire Department Aid Fund."

(2)

[(a)] Upon the expenditure of funds, the chief or appointed representative shall submit the State-Aid Report of Purchase to the commission.

[(a)][(b)] If the funds are used toward the retirement of a preexisting debt for purchase of land, buildings, or equipment, proof of the expenditure in the form of an affidavit or cancelled note shall be submitted to the commission.

[(b)][(e)] An applicant who knowingly makes a false statement regarding volunteer fire department aid shall subject the grant to refund and prosecution for fraud.

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Volunteer Fire Department State-Aid Application, 8/2017; and
(b) State-Aid Report of Purchase, 8/2017.

(2) This material may be inspected, copied, or obtained subject to applicable copyright law, at the Kentucky Fire Commission, 110 Cleveland Drive, Paris ~~118 James Court, Lexington~~, Kentucky 40361 ~~40505~~, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available on the commission's Web site at: <https://kyfirecommission.kctcs.edu/>.

RICKY KING, Chair

APPROVED BY AGENCY: March 10, 2025

FILED WITH LRC: March 12, 2025 at 9:21 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 25, 2025, at 1:00 p.m. ET at the Kentucky Fire Commission, 110 Cleveland Drive, Paris, Kentucky 40361. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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

**KENTUCKY COMMUNITY AND TECHNICAL COLLEGE
SYSTEM
Kentucky Fire Commission
(Amendment)**

739 KAR 2:050. Volunteer fire department aid.

RELATES TO: KRS Chapter 75, 95A.262, 273.401
STATUTORY AUTHORITY: KRS 95A.050(3), 95A.055(13)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 95A.055(13) requires the Commission to promulgate administrative regulations to implement KRS 75.430 and KRS 95A.055. This administrative regulation establishes requirements for volunteer fire departments aid.

Section 1. Definition. "Fire apparatus" means a motorized vehicle specifically designed to perform firefighting operations, with a minimum rated pump capacity of 750 gallons per minute (gpm), and which met or meets the associated National Fire Protection Association (NFPA) standard at the time of manufacture.

Section 2. Eligibility.

(1) To qualify for aid, a volunteer fire department shall meet the requirements established in KRS 95A.262 and submit to the commission proof of the required annual twenty (20) hours of recognized training for each firefighter by June 30.

(2) Even if all volunteer firefighters have not yet become certified volunteer firefighters, as defined by 739 KAR 2:060, a new fire department shall be eligible for aid if the fire department has:

(a) Been recognized by the commission;

(b) Been established for less than two (2) years;

(c) A staff consisting of at least fifty (50) percent certified volunteer firefighters; and

(d) Twelve (12) or more firefighters and a chief who have not qualified another fire department for volunteer department aid.

Section 3. Applying for Aid. The chief officer or the appointed representative of the department shall submit a Volunteer Fire Department State-Aid Application.

Section 4. Eligible Items and Report of Purchase.

(1) Funds may be used:

(a) To purchase items such as firefighting and special operations equipment;

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through May 31, 2025. 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: John K. Wood, Counsel for the Kentucky Fire Commission, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email administrativeregulations@wgmfirm.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: KRS 95A.055 requires the Commission to promulgate administrative regulations to implement KRS 75.430 and KRS 95A.055. This administrative regulation establishes requirements for volunteer fire department aid.
 - (b) The necessity of this administrative regulation: This administrative regulation is necessary to establish procedures for volunteer fire department to request and receive financial aid.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 75.430 and KRS 95A.055 by establishing the requirements for volunteer fire department aid.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 95A.055 requires the Commission to promulgate administrative regulations to implement KRS 75.430 and KRS 95A.055. This administrative regulation will assist in the effective administration of those statutes by establishing the requirements for volunteer fire department aid.
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
 - (a) How the amendment will change this existing administrative regulation: This amendment changes the deadline to for volunteer fire departments to submit a State-Aid Report of Purchase from July 31 of the following year the aid was granted, to September 30 of the following year the aid was granted.
 - (b) The necessity of the amendment to this administrative regulation: This amendment is necessary to give volunteer fire departments more time to spend the financial aid received in the prior year.
 - (c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 75.430 and KRS 95A.055 by establishing requirements for volunteer fire department aid.
 - (d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of KRS 75.430 and KRS 95A.055 by establishing requirements for volunteer fire department aid.
- (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect all volunteer fire departments.
- (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: Volunteer fire department will need to submit to the Commission a State-Aid Report of Purchase by September 30 of the following year the aid was granted.
 - (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 any entity identified in question (3).
 - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Volunteer fire department will have more time to spend state aid.
- (5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
 - (a) Initially: There will be no costs to the Commission in implementing this administrative regulation.
 - (b) On a continuing basis: There will be no costs to the Commission in implementing this administrative regulation.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

Appropriations to the Commission through the Kentucky Community and Technical College System.

- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this amendment.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees.
- (9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment applies to all volunteer fire departments.

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 95A.055 requires the Commission to promulgate administrative regulations to implement KRS 75.430 and KRS 95A.055. This administrative regulation establishes requirements for volunteer fire department aid.
- (2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Fire 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? This amendment should not affect the Commission's expenditures, revenues, or costs.
- (3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All volunteer fire departments.
 - (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 costs to affected entities.
- (4) Identify additional regulated entities not listed in questions (2) or (3): None.
 - (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 costs to affected entities.
- (5) Provide a narrative to explain the:
 - (a) Fiscal impact of this administrative regulation: No fiscal impact is anticipated as a result of this administrative regulation.
 - (b) Methodology and resources used to determine the fiscal impact: No fiscal impact is anticipated as a result of this administrative 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 to the affected entities.
 - (b) The methodology and resources used to reach this conclusion: No fiscal impact is anticipated as a result of this administrative regulation.

**KENTUCKY COMMUNITY AND TECHNICAL COLLEGE
SYSTEM
Kentucky Fire Commission
(Amendment)**

739 KAR 2:140. Fire department reporting requirements.

RELATES TO: KRS Chapter 65A, 75.430, Chapter 95A
STATUTORY AUTHORITY: KRS 95A.050(3), 95A.055(13)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 95A.055(13) requires the commission to promulgate administrative regulations to

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implement KRS 75.430 and KRS 95A.055. This administrative regulation establishes fire department reporting requirements.

Section 1. Definitions.

(1) "Commission" means the Kentucky Fire Commission~~[Commission on Fire Protection Personnel Standards and Education]~~ established in KRS 95A.020.

(2) "Nonprofit fire department" is defined by KRS 95A.055(1)(b).

(3) "Reporting fire district~~[department]~~" means a fire district~~["fire department" as defined by KRS 95A.055(1)(a) which is obligated to report to the commission.~~

Section 2. Reporting Requirements. Each reporting fire district~~[department]~~ shall comply with KRS 95A.055(3) and shall submit:

(1) A list of the elected or appointed members of the board of the reporting fire district~~[department]~~, if applicable;

(2) The budget adopted by the reporting fire district~~[department]~~, if applicable; and

(3) Current year budget estimates, prior year amendments or transfers, and prior year end actual financial data for:

(a) Revenue calculations for:

1. Taxes;
2. Permits and licenses;
3. Payments made to governmental authorities in lieu of taxes;
4. Intergovernmental revenues;
5. Charges for services;
6. Other revenues; and
7. Interest earned;

(b) Receipts and cash calculations for:

1. Carryover cash from the prior reporting year;
2. Bonded debt;
3. Transfers to other funds;
4. Transfers from other funds;
5. Borrowed funds;
6. Government Leasing Act funds; and
7. Loans obtained from the commission; and

(c) Appropriations calculations for:

1. Personnel;
2. Operations;
3. Administration and reserves;
4. Capital outlay; and
5. Debt service.

Section 3. Reporting Procedure.

(1) Each reporting fire district~~[department]~~ shall, on or before August 31 of each calendar year, complete and submit an updated Financial Disclosure Report to the commission electronically via Web site access, by regular U.S. Mail, or through electronic mail to fdstateaid@kctcs.edu.

(2) Upon receipt of a reporting fire district's~~[department's]~~ Financial Disclosure Report, the commission shall review the Financial Disclosure Report for accuracy and compliance with the requirements established in this administrative regulation and in KRS 95A.055.

(a) If a reporting fire district's~~[department's]~~ Financial Disclosure Report does not comply with the requirements established in this administrative regulation or KRS 95A.055, the commission shall notify the reporting fire district~~[department]~~ in writing.

(b) The written notification shall state the specific deficiencies identified and the process and timeframe for correcting the deficiencies.

(3) On or before October 1 of each calendar year, the commission shall produce a cumulative report of all reporting fire districts~~[departments]~~ actual revenues, receipts, and appropriations and their averages, as reported on the reporting fire districts~~[departments]~~ Financial Disclosure Reports~~[Report]~~ for that year, and of the compliance of the reporting fire districts~~[departments]~~ with the requirements of this administrative regulation and KRS 95A.055(3). This report also shall be filed with the Legislative Research Commission and shall be published on the commission's Web site within seven (7) days of its production.

Section 4. Financial Reviews and Audits.

(1) At least once every twelve (12) months~~[four (4) years]~~, every reporting fire district or nonprofit fire department shall be subject to a financial review in accordance with KRS 95A.055(5)~~[consistent with KRS 65A.030, 95A.055, and the Kentucky Fire Commission Internal Audit Procedures]~~.

(2) The commission may~~[shall]~~ require any fire district or nonprofit fire department with the higher of annual receipts from all sources or annual expenditures equal to or greater than \$100,000 but less than \$500,000 to once every four (4) years be subject to an independent audit in the manner specified within KRS 65A.030(2)~~[reporting fire departments to undergo an independent audit in accordance with the Fire Department Annual Audit Schedule]~~.

(3) The commission shall ensure that every fire district or nonprofit fire department with the higher of annual receipts from all sources or annual expenditures equal to or greater than \$500,000 for two (2) consecutive fiscal years is audited annually in the manner specified within KRS 64A.030(2) until its annual revenues or expenditures are less than \$500,000.

(4) If a reporting fire district~~[department]~~ is audited pursuant to KRS 95A.055 and as established in this section, the reporting fire district~~[department]~~ shall submit a copy of the audit report and all related documents to the commission within seven (7) days of receiving the completed audit report.

Section 5. Penalties.

(1)

~~[(a)]~~ If the commission identifies any irregularities relating to the finances or operations of a reporting fire district or nonprofit fire department, the commission shall report the irregularities to the Attorney General and Auditor of Public Accounts.

~~[(2)]~~~~[(b)]~~ The commission may also notify any other public official with jurisdiction over fire district or nonprofit fire department~~[departments]~~ for further investigation and follow-up action.

~~[(3)]~~~~[(2)]~~ If a reporting fire district~~[department]~~ fails to comply with the requirements of this administrative regulation, KRS 95A.055, or 75.430, the commission shall, for substantial noncompliance or abuse, withhold one (1) or more of the following:

(a) Incentive pay to qualified firefighters as established in KRS 95A.250;

(b) Volunteer fire district~~[department]~~ aid, funds used to purchase workers compensation insurance for fire departments, and low-interest loans under KRS 95A.262;

(c) Thermal Vision Grant program funds as established in KRS 95A.400 through 95A.440; and

(d) Any other funds controlled by the commission.

Section 6. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Financial Disclosure Report," 2019 edition, Kentucky Fire Commission; and

(b) "Kentucky Fire Commission Internal Audit Procedures", January 2024~~[May 2015; and]~~

~~[(c)]~~ ["Fire Department Annual Audit Schedule", March 2020].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Kentucky Fire Commission, 110 Cleveland Drive, Paris~~[148 James Court, Lexington]~~, Kentucky 40361~~[40505]~~, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available on the commission's Web site at: <https://kyfirecommission.kctcs.edu/>.

RICKY KING, Chair

APPROVED BY AGENCY: March 10, 2025

FILED WITH LRC: March 12, 2025 at 9:21 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 25, 2025, at 1:00 p.m. ET at the Kentucky Fire Commission, 110 Cleveland Drive, Paris, Kentucky 40361. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date,

the hearing may be 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 May 31, 2025. 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: John K. Wood, Counsel for the Kentucky Fire Commission, 163 East Main Street, Suite 200, Lexington, Kentucky 40507, phone (859) 225-4714, email administrativeregulations@wgmfirm.com.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John K. Wood

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 95A.055(13) requires the Commission to promulgate administrative regulations to implement KRS 75.430 and KRS 95A.055. This administrative regulation establishes fire department reporting requirements.

(b) The necessity of this administrative regulation: KRS 95A.055(13) requires the Commission to promulgate administrative regulations to implement KRS 75.430 and KRS 95A.055. This administrative regulation is necessary to establish fire department reporting requirements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 95A.055(13) requires the Commission to promulgate administrative regulations to implement KRS 75.430 and KRS 95A.055. KRS 75.430 and KRS 95A.055 require fire departments to submit information to the Commission. This administrative regulation conforms to the content of KRS 75.430 and KRS 95A.055 by establishing fire department reporting requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: KRS 75.430 and KRS 95A.055 require fire districts to submit information to the Commission. This administrative regulation assists in the effective administration of those statutes by establishing fire department reporting requirements.

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

(a) How the amendment will change this existing administrative regulation: House Bill 122 (2018 Regular Session), Ky. Acts ch. 90, sec. 2, amended KRS 75.430 and KRS 95A.055 to modify the audit and reporting requirements for fire departments. House Bill 372 (2022 Regular Session), Ky. Acts ch. 157, sec. 1, amended KRS 95A.055 to clarify the reporting requirements for fire districts and nonprofit fire departments. This amendment updates the reporting and audit requirements to bring this administrative regulation into conformity with the foregoing statutory changes.

(b) The necessity of the amendment to this administrative regulation: House Bill 122 (2018 Regular Session), Ky. Acts ch. 90, sec. 2, amended KRS 75.430 and KRS 95A.055 to modify the audit and reporting requirements for fire departments. House Bill 372 (2022 Regular Session), Ky. Acts ch. 157, sec. 1, amended KRS 95A.055 to clarify the reporting requirements for fire districts and nonprofit fire departments. This amendment is necessary to bring this administrative regulation into conformity with the foregoing statutory changes.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of KRS 75.430 and KRS 95A.055 by updating the requirements of this administrative regulation to conform with the amendments to those statutes.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will assist in the effective administration of KRS 75.430 and KRS 95A.055 by updating the audit and reporting requirements of this administrative regulation to conform with the statutory requirements.

(3) List the type and number of individuals, businesses,

organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect all fire departments.

(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: Fire department will be required to comply with the audit and reporting requirements of this amendment and KRS 75.430 and KRS 95A.055.

(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 any entity identified in question (3), other than the administrative costs of compliance with the audit and reporting requirements of KRS 75.430 and KRS 95A.055.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Fire departments will benefit from the clarification of the audit and reporting requirements of this amendment consistent with KRS 75.430 and KRS 95A.055.

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

(a) Initially: Other than administrative costs, there will be no costs to the Commission in implementing this administrative regulation.

(b) On a continuing basis: Other than administrative costs, there will be no costs to the Commission in implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Appropriations to the Commission through the Kentucky Community and Technical College System.

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

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

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the amendment applies to all fire departments.

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 95A.055(13) requires the Commission to promulgate administrative regulations to implement KRS 75.430 and KRS 95A.055. Those statutes require fire departments to submit information to the Commission. This administrative regulation establishes fire department reporting requirements.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Fire 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? This amendment should not affect the Commission's expenditures, revenues, or costs.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): All fire departments.

(a) Estimate the following for the first year:

Expenditures: There will be no costs to affected entities, other than the administrative costs of compliance with the auditing and reporting requirements of this amendment and KRS 75.430 and KRS 95A.055.

Revenues: None

Cost Savings: None

(b) How will expenditures, revenues, or cost savings differ in subsequent years? There will be no costs to affected entities, other than the costs of compliance with the auditing and reporting requirements of this amendment and KRS 75.430 and KRS

95A.055.

(4) Identify additional regulated entities not listed in questions (2) or (3): None.

(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: No fiscal impact is anticipated as a result of this administrative regulation.

(b) Methodology and resources used to determine the fiscal impact: No fiscal impact is anticipated as a result of this administrative 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 to the affected entities.

(b) The methodology and resources used to reach this conclusion: No fiscal impact is anticipated as a result of this administrative regulation, other than the costs of compliance with the auditing and reporting requirements of this amendment and KRS 75.430 and KRS 95A.055.

**ENERGY AND ENVIRONMENT CABINET
Public Service Commission
(Amendment)**

807 KAR 5:015. Access and attachments to utility poles and facilities.

RELATES TO: KRS Chapter 278, 47 U.S.C. 224(c)

STATUTORY AUTHORITY: KRS 278.030(1), 278.040(2), 278.5464
NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3) authorizes the commission to promulgate administrative regulations to implement the provisions of KRS Chapter 278. KRS 278.040(2) requires the commission to have exclusive jurisdiction over the regulation of rates and service of utilities. KRS 278.030(1) authorizes utilities to demand, collect, and receive fair, just, and reasonable rates. KRS 278.030(2) requires every utility to furnish adequate, efficient, and reasonable service. KRS 278.5464 requires the commission to promulgate administrative regulations regarding pole attachments under its jurisdiction, including those necessary for the provision of broadband. 47 U.S.C.A. 224(c) requires that state regulation of pole attachments shall only preempt federal regulation of poles under federal jurisdiction if the state regulates the rates, terms, and conditions of access to those poles, has the authority to consider and does consider the interest of the customers of attachers and the pole owning utilities, has effective rules and administrative regulations governing attachments, and addresses complaints regarding pole attachments within 180~~360~~ days. This administrative regulation establishes the process by which the commission regulates the rates, terms, and conditions of utility pole attachments and access to other utility facilities, establishes specific criteria and procedures for obtaining access to utility poles within the commission's jurisdiction, and establishes a process by which the complaints of those seeking to access utility facilities shall be addressed within the period established by federal law. The amendments establish an expedited complaint process to address issues pertaining to contract negotiations and amend other parts of the regulation to expedite the processing of applications for pole attachments. 2024 KY S.J.R. 175, 2024 Regular Session requires the commission to promulgate emergency regulations addressing issues pertaining to broadband attachments to utility poles.

Section 1. Definitions.

(1) "Attachment" means any attachment by a cable television system operator, telecommunications carrier, broadband internet provider, or governmental unit to a pole owned or controlled by a utility.

(2) "Broadband internet provider":

(a) Means a person who owns, controls, operates, or manages any facility used or to be used to offer internet service to the public with download speeds of at least twenty-five (25) megabits per second and upload speeds of at least three (3) megabits per second; and

(b) Does not mean a utility with an applicable joint use agreement with the utility that owns or controls the poles to which it is seeking to attach.

(3) "Communications space" means the lower usable space on a utility pole, which is typically reserved for low-voltage communications equipment.

(4) "Complex make-ready" means any make-ready that is not simple make-ready, such as the replacement of a utility pole; splicing of any communication attachment or relocation of existing wireless attachments, even within the communications space; and any transfers or work relating to the attachment of wireless facilities.

(5) "Existing attacher" means any person or entity with equipment lawfully on a utility pole.

(6) "Governmental unit" means an agency or department of the federal government; a department, agency, or other unit of the Commonwealth of Kentucky; or a county or city, special district, or other political subdivision of the Commonwealth of Kentucky.

(7) "Macro cell facility" means a wireless communications system site that is typically high-power and high-sited, and capable of covering a large physical area, as distinguished from a distributed antenna system, small cell, or WiFi attachment, for example.

(8) "Make-ready" means the modification or replacement of a utility pole, or of the lines or equipment on the utility pole, to accommodate additional facilities on the utility pole.

(9) "New attacher" means a cable television system operator, telecommunications carrier, broadband internet provider, or governmental unit requesting to attach new or upgraded facilities to a pole owned or controlled by a utility, except that a new attacher does not include a utility with an applicable joint use agreement with the utility that owns or controls the pole to which it is seeking to attach or a person seeking to attach macro cell facilities.

(10) "Red tagged pole" means a pole that a utility that owns or controls the pole that:

(a) Is designated for replacement based on the pole's non-compliance with an applicable safety standard;

(b) Is designated for replacement within two (2) years of the date of its actual replacement for any reason unrelated to a new attacher's request for attachment; or

(c) Would have needed to be replaced at the time of replacement even if the new attachment were not made.

(11) "Telecommunications carrier":

(a) Means a person who owns, controls, operates, or manages any facility used or to be used for or in connection with the transmission or conveyance over wire, in air, or otherwise, any message by telephone or telegraph for the public, for compensation; and

(b) Does not mean a utility with an applicable joint use agreement with the utility that owns or controls the poles to which it is seeking to attach.

(12) "Simple make-ready" means make-ready in which existing attachments in the communications space of a pole could be rearranged without any reasonable expectation of a service outage or facility damage and does not require splicing of any existing communication attachment or relocation of an existing wireless attachment.

Section 2. Duty to Provide Access to Utility Poles and Facilities.

(1) Except as established in paragraphs (a) through (c) of this subsection, a utility shall provide any cable television system operator, telecommunications carrier, broadband internet provider, or governmental unit nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.

(a) A utility may deny access to any pole, duct, conduit, or right-of-way on a non-discriminatory basis if there is insufficient capacity or for reasons of safety, reliability, or generally applicable engineering purposes.

(b) A utility shall not be required to provide access to any pole

that is used primarily to support outdoor lighting.

(c) A utility shall not be required to secure any right-of-way, easement, license, franchise, or permit required for the construction or maintenance of attachments or facilities from a third party for or on behalf of a person or entity requesting access pursuant to this administrative regulation to any pole, duct, conduit, or right-of-way owned or controlled by the utility.

(2) A request for access to a utility's poles, ducts, conduits or rights-of-way shall be submitted to a utility in writing, either on paper or electronically, as established by a utility's tariff or a special contract between the utility and person requesting access.

(3) If a utility provides access to its poles, ducts, conduits, or rights-of-way pursuant to an agreement that establishes rates, terms, or conditions for access not contained in its tariff:

(a) The rates, terms, and conditions of the agreement shall be in writing; and

(b) The utility shall file the written agreement with the commission pursuant to 807 KAR 5:011, Section 13.

Section 3. Pole Attachment Tariff Required.

(1) A utility that owns or controls utility poles located in Kentucky shall maintain on file with the commission a tariff that includes rates, terms, and conditions governing pole attachments in Kentucky that are consistent with the requirements of this administrative regulation and KRS Chapter 278.

(2) The tariff may incorporate a standard contract or license for attachments if its terms and conditions are consistent with the requirements of this administrative regulation and KRS Chapter 278.

(3) Standard contracts or licenses for attachments permitted by subsection (2) of this section shall prominently indicate that the contracts or licenses are based wholly on the utility's tariff and that the tariff shall control if there is a difference.

(4) The tariff may include terms, subject to approval by the commission, that are fair, just, and reasonable and consistent with the requirements of this administrative regulation and KRS Chapter 278, such as certain limitations on liability, indemnification and insurance requirements, and restrictions on access to utility poles for reasons of lack of capacity, safety, reliability, or generally applicable engineering standards.

(5)

(a) The tariff shall include the URL for a utility-maintained website.

(b) The website shall include:

1. A form that a new attacher shall submit to the utility that shall require a new attacher to:

a. Designate appropriate personnel responsible for overseeing all attachments with the utility; and

b. Identify appropriate personnel associated with each application, who shall be responsible for coordinating with the utility and ensuring that attachment-related issues are addressed in a timely manner;

2. Pole attachment information including the identity and contact information for contractors approved to conduct surveys and make-ready self-help;

3. Construction standards for attachments; and

4. The identity and contact information for:

a. The primary utility personnel responsible for invoicing, payment, make-ready work, and escalation of disputes; and

b. The alternate utility personnel responsible for invoicing, payment, make-ready work, and escalation of disputes if the primary personnel are unavailable.

(6) Overlashing.

(a) A utility shall not require prior approval for:

1. An existing attacher that overlashes its existing wires on a pole; or

2. A third party overlashing of an existing attachment that is conducted with the permission of an existing attacher.

(b)

1. A utility shall not prevent an attacher from overlashing because another existing attacher has not fixed a preexisting violation.

2. A utility shall not require an existing attacher that overlashes its existing wires on a pole to fix preexisting violations caused by

another existing attacher, unless failing to fix the preexisting violation would create a capacity, safety, reliability, or engineering issue.

(c)

1. A utility shall not require more than thirty (30) days' advance notice of planned overlashing.

2. If a utility requires advance notice for overlashing, then the utility shall include the notice requirement in its tariff or include the notice requirement in the attachment agreement with the existing attacher.

3. If, after receiving advance notice, the utility determines that an overlash would create a capacity, safety, reliability, or engineering issue, it shall provide specific documentation of the issue to the party seeking to overlash within the thirty (30) day advance notice period and the party seeking to overlash shall address any identified issues before continuing with the overlash either by modifying its proposal or by explaining why, in the party's view, a modification is unnecessary.

(d)

1. A party that engages in overlashing shall be responsible for its own equipment and shall ensure that it complies with reasonable safety, reliability, and engineering practices.

2. If damage to a pole or other existing attachment results from overlashing or overlashing work causes safety or engineering standard violations, then the overlashing party shall be responsible at its expense for any necessary repairs.

(e) An overlashing party shall notify the affected utility within fifteen (15) days of completion of the overlash on a particular pole.

1. The notice shall provide the affected utility at least ninety (90) days from receipt in which to inspect the overlash.

2. The utility shall have fourteen (14) days after completion of its inspection to notify the overlashing party of any damage or code violations to its equipment caused by the overlash.

3. If the utility discovers damage or code violations caused by the overlash on equipment belonging to the utility, then the utility shall inform the overlashing party and provide adequate documentation of the damage or code violations.

4. The utility shall either:

a. Complete any necessary remedial work and bill the overlashing party for the reasonable costs related to fixing the damage or code violations; or

b. Require the overlashing party to fix the damage or code violations at its expense within fourteen (14) days following notice from the utility.

(7)[(6)] Signed standard contracts or licenses for attachments allowed by subsection (2) of this section shall be submitted to the commission but shall not be filed pursuant to 807 KAR 5:011, Section 13.

(8)[(7)] Tariffs conforming to the requirements of this administrative regulation and with a proposed effective date no later than May 28[~~March 31~~], 2025[~~2022~~], shall be filed by April 28[~~February 28~~], 2025[~~2022~~].

Section 4. Procedure for New Attachers to Request Utility Pole Attachments.

(1) All time limits established in this section shall be calculated according to 807 KAR 5:001, Section 4(7).

(2) Application review and survey.

(a) Application completeness.

1. A new attacher shall, prior to submitting a pole attachment application to a utility:

a. Review the application for completeness; and

b. Submit the information required by Section 3(5).

2. A utility shall review a new attacher's pole attachment application for completeness before reviewing the application on its merits and shall notify the new attacher within the time established in subparagraph 8. of this paragraph[~~ten (10) business days~~] after receipt of the new attacher's pole attachment application if the application is incomplete.

3.[2.] A new attacher's pole attachment application shall be considered complete if the application provides the utility with the information necessary under its procedures, as established in the utility's applicable tariff or a special contract regarding pole attachments between the utility and the new attacher, to begin to

survey the affected poles.

4.[3.] If the utility notifies a new attacher that its attachment application is not complete, then the utility shall state all reasons for finding it incomplete.

5.[4.] A utility shall not require a new attacher to submit a survey or pole loading analysis as a filing requirement for an application.

6. A new attacher may submit a survey with an application of 500 poles or less, which the utility shall accept if the new attacher used an approved contractor listed on the utility's website and the survey was conducted no longer than thirty (30) days prior to submission. A utility shall conduct the survey for applications exceeding 500 poles.

7. If a utility rejects an application, the rejection shall state the reason for the denial and shall include specific citations to this regulation and the utility's tariff that form the basis of the rejection.

8. A utility shall complete a review of an application of 500 poles or less within ten (10) business days after receipt of the application. A utility shall have an additional one (1) business day to complete its review for each additional 500-pole increment in an application.

9. A new attacher, if it submits an application while a previous application is still under review, may prioritize the order in which a utility shall review the applications. Prioritizing a new application resets the respective review time period of the new attacher's deprioritized applications currently under review and over which the new application is being prioritized.

10. Any resubmitted application need only address the utility's reasons for finding the original application incomplete and shall be deemed complete within ten (10) business days after its resubmission, unless the utility specifies which reasons were not addressed and how the resubmitted application did not sufficiently address the reasons. The new attacher may follow the resubmission procedure as many times as it chooses so long as in each case it makes a bona fide attempt to correct the reasons identified by the utility, and in each case the deadline set forth in this paragraph shall apply to the utility's review.

11. If the utility does not respond within the time prescribed in subparagraph 8. of this paragraph[ten (10) business days] after receipt of the application, or if the utility rejects the application as incomplete but fails to state any reasons in the utility's response, then the application shall be deemed complete and the time for the utility's next procedural step begins to run.

(b) Survey and application review on the merits.

1. A utility shall complete a survey of poles for which access has been requested within forty-five (45) days of receipt of a complete application to attach facilities to its utility poles (or within 120[sixty (60)] days in the case of larger orders as established in subsection (8)[(7)] of this section) for the purpose of determining if the attachments may be made and identifying any make-ready to be completed to allow for the attachment.

2. Participation of attachers in surveys conducted by a utility.

a. A utility shall allow the new attacher and any existing attachers on the affected poles to be present for any field inspection conducted as part of a utility's survey conducted pursuant paragraph (b)1. Of this subsection.

b. A utility shall use commercially reasonable efforts to provide the affected attachers with advance notice of not less than five (5) business days of any field inspection as part of the survey and shall provide the date, time, and location of the inspection, and name of the contractor, if any, performing the inspection.

3. If a new attacher has conducted a survey pursuant to subsection (10)(b) of this section, or a new attacher has otherwise conducted and provided a survey, after giving existing attachers notice and an opportunity to participate in a manner consistent with subsection (10)(b), a utility may elect to satisfy survey obligations established in this paragraph by notifying affected attachers of the intent to use the survey conducted by the new attacher and by providing a copy of the survey to the affected attachers within the time period established in subparagraph 1. of this paragraph.

4. Based on the results of the applicable survey and other relevant information, a utility shall respond to the new attacher either by granting access or denying access within forty-five (45) days of receipt of a complete application to attach facilities to its utility poles (or within 120[sixty (60)] days in the case of larger orders as

described in subsection (8)[(7)] of this section).

5. A utility's denial of a new attacher's pole attachment application shall be specific, shall include all relevant evidence and information supporting the denial, and shall explain how the evidence and information relate to a denial of access for reasons of lack of capacity, safety, reliability, or engineering standards.

6. Payment of survey costs and estimates.

a. A utility's tariff may require prepayment of the costs of surveys made to review a pole attachment application, or some other reasonable security or assurance of credit worthiness before a utility shall be obligated to conduct surveys pursuant to this section.

b. If a utility's tariff requires prepayment of survey costs, the utility shall include a per pole estimate of costs in the utility's tariff and the payment of estimated costs shall satisfy any requirement that survey costs be prepaid.

c. The new attacher shall be responsible for the costs of surveys made to review the new attacher's pole attachment application even if the new attacher decides not to go forward with the attachments.

(3) Payment of make-ready estimates.

(a) Within fourteen (14) days of providing a response granting access pursuant to subsection (2)(b)4. Of this section, a utility shall send a new attacher whose application for access has been granted a detailed, itemized estimate in writing, on a pole-by-pole basis if requested and reasonably calculable, and consistent with subsection (6)(b) of this section, of charges to perform all necessary make-ready.

(b) A utility shall provide documentation that is sufficient to determine the basis of all estimated charges, including any projected material, labor, and other related costs that form the basis of the estimate.

(c) A utility may withdraw an outstanding estimate of charges to perform make-ready beginning fourteen (14) days after the estimate is presented.

(d) A new attacher may accept a valid estimate and make payment any time after receipt of an estimate, except a new attacher shall not accept the estimate after the estimate is withdrawn.

(e) Invoices for estimates shall clearly identify the application or project for which payment is requested.

(f) Payment for the estimate shall clearly identify the application(s) or project(s) for which payment is made.

(4) Make-ready. Upon receipt of payment for survey costs owed to-date pursuant to the utility's tariff and the make-ready estimate specified in subsection (3)(d) of this section, a utility shall, as soon as practical but in no case more than seven (7) days, notify all known entities with existing attachments in writing that could be affected by the make-ready.

(a) For make-ready in the communications space, the notice shall:

1. State where and what make-ready will be performed;

2. State a date for completion of make-ready in the communications space that is no later than forty-five (45)[thirty (30)] days after notification is sent (or up to 120[seventy-five (75)] days in the case of larger orders as established in subsection (8)[(7)] of this section);

3. State that any entity with an existing attachment may modify the attachment. Modification shall be consistent with the specified make-ready before the date established for completion;

4. State that, if make-ready is not completed by the completion date established by the utility in subparagraph 2. of this paragraph, the new attacher may complete the make-ready, which shall be completed as specified pursuant to subparagraph 1. of this paragraph; and

5. State the name, telephone number, and email address of a person to contact for more information about the make-ready procedure.

(b) For make-ready above the communications space, the notice shall:

1. State where and what make-ready will be performed;

2. State a date for completion of make-ready that is no later than ninety (90) days after notification is sent (or 165[135] days in the case of larger orders, as established in subsection (8)[(7)] of this section).

3. State that any entity with an existing attachment may modify

the attachment. Modification shall be consistent with the specified make-ready before the date established for completion;

4. State that the utility may assert the utility's right to up to fifteen (15) additional days to complete make-ready;

5. State that if make-ready is not completed by the completion date established by the utility in subparagraph 2. of this paragraph (or, if the utility has asserted its fifteen (15) day right of control, fifteen (15) days later), the new attacher may complete the make-ready, which shall be completed as specified pursuant to subparagraph 1. of this paragraph; and

6. State the name, telephone number, and email address of a person to contact for more information about the make-ready procedure.

(c) Once a utility provides the notices required by this subsection, the utility shall provide the new attacher with a copy of the notices and the existing attachers' contact information and address where the utility sent the notices. The new attacher shall be responsible for coordinating with existing attachers to encourage completion of make-ready by the dates established by the utility pursuant to paragraph (a)2. of this subsection for communications space attachments or paragraph (b)2. of this subsection for attachments above the communications space.

(5) A utility shall complete its make-ready in the communications space by the same dates established for existing attachers in subsection (4)(a)2. of this section or its make-ready above the communications space by the same dates for existing attachers in subsection (4)(b)2. of this section (or if the utility has asserted its fifteen (15) day right of control, fifteen (15) days later).

(6) An attacher shall, within fifteen (15) business days following completion of all attachments within an application, provide written notice to a utility in the manner and form stated in the utility's tariff.

(7) Final invoice.

(a) Within a reasonable period, not to exceed 120 days after a utility completes the utility's make-ready, the utility shall provide the new attacher:

1. A detailed, itemized final invoice of the actual survey charges incurred if the final survey costs for an application differ from the amount[any estimate] previously paid[for the survey work or if no estimate was previously paid]; and

2. A detailed, itemized final invoice, on a pole-by-pole basis if requested and reasonably calculable, of the actual make ready costs to accommodate attachments if the final make-ready costs differ from the estimate provided pursuant to subsection (3)(d) of this section.

(b) Limitations on make ready costs.

1. A utility shall not charge a new attacher, as part of any invoice for make-ready, to bring poles, attachments, or third-party or utility equipment into compliance with current published safety, reliability, and pole owner construction standards if the poles, attachments, or third-party or utility equipment were out of compliance because of work performed by a party other than the new attacher prior to the new attachment.

2. A utility shall not charge a new attacher, as part of any invoice for make ready, the cost to replace any red tagged pole with a replacement pole of the same type and height.

3. If a red tagged pole is replaced with a pole of a different type or height, then the new attacher shall be responsible, as part of any invoice for make ready, only for the difference, if any, between the cost for the replacement pole and the cost for a new utility pole of the type and height that the utility would have installed in the same location in the absence of the new attachment.

4. The make ready cost, if any, for a pole that is not a red tagged pole to be replaced with a new utility pole to accommodate the new attacher's attachment shall be charged in accordance with the utility's tariff or a special contract regarding pole attachments between the utility and the new attacher.

(8)[(7)] For the purposes of compliance with the time periods in this section:

(a) A utility shall apply the timeline as established in subsections (2) through (4) of this section to all requests for attachment up to the lesser of 500[300] poles or zero and .75[five-tenths (0.5)] percent of the utility's poles in the state;

(b) A utility may, for every 500-pole increment, add up to fifteen

(15) days to the survey period established in subsection (4) of this section to larger orders up to the lesser of 3,000[1,000] poles or three (3)[1-50] percent of the utility's poles in Kentucky;

(c) A utility may, for every 500-pole increment, add up to fifteen (15)[forty-five (45)] days to the make-ready periods established in subsection (4) of this section to larger orders up to the lesser of 3,000[1,000] poles or three (3)[1-50] percent of the utility's poles in Kentucky;

(d) A utility and a new attacher, unless the utility owns or controls fewer than 500 poles, shall negotiate a special contract in good faith [the timing of] all requests for attachment larger than the lesser of 3,000[1,000] poles or three (3)[1-50] percent of the utility's poles in Kentucky.; The special contract, at a minimum, shall contain:

1. An agreement for a prepaid account from the new attacher to cover the cost of the request;

2. Direction from the new attacher regarding make ready work that the utility may complete without further direction from the new attacher including:

a. The maximum cost per pole; and

b. The total cost for make ready work for each project or line of each project;

3. The new attacher's prioritization of projects if the new attacher has submitted multiple requests for attachment;

4. Contact information, including phone numbers and email addresses, for all necessary utility and new attacher personnel;

5. The cadence, location, and necessary personnel for each project; and

6. The timing of surveys and make ready.

(e) If a special contract identified in paragraph (d) of this subsection cannot be agreed to within fifteen (15) business days from submission of a formal written request to engage from the attacher, the new attacher may file a complaint with the commission, with a copy served contemporaneously to the utility, on which the commission shall rule within twenty (20) business days of filing of the complaint.

(f)[(e)] For the calculation of any deadlines in this regulation a[A] utility may treat multiple applications[requests] from a single new attacher as one (1) application[request] if the applications[requests] are submitted within thirty (30) days of one another; and

(g)[(f)] As soon as reasonably practicable, but no less than ninety (90)[sixty (60)] days before the new attacher expects to submit an application in which the number of requests exceed the lesser of the amounts identified in paragraph (a) of this subsection, a new attacher shall provide written notice to a utility in the manner and form stated in the utility's tariff that the new attacher expects to submit a [high-volume] request.

(h) As soon as reasonably practicable a utility shall provide written notice to an attacher if the utility determines it will be unable to meet survey or other make-ready deadlines. Such notice shall entitle an attacher immediately to proceed with self-help remedies in accordance with Section 4(10).

(9)[(8)] Deviations from make-ready timeline.

(a) A utility may deviate from the time limits specified in this section before offering an estimate of charges if the new attacher failed to satisfy a condition in the utility's tariff or in a special contract between the utility and the new attacher.

(b) A utility may deviate from the time limits established in this section during performance of make-ready for good and sufficient cause that renders it infeasible for the utility to complete make-ready within the time limits established in this section. A utility that so deviates shall immediately notify, in writing, the new attacher and affected existing attachers and shall identify the affected poles and include a detailed explanation of the reason for the deviation and a new completion date. The utility shall deviate from the time limits established in this section for a period no longer than necessary to complete make-ready on the affected poles and shall resume make-ready without discrimination once the utility returns to routine operations.

(c) An existing attacher may deviate from the time limits established in this section during performance of complex make-ready for reasons of safety or service interruption that renders it infeasible for the existing attacher to complete complex make-ready within the time limits established in this section. An existing attacher

that so deviates shall immediately notify, in writing, the new attacher and other affected existing attachers and shall identify the affected poles and include a detailed explanation of the basis for the deviation and a new completion date, which shall not extend beyond sixty (60) days from the completion date provided in the notice specified in subsection (4) of this section as sent by the utility (or up to 105 days in the case of larger orders specified in subsection (8)(6)(b) and (c) of this section). The existing attacher shall not deviate from the time limits established in this section for a period for longer than necessary to complete make-ready on the affected poles.

~~(10)(9)~~ Self-help remedy.

(a) Surveys. If a utility fails to complete a survey as established in subsection (2)(b) of this section, or if a utility waives its right to perform the survey in writing, then a new attacher may conduct the survey in place of the utility by hiring a contractor to complete a survey, which shall be completed as specified in Section 5 of this administrative regulation.

1. A new attacher shall allow the affected utility and existing attachers to be present for any field inspection conducted as part of the new attacher's survey.

2. A new attacher shall use commercially reasonable efforts to provide the affected utility and existing attachers with advance notice of not less than five (5) business days of a field inspection as part of any survey the attacher conducts.

3. The notice shall include the date and time of the survey, a description of the work involved, and the name of the contractor being used by the new attacher.

(b) Make-ready. If make-ready is not complete by the applicable date established in subsection (4) of this section, then a new attacher may conduct the make-ready in place of the utility and existing attachers by hiring a contractor to complete the make-ready, which shall be completed as specified in Section 5 of this administrative regulation. The make-ready shall be performed in compliance with this administrative regulation, the utility's tariff, and the construction standards listed on the utility's website. Make-ready work performed by the new attacher within the electric space shall be conducted by an approved contractor listed on the utility's website.

1. A new attacher shall allow the affected utility and existing attachers to be present for any make-ready.

2. A new attacher shall use commercially reasonable efforts to provide the affected utility and existing attachers with advance notice of not less than seven (7) days of the impending make-ready.

3. The notice shall include the date and time of the make-ready, a description of the work involved, and the name of the contractor being used by the new attacher.

(c) The new attacher shall notify an affected utility or existing attacher immediately if make-ready damages the equipment of a utility or an existing attacher or causes an outage that is reasonably likely to interrupt the service of a utility or existing attacher.

(d) Pole replacements. Self-help shall not be available for pole replacements.

~~(11)(40)~~ One-touch make-ready option. For attachments involving simple make-ready, new attachers may elect to proceed with the process established in this subsection in lieu of the attachment process established in subsections (2) through (6) and (9) of this section.

(a) Attachment application.

1. A new attacher electing the one-touch make-ready process shall elect the one-touch make-ready process in writing in its attachment application and shall identify the simple make-ready that it will perform. It is the responsibility of the new attacher to ensure that its contractor determines if the make-ready requested in an attachment application is simple.

2. Application completeness.

a. The utility shall review the new attacher's attachment application for completeness before reviewing the application on its merits and shall notify the new attacher within ten (10) business days after receipt of the new attachers attachment application whether or not the application is complete.

b. An attachment application shall be considered complete if the application provides the utility with the information necessary under

its procedures, as established in the utility's applicable tariff or a special contract regarding pole attachments between the utility and the new attacher, to make an informed decision on the application.

c. If the utility notifies the new attacher that an attachment application is not complete, then the utility shall state all reasons for finding the application incomplete.

d. If the utility fails to notify a new attacher in writing that an application is incomplete within ten (10) business days of receipt, then the application shall be deemed complete.

3. Application review on the merits. The utility shall review on the merits a complete application requesting one-touch make-ready and respond to the new attacher either granting or denying an application within fifteen (15) days of the utility's receipt of a complete application (or within thirty (30) days in the case of larger orders as established in subsection (8)(7)(b) of this section or within a time negotiated in good faith for requests equal to or larger than those established in (7)(d)).

a. If the utility denies the application on its merits, then the utility's decision shall be specific, shall include all relevant evidence and information supporting its decision, and shall explain how the evidence and information relate to a denial of access.

b. Within the fifteen (15) day application review period (or within thirty (30) days in the case of larger orders as established in subsection (8)(7)(b) of this section or within a time negotiated in good faith for requests equal to or larger than those established in (8)(7)(d)), a utility or an existing attacher may object to the designation by the new attacher's contractor that certain make-ready is simple.

c. An objection made pursuant to clause b. of this subparagraph shall be specific and in writing, include all relevant evidence and information supporting the objection, be made in good faith, and explain how the evidence and information relate to a determination that the make-ready is not simple.

d. If the utility's or the existing attacher's objection to the new attacher's determination that make-ready is simple complies with clause c. of this subparagraph, then the make-ready shall be deemed to be complex and the new attacher shall not proceed with the affected proposed one-touch make-ready.

(b) Surveys.

1. The new attacher shall be responsible for all surveys required as part of the one-touch make-ready process and shall use a contractor as established in Section 5(2) of this administrative regulation to complete surveys.

2. The new attacher shall allow the utility and any existing attachers on the affected poles to be present for any field inspection conducted as part of the new attacher's surveys.

3. The new attacher shall use commercially reasonable efforts to provide the utility and affected existing attachers with advance notice of not less than five (5) business days of a field inspection as part of any survey and shall provide the date, time, and location of the surveys, and name of the contractor performing the surveys.

(c) Make-ready. If the new attacher's attachment application is approved by the pole owner and if the attacher has provided at least fifteen (15) days prior written notice of the make-ready to the affected utility and existing attachers, the new attacher may proceed with make-ready. The new attacher shall use a contractor in the manner established for simple make-ready in Section 5(2) of this administrative regulation.

1. The prior written notice shall include the date and time of the make-ready, a description of the work involved, the name of the contractor being used by the new attacher, and provide the affected utility and existing attachers a reasonable opportunity to be present for any make-ready.

2. The new attacher shall notify an affected utility or existing attacher immediately if make-ready damages the equipment of a utility or an existing attacher or causes an outage that is reasonably likely to interrupt the service of a utility or existing attacher.

3. In performing make-ready, if the new attacher or the utility determines that make-ready classified as simple is complex, then all make-ready on the impacted poles shall be halted and the determining party shall provide immediate notice to the other party of its determination and the impacted poles. All remaining make-ready on the impacted poles shall then be governed by subsections

(2) through (9) of this section, and the utility shall provide the notices and estimates required by subsections (2)(a), (3), and (4) of this section as soon as reasonably practicable.

(d) Post-make-ready timeline. A new attacher shall notify the affected utility and existing attachers within fifteen (15) days after completion of make-ready on a one-touch make ready application.

Section 5. Contractors for Survey and Make-ready.

(1) Contractors for self-help complex and above the communications space make-ready. A utility shall make available and keep up-to-date a reasonably sufficient list of contractors the utility authorizes to perform self-help surveys and make-ready that is complex and self-help surveys and make-ready that is above the communications space on the utility's poles. The new attacher shall use a contractor from this list to perform self-help work that is complex or above the communications space. New and existing attachers may request the addition to the list of any contractor that meets the minimum qualifications in subsection (3) of this section and the utility shall not unreasonably withhold its consent.

(2) Contractors for surveys and simple work. A utility may keep up-to-date a reasonably sufficient list of contractors the utility authorizes to perform surveys and simple make-ready. If a utility provides this list, then the new attacher shall choose a contractor from the list to perform the work. New and existing attachers may request the addition to the list of any contractor that meets the minimum qualifications in subsection (3) of this section and the utility shall not unreasonably withhold its consent.

(a)

1. If the utility does not provide a list of approved contractors for surveys or simple make-ready or no utility-approved contractor is available within a reasonable time period, then the new attacher may choose its own qualified contractor that shall meet the requirements in subsection (3) of this section.

2. If choosing a contractor that is not on a utility-provided list, the new attacher shall certify to the utility that the attacher's contractor meets the minimum qualifications established in subsection (3) of this section upon providing notices required by Section 4(9)(a)2., (9)(b)2., (10)(b)3., and (10)(c) of this administrative regulation.

(b)

1. The utility may disqualify any contractor chosen by the new attacher that is not on a utility-provided list, but a disqualification shall be based on reasonable safety or reliability concerns related to the contractor's failure to meet any of the minimum qualifications established in subsection (3) of this section or to meet the utility's publicly available and commercially reasonable safety or reliability standards.

2. The utility shall provide notice of the utility's objection to the contractor within the notice periods established by the new attacher in Section 4(9)(a)2., (9)(b)2., (10)(b)3., and (10)(c) of this administrative regulation and in the utility's objection must identify at least one available qualified contractor.

(3) Contractor minimum qualification requirements. Utilities shall ensure that contractors on a utility-provided list, and new attachers shall ensure that contractors selected pursuant to subsection (2)(a) of this section, meet the minimum requirements established in paragraphs (a) through (e) of this subsection.

(a) The contractor has agreed to follow published safety and operational guidelines of the utility, if available, but if unavailable, the contractor shall agree to follow National Electrical Safety Code (NESC) guidelines.

(b) The contractor has acknowledged that the contractor knows how to read and follow licensed-engineered pole designs for make-ready, if required by the utility.

(c) The contractor has agreed to follow all local, state, and federal laws and regulations including the rules regarding Qualified and Competent Persons under the requirements of the Occupational and Safety Health Administration (OSHA) rules.

(d) The contractor has agreed to meet or exceed any uniformly applied and reasonable safety and reliability thresholds established by the utility, if made available.

(e) The contractor shall be adequately insured or shall establish an adequate performance bond for the make-ready the contractor will perform, including work the contractor will perform on facilities

owned by existing attachers.

(4) A consulting representative of a utility may make final determinations, on a nondiscriminatory basis, if there is insufficient capacity and for reasons of safety, reliability, and generally applicable engineering purposes.

Section 6. Notice of Changes to Existing Attachers.

(1) Unless otherwise established in a joint use agreement or special contract, a utility shall provide an existing attacher no less than sixty (60) days written notice prior to:

(a) Removal of facilities or termination of any service to those facilities if that removal or termination arises out of a rate, term, or condition of the utility's pole attachment tariff or any special contract regarding pole attachments between the utility and the attacher; or

(b) Any modification of facilities by the utility other than make-ready noticed pursuant to Section 4 of this administrative regulation, routine maintenance, or modifications in response to emergencies.

(2) Stays from removals, terminations, and modifications noticed pursuant to subsection (1) of this section.

(a) An existing attacher may request a stay of the action contained in a notice received pursuant to subsection (1) of this section by filing a motion pursuant to 807 KAR 5:001, Section 4 within fifteen (15) days of the receipt of the first notice provided pursuant to subsection (1) of this section.

(b) The motion shall be served on the utility that provided the notice pursuant to 807 KAR 5:001, Section 5(1).

(c) The motion shall not be considered unless it includes the relief sought, the reasons for such relief, including a showing of irreparable harm and likely cessation of cable television system operator or telecommunication service, a copy of the notice, and a certification that service was provided pursuant to paragraph (b) of this subsection.

(d) The utility may file a response within ten (10) days of the date the motion for a temporary stay was filed.

(e) No further filings under this subsection shall be considered unless requested or authorized by the commission.

(3) Transfer of attachments to new poles.

(a) Unless an applicable tariff or special contract or Section 4 of this administrative regulation establishes a different timeframe, existing attachers shall transfer their attachments within sixty (60) days of receiving written notice from the utility pole owner.

(b) Existing attachers may deviate from the time limit established in paragraph (a) of this subsection for good and sufficient cause that renders it infeasible for the existing attacher to complete the transfer within the time limit established. An existing attacher that requires such a deviation shall immediately notify, in writing, the utility and shall identify the affected poles and include a detailed explanation of the reason for the deviation and the date by which the attacher shall complete the transfer. An existing attacher shall deviate from the time limits established in paragraph (a) of this subsection for a period no longer than is necessary to complete the transfer.

(c) If an existing attacher fails to transfer its attachments within the timeframe established in paragraph (a) of this subsection and the existing attacher has not notified the utility of good and sufficient cause for extending the time limit pursuant to paragraph (a) of this subsection, a utility pole owner may transfer attachments and the transfer shall be at the existing attacher's expense.

(d) A utility pole owner may transfer an existing attacher's attachment prior to the expiration of any period established by paragraph (a) or (b) of this subsection if an expedited transfer is necessary for safety or reliability purposes.

Section 7. Complaints for Violations of This Administrative Regulation.

(1) Contents of complaint. Each complaint shall be headed "Before the Public Service Commission," shall establish the names of the complainant and the defendant, and shall state:

(a) The full name and post office address of the complainant;

(b) The full name and post office address of the defendant;

(c) Fully, clearly, and with reasonable certainty, the act or omission, of which complaint is made, with a reference, if practicable, to the law, order, or administrative regulation, of which a failure to comply is alleged, and other matters, or facts, if any, as

necessary to acquaint the commission fully with the details of the alleged failure; and

(d) The relief sought.

(2) Signature. The complainant or his or her attorney, if applicable, shall sign the complaint. A complaint by a corporation, association, or another organization with the right to file a complaint, shall be signed by its attorney.

(3) How filed.

(a) Complaints shall be filed in accordance with the electronic filing procedures in 807 KAR 5:001, Section 8; and

(b) The complainant shall serve a copy of the complaint on the defendant at the same time as it files the complaint with the commission. ~~The filing party shall file two (2) copies in paper medium with the commission in the manner required by 807 KAR 5:001, Section 8(12)(a)2.~~

(4) Procedure on filing of complaint.

(a) Upon the filing of a complaint, the commission shall immediately examine the complaint to ascertain if it establishes a prima facie case and conforms to this administrative regulation.

1. If the commission finds that the complaint does not establish a prima facie case or does not conform to this administrative regulation, the commission shall notify the complainant and provide the complainant an opportunity to amend the complaint within a stated time.

2. If the complaint is not amended within the time or the extension as the commission, for good cause shown, shall grant, the complaint shall be dismissed.

(b) If the complaint, either as originally filed or as amended, establishes a prima facie case and conforms to this administrative regulation, the commission shall serve an order upon the person complained of, accompanied by a copy of the complaint, directed to the person complained of and requiring that the matter complained of be satisfied, or that the complaint be answered in writing within ten (10) days from the date of service of the order. The commission may require the answer to be filed within a shorter period if the complaint involves an emergency situation or otherwise would be detrimental to the public interest.

(5) Satisfaction of the complaint. If the defendant desires to satisfy the complaint, he or she shall submit to the commission, within the time allowed for satisfaction or answer, a statement of the relief that the defendant is willing to give. Upon the acceptance of this offer by the complainant and with the approval of the commission, pursuant to KRS Chapter 278 and this administrative regulation, the case shall be dismissed.

(6) Answer to complaint. If the complainant is not satisfied with the relief offered, the defendant shall file an answer to the complaint within the time stated in the order or the extension as the commission, for good cause shown, shall grant.

(a) The answer shall contain a specific denial of the material allegations of the complaint as controverted by the defendant and also a statement of any new matters constituting a defense.

(b) If the defendant does not have information sufficient to answer an allegation of the complaint, the defendant may so state in the answer and place the denial upon that ground.

(7) Burden of proof.

(a) The complainant has the burden of establishing it is entitled to the relief sought.

(b) The commission may presume that a pole replaced to accommodate a new attachment was a red tagged pole if:

1. There is a dispute regarding the condition of the pole at the time it was replaced; and

2. The utility failed to document and maintain records that inspections were conducted pursuant to 807 KAR 5:006 and that no deficiencies were found on the pole or poles at issue, or if inspections of poles are not required pursuant to 807 KAR 5:006, the utility failed to periodically inspect and document the condition of its poles.

(8) Time for final action.

(a) The commission shall take final action on a complaint regarding the rates, terms, or conditions for access to a utility's pole, duct, conduit, or right-of-way within 60~~180~~ days of a complaint establishing a prima facie case being filed, unless the commission finds it is necessary to continue the proceeding for good cause for

up to 180~~360~~ days from the date the complaint establishing a prima facie case is filed.

(b) The period within which final action shall be taken may be extended beyond 180~~360~~ days upon agreement of the complainant and defendant and approval of the commission.

This is to certify that the Public Service Commission approved promulgation of this emergency administrative regulation, pursuant to KRS 278.040(3), on February 25, 2025.

LINDA BRIDWELL, P.E., Executive Director
ANGIE C. HATTON, Chair

APPROVED BY AGENCY: February 25, 2025

FILED WITH LRC: February 25, 2025 at 2:33 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 29, 2025, at 10:00 a.m. Eastern Daylight Time at the Kentucky Public Service Commission, 211 Sower Boulevard, 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. This hearing is open to the public and instructions on how to attend and participate virtually will be published on the commission's website at psc.ky.gov. 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 May 31, 2025. 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: John E.B. Pinney, Executive Advisor, Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 782-2587, fax (502) 564-7279, email jeb.pinney@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John E.B. Pinney

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides the process by which the commission regulates the rates, terms, and conditions of utility pole attachments and access to other utility facilities, amends the specific criteria and procedures for certain types of pole attachment applications for obtaining access to utility poles within the Kentucky Public Service Commission's jurisdiction, and establishes a process by which the complaints of those seeking to access utility facilities shall be addressed within the period established by federal law. The amendments address issues pertaining to expediting certain applications to attach broadband facilities to the poles of utilities subject to the jurisdiction of the Public Service Commission.

(b) The necessity of this administrative regulation: Senate Joint Resolution 175 from the 2024 Regular Session mandates that the Public Service Commission promulgate emergency regulations, or emergency amendment to existing regulations, to address issues pertaining to certain applications to attach broadband facilities to the poles of utilities subject to the jurisdiction of the Public Service Commission. This administrative regulation replaces the emergency amendments promulgated pursuant to Senate Joint Resolution 175.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 278.040(3) authorizes the Commission to adopt reasonable regulations to implement the provisions of KRS Chapter 278. KRS 278.040(2) states that the PSC has exclusive jurisdiction over the regulation of rates and services of utilities. KRS 278.030(1) provides that all rates received by a utility shall be fair, just, and reasonable. KRS 278.030(2) provides that every utility shall furnish adequate, efficient, and reasonable service. In Kentucky CATV Ass'n v. Volz, 675 S.W.2d 393 (Ky. App. 1983), the Court of Appeals held that utility pole attachments are a service that is provided for a rate. Senate Joint Resolution 175 from the 2024 Regular Session mandates that the Public Service Commission promulgate emergency regulations, or emergency amendment to

existing regulations, to address issues pertaining to certain applications to attach broadband facilities to the poles of utilities subject to the jurisdiction of the Public Service Commission. This administrative regulation replaces the emergency amendments promulgated pursuant to Senate Joint Resolution 175.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The amendments will expedite deployment of broadband internet service in rural areas of the Commonwealth places unserved and underserved citizens at a disadvantage and recounts that funds from the Broadband Equity, Access, and Deployment Program and the Rural Digital Opportunity Fund that will be used to assist in deploying broadband internet service to unserved and underserved areas.

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

(a) How the amendment will change this existing administrative regulation: The amendments: expedite the time spent reviewing for completeness applications for pole attachments; allow the attachers, if they have multiple pending applications, to prioritize a particular application; Increase the maximum number of poles, from 1,000 to 3,000, that may be requested in an application and to which regulatory timelines for processing apply; address concerns regarding clarity of invoices and payments from both utilities and pole attachers that expedites invoicing and payment; increases from 60 to 90 days the time in which an attacher will be filing an application for attachments exceeding 3,000 poles; establishes minimum contents of special contracts for applications of greater than 3,000 poles; establishes an expedited complaint and resolution process if a special contract cannot be negotiated within 15 business days of the beginning of good faith negotiations; and for other complaints, reduces from 180 to 60 days the time in which the Commission must issue a final order.

(b) The necessity of the amendment to this administrative regulation: 2024 KY S.J.R. 175, 2024 Regular Session requires the Commission to promulgate emergency regulations addressing issues pertaining to broadband attachments to utility poles. This original regulation is filed with an identical emergency regulation.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 278.040(3) authorizes the Commission to adopt reasonable regulations to implement the provisions of KRS Chapter 278. 2024 KY S.J.R. 175, 2024 Regular Session requires the Commission to promulgate emergency regulations addressing issues pertaining to broadband attachments to utility poles. This administrative regulation replaces the emergency amendments promulgated pursuant to Senate Joint Resolution 175.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will hasten the review the processing of pole attachment applications and increase the speed at which pole attachments are made which meet the requirements of 2024 KY S.J.R. 175, 2024 Regular Session directing the Public Service Commission to promulgate emergency amendments to promote the deployment of broadband in unserved or underserved areas of the Commonwealth. This administrative regulation replaces the emergency amendments promulgated pursuant to Senate Joint Resolution 175.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The administrative regulation will primarily affect regulated utilities in Kentucky that own or control utility poles, including investor-owned electric utilities, rural electric cooperatives, and incumbent local exchange carriers. There are currently four investor-owned electric utilities, 21 rural electric cooperates, and 20 incumbent local exchange carriers, which include investor-owned telephone utilities and telephone cooperatives, operating 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 utilities will have to file amended tariffs to comply with the amended regulation.

(b) In complying with this administrative regulation or amendment,

how much will it cost each of the entities identified in question (3): The regulated entities will incur some initial costs in updating their tariffs to comply with this administrative regulation. The costs of such a process are likely to vary depending on the size and complexity of the utility involved and whether and the extent to which potential attachers or other customer groups object to the proposed tariff. An estimate of the costs regulated entities might incur to update their tariffs would be between \$25,000 and \$200,000 per regulated entity. However, such costs could likely be mitigated if similarly situated utilities worked together to draft tariffs that comply with this regulation. However, like the federal regulation, and consistent with the cost causation principles the Public Service Commission applies when setting rates for other customers, utilities are able to recover the costs of processing pole attachment applications and completing make-ready from the attaching entities that caused them to be incurred, so the timelines for reviewing applications and completing make-ready should not result in the regulated entities incurring uncompensated costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The adoption of a uniform process to expedite broadband deployment should reduce potential conflicts in the future that would have to be resolved through the complaint process. This should reduce the overall cost of pole attachments for utilities and attachers by reducing or eliminating costly delays.

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

(a) Initially: Zero Dollars, no fiscal impact.

(b) On a continuing basis: Zero Dollars, no fiscal impact.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The commission does not anticipate this amendment increasing its enforcement cost. The commission currently funds enforcement of this regulation through its general operating budget funded through annual assessments paid by regulated utilities pursuant to KRS 278.130, et. seq., and this amendment has no effect on that 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 fiscal impact.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees are established and existing fees will not be affected.

(9) TIERING: Is tiering applied? Yes. The speed at which utilities are required to process applications and complete make ready is tiered based on the number of poles owned the utility. Tiering the regulation in this manner, which is consistent with how the federal regulation is tiered, will allow smaller utilities to process pole attachment applications at slower rates, while maintaining a relatively consistent attachment speed throughout the state.

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 278.040, HB 320 (2021,) SJR 175 (2024).

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Public Service Commission

(a) Estimate the following for the first year:

Expenditures: Zero Dollars; no fiscal impact.

Revenues: Zero Dollars; no fiscal impact.

Cost Savings: Zero Dollars; no fiscal impact.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? No fiscal impact.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): These entities will be affected to the extent that they are seeking to attach to poles owned or controlled by regulated utilities of which there should be few requests.

(a) Estimate the following for the first year:

Expenditures: Zero Dollars; no fiscal impact.

Revenues: Zero Dollars; no fiscal impact.

Cost Savings: Zero Dollars; no fiscal impact.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Zero Dollars; no fiscal impact.

(4) Identify additional regulated entities not listed in questions (2) or

(3): Utilities, as defined by KRS 278.010(3), that own utility poles.

(a) Estimate the following for the first year:

Expenditures: It is not possible to estimate the expenditures for the first year. The amounts of expenditures will depend upon the volume of applications for pole attachments, as well as the utilities' costs to engage the resources necessary to meet the requirements of the amendments to the regulation.

Revenues: It is not possible to estimate the revenues for the first year. The revenues should approximately match the expenditures incurred to process pole attachments although there may be some lag in recovery. Utilities are allowed to recover the cost of pole attachments from attachers through rates and billing of other costs. Cost Savings: None. Expenditures and revenue should roughly match.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? While the amount of expenditures and revenues will vary in subsequent years the expenditures and revenues should roughly match because utilities are allowed to recover the cost of pole attachments from attachers through rates and billing of costs.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There is no fiscal impact to the Public Service Commission. Pole-owning utilities are already under an obligation to allow broadband attachment to their poles at rates, terms, and conditions in their tariffs. The amendments will increase the speed at which these attachments are made, but should have no significant fiscal impact over the current obligation to provide attachments.

(b) Methodology and resources used to determine the fiscal impact: The Public Service Commission will not require additional resources to implement the amendments. Pole-owning utilities are under an existing obligation to provide access to their poles and the amendment does not increase the fiscal impact of attachments that does not already exist.

(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 will be no major economic impact to the Public Service Commission which will have no increased costs resulting from the amendments. Other public entities that attach to utility poles will see no negative or positive fiscal impact. Pole-owning utilities will see increased costs of operation due to an increase of pole attachment requests. These costs, however, will ultimately be recovered from the entities requesting attachment to the poles.

(b) The methodology and resources used to reach this conclusion: The Public Service Commission initiated a docket at the end of 2023 to review the application of 807 KAR 5:015 and invited the participation of pole-owning utilities and pole attachers. The Public Service Commission has held several conferences in this docket, during which the attachers and utilities introduced information that the incoming funds from the Broadband Equity, Access, and Deployment (BEAD) Program and the Rural Digital Opportunity Fund (RDOF) will result in a significant increase in pole attachment applications. Pole owning utilities will have to acquire the necessary personnel and resources to meet this increase in attachment applications, which will increase the utilities' up-front expenses. The costs, however, will ultimately be recovered from the attaching entities once attachments are completed.

**CABINET FOR HEALTH AND FAMILY SERVICES
Department for Medicaid Services
Division of Fiscal Management
(Amendment)**

907 KAR 10:840. Hospital Rate Improvement Program.

RELATES TO: KRS 45.229, 142.303, 205.565, 205.637, 205.638, 205.639, 205.640, 205.6405, 205.6406, 205.6407, 205.6408, 216.380, 42 C.F.R. 413.17, 433.51, 438.340, 440.140, 447.271, 447.272, 42 U.S.C. 1396a, 1395ww
STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3), 205.560, 205.6406(13), 205.6411, 205.6412, 42 C.F.R. 447.252, 447.253, 42 U.S.C. 1396a

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed, or opportunity presented, by federal law to qualify for federal funds. KRS 205.6406(13) requires the department to promulgate an administrative regulation to implement the Hospital Rate Improvement Program, KRS 205.6405 to 205.6408. This administrative regulation establishes the requirements for implementing the Hospital Rate Improvement Program for qualifying hospitals.

Section 1. Definitions.

(1) "Assessment" is defined by KRS 205.6405(1).

(2) "Department" means the Department for Medicaid Services or its designee.

(3) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(4) "Program year" is defined by KRS 205.6405(14).

(5) "Qualifying hospital" is defined by KRS 205.6405(16).

(6) "Received date" means the date a claim is accepted and approved into the Medicaid Management Information System and does not mean the date a claim is actually paid.

(7) "Upper payment limit" or "UPL" is defined by KRS 205.6405(19).

Section 2. Hospital Rate Improvement Program.

(1) Prior to the start of each program year and in accordance with the payment methodology required by KRS 205.6406(2), the department shall calculate for each qualifying hospital:

(a) A per-discharge uniform add-on amount that the qualifying hospital is eligible to receive as a supplemental payment for the program year for Medicaid fee-for-service discharges; and

(b) A per discharge uniform add-on amount that the qualifying hospital is eligible to receive as a supplemental payment for the program year for Medicaid managed care discharges.

(2) With the exception of the initial implementation year, no less than thirty (30) days prior to the beginning of each program year, the department shall provide each qualifying hospital written notice of the total per-discharge uniform add-on amounts for both Medicaid fee-for-service and Medicaid managed care discharges. The notice shall include the data sources and methodologies used to arrive at the value for each variable upon which the qualifying hospital's per-discharge uniform add-on amounts shall be calculated for the program year.

(3) For each quarter in a program year, the department shall:

(a) Calculate each qualifying hospital's supplemental payments for Medicaid fee-for-service and Medicaid managed care in accordance with KRS 205.6406(3) through (11) by:

1. Excluding all inpatient claims with discharge dates preceding October 1, 2018 from enhanced payment calculations;

2. Reducing the number of inpatient claims eligible for enhanced reimbursement by the number of previously enhanced claims that have been voided in the Medicaid Management Information System; and

3. Excluding from enhanced payment calculations partial or adjusted inpatient claims that have previously received an enhanced payment;

(b) Make a quarterly Medicaid fee-for-service supplemental payment to each qualifying hospital, or its designee acting as a fiscal intermediary, in accordance with the methodology in KRS 205.6406(3)(a) and (c); and

(c) Make a quarterly Medicaid managed care supplemental payment to each qualifying hospital, or its designee acting as a fiscal intermediary, in accordance with the methodology in KRS 205.6406(3)(b), (d), and (e).

(4) Payment of the quarterly Medicaid managed care supplemental payment shall be made by distribution to each Medicaid managed care organization through a quarterly supplemental capitation payment.

(5) The department shall submit with, or prior to, the quarterly supplemental capitation payment directions to the Medicaid managed care organization for the payment of the quarterly

Medicaid managed care supplemental payments to qualifying hospitals.

(6) In accordance with KRS 205.6406(6), each Medicaid managed care organization shall remit to each qualifying hospital, or its designee, as directed by the department the quarterly Medicaid managed care supplemental payment within five (5) business days of receipt of the quarterly supplemental capitation payment. The department shall establish contractual penalty provisions to require that each Medicaid managed care organization remit the required amounts within five (5) business days.

(7) In accordance with KRS 205.6406(9), a qualifying hospital may seek review by the department of any quarterly supplemental payment that the qualifying hospital suspects is in error.

(a) The qualifying hospital shall submit a detailed listing of any disputed claim or claims for department consideration and potential updates to the Medicaid Management Information System.

(b) Once each claim is received and validated in the Medicaid Management Information System, the department shall adjust the qualifying hospital's future quarterly supplemental payment to account for any warranted correction.

(c) If the department determines that a correction is not warranted, the hospital may request an administrative appeal pursuant to 907 KAR 1:671.

(8) In order to receive a supplemental payment and to pay the assessment for that quarter, an entity shall be a qualifying hospital each day of a quarter for the program year.

(9) Medicaid Management Information System (MMIS) fee-for-service and managed care encounter data, queried by the claim received date, shall be utilized to calculate the quarterly payments.

(10) For each quarter in a program year, the department shall:

(a) Calculate each qualifying hospital's per-discharge hospital assessment in accordance with the methodology in KRS 205.6406(3)(g) and (h); and

(b) Provide notice to each qualifying hospital in accordance with KRS 205.6406(3)(i).

(11) A qualifying hospital's per-discharge hospital assessment shall be calculated using the Medicare cost report period ending in the calendar year that is two (2) calendar years prior to the first day of a program year. For example, for the program year beginning July 1, 2019, cost report periods ending in calendar year 2017 shall be utilized.

(a) If a qualifying hospital's cost report period referenced in this subsection is greater than or less than a normal calendar year of 365 days, the total discharges used in accordance with KRS 205.6406(3)(g) shall be annualized to a 365-day period.

(b) If a qualifying hospital is newly enrolled in the Medicaid program and does not have cost report information available for the period established in this subsection, the department may utilize the cost report information of a comparable hospital to approximate the newly enrolled hospital's utilization.

(12) A qualifying hospital shall pay its calculated per-discharge hospital assessment in accordance with KRS 205.6406(7).

(13) If a hospital assessment is not received in a timely manner, the department may deny or withhold future quarterly supplemental payments until the assessment is submitted.

(14) A qualifying hospital may authorize a third-party entity to serve as a fiscal intermediary to facilitate the implementation of this administrative regulation by providing letter notice to the department.

Section 3. Reporting Requirements.

(1) Throughout a program year, a qualifying hospital shall submit any documentation or information to the department that the department requests in a timely manner as designated by the department. This request may include any documentation pertaining to:

(a) Resolution of a quarterly supplemental payment that the qualifying hospital suspects is in error; or

(b) Quality metrics set forth in the department's Quality Strategy filed with the Centers for Medicare and Medicaid Services pursuant to 42 C.F.R. 438.340.

(2) If a qualifying hospital fails to provide the department with any requested documentation in a timely manner, the department

may deny or withhold future quarterly supplemental payments, until the documentation is submitted.

Section 4. Kentucky Trauma Hospital Rate Improvement (K-THRI).

(1) If consistent with federal approval, the department shall operate K-THRI as a supplemental payment arrangement that provides an average commercial rate reimbursement for inpatient hospital services, outpatient hospital services, and professional services.

(a) The methodology for determining a rate increase shall be applied equally to all providers within K-THRI.

(b) Adjustments to payments shall be made as necessary to ensure that aggregate hospital rate improvement program payments and K-THRI payments do not exceed the statewide average commercial rate limit.

(c) K-THRI payments shall be made by distribution to each Medicaid managed care organization through a quarterly supplemental capitation payment.

(d) The department shall submit with, or prior to, the K-THRI payment directions to the Medicaid managed care organization for the payment of the quarterly K-THRI payment to qualifying hospitals.

(e) In accordance with KRS 205.6406(6), each Medicaid managed care organization shall remit to each qualifying hospital, or its designee, as directed by the department the K-THRI supplemental payment within five (5) business days of receipt of the quarterly K-THRI supplemental capitation payment. The department shall establish contractual penalty provisions to require that each Medicaid managed care organization remit the required amounts within five (5) business days.

(f) The payments received by the K-THRI providers shall be reconciled to actual utilization on a quarterly basis after a reasonable claims runout period. Future payments shall be withheld or increased in order to reconcile K-THRI hospitals to the amount of the enhanced payment.

(2)

(a) Twenty (20) percent of the amount calculated shall be determined by the department and withheld by the managed care organization.

(b) The amount withheld shall be subject to the qualifying hospital meeting the requirements established pursuant to an annual listing of twenty-one (21) performance quality measures established by the department. The quality measures shall be identical to the performance measures that academic hospitals meet under the separate hospital rate improvement program for academic hospitals.

(c) In order to be eligible for a quality performance payment, a K-THRI provider shall meet the performance target on at least seven (7) of the twenty-one (21) annual metrics listed pursuant to paragraph (b) of this section.

(d) If less than seven (7) of the twenty-one (21) metrics are met, there shall be no partial payment of the quality performance payment. For illustrative purposes only, a K-THRI provider meeting criteria for five (5) of the twenty-one (21) metrics would not receive any partial or pro-rated quality withhold payment.

(e) The initial performance targets shall be a two (2) percent improvement over the most recent program year's established targets.

(f) In order to qualify for evaluation pursuant to this subsection a measure shall have at least twenty (20) cases in the K-THRI hospital during the evaluation period. A measure that does not meet the twenty (20) case threshold shall be considered as a reporting-only measure and shall not be included in determining the value-based payments.

(3) Consistent with KRS 205.6412, in order to be eligible for the K-THRI portion of the HRIP program, a provider shall:

(a) Have a trauma center that has received a designation as of Level II, III, or IV;

(b) Be located in a county with a higher proportion of residents enrolled in Medicaid than the statewide median; and

(c) Have an agreement with a university affiliated graduate medical education program or a pediatric teaching hospital to host and provide clinical rotations at that facility to train providers.

(4) The methodology for determining a rate increase under this Section shall be applied to all qualifying hospitals equally as a uniform dollar increase.

Section 5. Upper Payment Limit. A supplemental payment referenced in this administrative regulation is not intended to cause aggregate Medicaid hospital reimbursement to exceed the aggregate statewide upper payment limit for privately-owned and non-state government-owned hospitals established in:

- (1) 42 C.F.R. 447.271;
- (2) 42 C.F.R. 447.272; or
- (3) Any other applicable statute or administrative regulation.

Section 6.~~Section 5.~~ Federal Approval and Federal Financial Participation. The department's coverage of services pursuant to this administrative regulation shall be contingent upon:

- (1) Receipt of federal financial participation for the coverage; and
- (2) Centers for Medicare and Medicaid Services' approval for the coverage.

LISA D. LEE, Commissioner

ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: February 16, 2025

FILED WITH LRC: February 24, 2025 at 8:05 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on May 27, 2025, 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 May 19, 2025, 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 May 31, 2025. 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

(1) Provide a brief summary of:

- (a) What this administrative regulation does: This administrative regulation establishes the reimbursement provisions and requirements for the Hospital Rate Improvement Program.
- (b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the Hospital Rate Improvement Program as required by state statute.
- (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the reimbursement provisions and requirements for the private hospital rate improvement program.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by implementing a private hospital rate improvement 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: The amendments create a new Section 4 of the

administrative regulation that establishes the Kentucky Trauma Hospital Rate Improvement (K-THRI). The new program is required by KRS 205.6411-.6412 and is required to have federal approval. If approval is received, the program will allow for an enhanced quarterly add-on payment to qualifying providers that will include inpatient, outpatient, and professional services. The K-THRI program will include a requirement to meet at least 7 of 21 quality metrics each year. 20% of the potential funds will be withheld and subject to meeting the quality metrics in order to receive payment.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide an additional type of hospital rate improvement program for hospitals that qualify pursuant to KRS 205.6411-.6412.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by establishing K-THRI as required by KRS 205.6411-.6412.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists with the effective administration of the statutes by establishing an additional hospital rate improvement program as required by KRS 205.6411-.6412.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: DMS anticipates that at least 9 hospitals will qualify for this expanded program.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulated entities will be able to participate in K-THRI.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Regulated entities will experience no new costs in complying with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Recipients will be able to participate in the expanded funds available under K-THRI.

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

(a) Initially: KRS 205.6412 requires that state general funds not be used to administer this program. The non-federal share of this state directed payment is estimated to be \$27,349,525. The total dollar amount is estimated to be \$136,747,624.

(b) On a continuing basis: KRS 205.6412 requires that state general funds not be used to administer this program. In the first year, the non-federal share of this state directed payment will be \$27,349,525. The total dollar amount is estimated to be \$136,747,624.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Sources of funding to be used for the implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act, and state matching funds of general and agency appropriations.

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

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

(9) TIERING: Is tiering applied? Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals 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 205.560, 205.8405, 205.520, 194A.030, 42 CFR.455

(2) Identify the promulgating agency and any other affected state

units, parts, or divisions: Department for Medicaid Services is the promulgating agency, other agencies have not been identified.

(a) Estimate the following for the first year:

Expenditures: KRS 205.6412 requires that state general funds not be used to administer this program. The non-federal share of this state directed payment is estimated to be \$27,349,525. The total dollar amount is estimated to be \$136,747,624.

Revenues: The Department does not anticipate revenues as a result of this administrative regulation.

Cost Savings: The Department does not anticipate cost savings as a result of this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? KRS 205.6412 requires that state general funds not be used to administer this program. The non-federal share of this state directed payment is estimated to be \$27,349,525. The total dollar amount is estimated to be \$136,747,624. DMS does not expect a change to revenues or cost savings in subsequent years.

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

(a) Estimate the following for the first year:

Expenditures: KRS 205.6412 requires that state general funds not be used to administer this program. The non-federal share of this state directed payment is estimated to be \$27,349,525. The total dollar amount is estimated to be \$136,747,624.

Revenues: The department does not anticipate revenues as a result of this administrative regulation.

Cost Savings: The department does not anticipate cost savings as a result of this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? DMS does not expect additional expenditures, revenues, or cost savings for local entities as a result of this regulation.

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities certain qualifying hospitals.

(a) Estimate the following for the first year:

Expenditures: KRS 205.6412 requires that state general funds not be used to administer this program. The non-federal share of this state directed payment is estimated to be \$27,349,525. The total dollar amount is estimated to be \$136,747,624.

Revenues: Qualifying hospitals will have the opportunity to receive average commercial rate reimbursement for additional services.

Cost Savings: The department does not anticipate cost savings as a result of this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The preprint will need to be resubmitted each year. As proposed, the non-federal share of this state directed payment is estimated to be \$27,349,525. The total dollar amount is estimated to be \$136,747,624.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation implements KRS 205.6411-.6412. KRS 205.6412 requires that state general funds not be used to administer this program. The non-federal share of this state directed payment is estimated to be \$27,349,525. The total dollar amount is estimated to be \$136,747,624.

(b) Methodology and resources used to determine the fiscal impact: The department worked with stakeholders and third party fiscal agents and experts to implement KRS 205.6411-.6412. The program establishes an additional rate enhancement program for certain qualifying hospitals.

(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 administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.

(b) The methodology and resources used to reach this conclusion: This administrative regulation will provide additional reimbursement for qualifying hospitals.

C.F.R. 438.6

(2) State compliance standards. KRS 194A.030(2) requires the Department for Medicaid Services to “serve as the single state agency in the commonwealth to administer Title XIX of the Federal Social Security Act.”. KRS 205.6412 requires DMS to establish an additional hospital rate improvement program.

(3) Minimum or uniform standards contained in the federal mandate. 42 C.F.R. 438.6 governs state directed payment arrangements utilizing managed care organizations.

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

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The amendment will not impose stricter than federal requirements.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate. 42

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](#).

**OFFICE OF THE GOVERNOR
Department of Veterans Affairs
Office of Kentucky Veterans Centers
(New Administrative Regulation)**

17 KAR 3:042. Eligibility requirements to state veterans' nursing homes.

RELATES TO: KRS 40.320, 40.325, 38 U.S.C 1745(a)

STATUTORY AUTHORITY: KRS 40.325(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 40.320 authorizes state veterans' nursing homes. KRS 40.325(2) authorizes the Department of Veterans' Affairs to promulgate any administrative regulations necessary to operate the homes in compliance with applicable state and federal statutes and regulations. This administrative regulation establishes the eligibility requirements and monthly charges for admission into state veterans' nursing homes.

Section 1. Eligibility Requirements.

(1) Except as provided in subsection (2) of this section, to be admitted to a Kentucky Veterans' Center, the person shall:

- (a) Be a veteran;
 - (b) Be disabled by reason of disease, wounds, age, or otherwise be in need of nursing care;
 - (c) Be a Kentucky resident as of the date of admission to a Kentucky Veterans' Center; and
 - (d) Have a military discharge that is not of a dishonorable nature.
- (2) A person shall not be eligible for admission if the person:
- (a) Has been diagnosed by a qualified health care professional as acutely mentally ill, as an acute alcoholic, as addicted to drugs, as continuously disruptive, or as dangerous to self or others;
 - (b) Is ventilator dependent; or
 - (c) Has needs that cannot be met by the Veterans' Center.

This is to certify that the Executive Director of the Office of Kentucky Veteran Centers and the Commissioner of the Kentucky Department of Veterans Affairs have reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 156.070(4).

MARK BOWMAN, Executive Director

WHITNEY ALLEN, Commissioner

LILY CHAN PATTESON, Executive Director & General Counsel

APPROVED BY AGENCY: March 5, 2025

FILED WITH LRC: March 6, 2025 at 2:40 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, May 22, 2025, at 11:00 a.m. at 1111 Louisville Rd., Suite B, 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 May 31, 2025. 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: Juan Renaud, Deputy Commissioner, Office of the Commissioner, or Mark Bowman, Executive Director, 1111 Louisville Rd., Suite B, Frankfort, Kentucky 40601; phone (502) 782.5721 or (502) 564.9203; fax (502) 564.9240; email Juan.Renaud@ky.gov or Mark.Bowman@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Juan Renaud or Mark Bowman

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation clarifies who is eligible for admission to the Commonwealth's Veteran Centers.

(b) The necessity of this administrative regulation: The administrative regulation ensures that veterans of the Commonwealth understand eligibility requirements when they seek admissions to one of the Commonwealth's Veteran Centers.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by acknowledging KDVA's responsibility to operate the Commonwealth's five Veteran Centers and determine which veterans are eligible for admission to those Centers.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by continuing to clarify the Commonwealth's Veteran Centers policies for admission.

(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: NA

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

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

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

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation include: (1) Most recent estimations suggest that there are 216,667 veterans residing in the Commonwealth; those whose personal and financial circumstances make them eligible for admission to one of the Commonwealth's Veteran Centers will be positively affected by this administrative regulation; and (2) The families of the veterans listed in (1).

(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: KDVA does not foresee a change in the quality of care to the veteran residents of the Commonwealth's Veteran Centers.

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

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Commonwealth's veterans and their families will have clearly defined admission requirements. There are no additional costs.

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

(a) Initially: There are no additional costs.

(b) On a continuing basis: There are no additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There are no additional costs.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: KDVA does not anticipate an increase in fees or funding.

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(9) TIERING: Is tiering applied? Tiering is not appropriate in assessments undertaken with this administrative regulation because the requirements will be equally applied to all individuals or entities subject to the regulation. Disparate treatment of persons or entities subject to this administrative regulation would undoubtedly raise Constitutional inquiries of KDVA's arbitrariness based on the Fourteenth Amendment to the U.S. Constitution (i.e., the Equal Protection or Due Process clauses).

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. The state statutes, federal statutes, or federal regulations that require or authorize the action taken by the administrative regulation include: KRS 40.325, which authorizes KDVA to promulgate regulations to operate the Commonwealth's five Veteran Centers and to seek private or federal funding for those Centers.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The affected state units, parts, or divisions include the Commonwealth's five Veteran Centers: (1) Carl M. Brashear Radcliff Veterans Center in Radcliff, Kentucky; (2) Paul E. Patton Eastern Kentucky Veterans Center in Hazard, Kentucky; (3) Joseph Eddie Ballard Western Kentucky Veterans Center in Hanson, Kentucky; (4) Thomson-Hood Veterans Center in Wilmore, Kentucky; and (5) Robert E. Spiller Bowling Green Veterans Center (expected to start in July 2025) in Bowling Green, Kentucky.

(a) Estimate the following for the first year:

Expenditures: There are no additional costs.

Revenues: There are no additional costs.

Cost Savings: There are no additional costs.

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

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

(a) Estimate the following for the first year:

Expenditures: NA

Revenues: NA

Cost Savings: NA

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

(4) Identify additional regulated entities not listed in questions (2) or (3): NA

(a) Estimate the following for the first year:

Expenditures: NA

Revenues: NA

Cost Savings: NA

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

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: There are no fiscal impacts.

(b) Methodology and resources used to determine the fiscal impact: There are no fiscal impacts because the administrative regulation defines eligibility for admissions only.

(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) NA

(b) The methodology and resources used to reach this conclusion: As there are no major economic impacts incurred with this regulation, no methodology was necessary.

KRS 319.032(2) authorizes the Board to promulgate administrative regulations to carry out KRS Chapter 319. This administrative regulation establishes per diem rates for board members.

Section 1. Each member of the board shall receive per diem compensation of \$100 for attending each board meeting or otherwise discharging official duties of the board.

HARWELL SMITH, Ph.D., Chair

APPROVED BY AGENCY: March 12, 2025

FILED WITH LRC: March 13, 2025 at 1:39 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 23, 2025 at 1:00 p.m., at the Kentucky Board of Examiners of Psychology, 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing 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 prior to the end of the hearing. 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 May 31, 2025. 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: Trish A. Provence, Administrative Board Specialist Senior, Kentucky Board of Examiners of Psychology, P.O. Box 1360, Frankfort KY 40601, phone (502) 782-8812, e-mail PSY@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Trish A. Provence

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the per diem rate of board member compensation.

(b) The necessity of this administrative regulation: This regulation is necessary to establish the per diem rate for performance of official duties of the board.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to the content of KRS 319.020(5), which establishes per diem and reimbursement rates for board members and KRS 319.032(2), which authorizes the Board to promulgate administrative regulations to carry out KRS Chapter 319.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in effective administration of KRS Chapter 319 by clearly delineating the compensation rate for official duties of the board.

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

(a) How the amendment will change this existing administrative regulation: 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 affects the Kentucky Board of Examiners of Psychology and current and future Board Members thereof.

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

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Regulated individuals will not have to take any actions as the administrative regulation conforms to current practice of the board.

BOARDS AND COMMISSIONS
Board of Examiners of Psychology
(New Administrative Regulation)

201 KAR 26:320. Per diem and reimbursement.

RELATES TO: KRS 319.005-319.140, 319.990
STATUTORY AUTHORITY: KRS 319.020(5), 319.032(2)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 319.020(5) establishes per diem and reimbursement rates for board members.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No new costs are associated with compliance.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Board and Board Members will have certainty regarding compensable activities for Board Members.

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

(a) Initially: No new costs are anticipated as the regulation conforms with current practices of the Board.

(b) On a continuing basis: No new costs are anticipated on a continuing basis as the regulation conforms with current practices of the Board.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This administrative regulation does not establish fees. Funding for KBEP comes from licensure and certification fees; the Board does not receive any general funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no anticipation of an increase in fees or needed funding to implement this administrative regulation, as the Board is currently paying per diem for board members.

(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 administrative regulation.

(9) TIERING: Is tiering applied? No. All regulated entities are subject to the same requirements.

The Board currently pays per diems based upon the performance of official duties. This regulation codifies existing practice.

(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 impact on the entities identified.

(b) The methodology and resources used to reach this conclusion: The Board is currently paying per diem to Board members and this regulation is not expected to have any effect on the amounts paid.

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 319.020(5) establishes per diem and reimbursement rates for board members. KRS 319.032(2) authorizes the Board to promulgate administrative regulations to carry out KRS Chapter 319.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Board of Examiners of Psychology is the promulgating agency. No other entities are affected.

(a) Estimate the following for the first year:

Expenditures: The Board is currently paying per diems for Board members. No new expenditures are expected.

Revenues: The regulation does not generate revenue.

Cost Savings: There are no cost savings associated with this regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Per diem expenditures for official duties are expected to remain constant over time and not differ substantially from what is currently expended.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): No local entities will be affected.

(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? N/A.

(4) Identify additional regulated entities not listed in questions (2) or (3): There are no additional regulated 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? N/A.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This regulation should have no fiscal impact on the agency as the Board is currently paying per diem to Board members.

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

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
 Minutes of **December 13, 2022**

Call to Order and Roll Call

The March meeting of the Administrative Regulation Review Subcommittee was held on Monday, March 10, 2025, 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 and Mike Wilson; and Representatives Randy Bridges and Mary Lou Marzian.

LRC Staff: Stacy Auterson, Laura Begin, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, Anna Latek, Callie Lewis, and Carrie Nichols.

Guests: Dawn Baase, Wes Jones, Gordon Slone, Department for Natural Resources; Kathryn Adams-Cornett, Marni Gibson, Department of Financial Institutions; Nathan Goodrich, Kentucky Public Pensions Authority (KPPA); Dr. John Park, DVM, Michelle Shane, Board of Veterinary Examiners; Sara Janes, Ciera Sherwood, M.S., Board of Speech-Language Pathology and Audiology; Dr. Andrea Brooks, LPCC-S, Board of Licensed Professional Counselors; Steven Fields, Jenny Gilbert, Department of Fish and Wildlife Resources; Jesse Rowe, Department of Vehicle Regulation; Todd Allen, Matthew Courtney, Department of Education; Jason Hernandez, Robin Maples, Chuck Stribling, Department of Workplace Standards; Ashleigh Bailey, Jamie Eads, Kentucky Horse Racing and Gaming Corporation; Andrea Day, Dr. Leslie Hoffmann, Jay Klein, Jonathan Scott, Cabinet for Health and Family Services; and John Cooper, Timothy Schenk, Kentucky Bankers Association.

The subcommittee determined that the following administrative regulations were deficient pursuant to KRS 13A.030(2)(a) and (3):

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Mine Permits: Bond and Insurance Requirements

[405 KAR 010:001](#). Definitions for 405 KAR Chapter 10. Dawn Baase, environmental scientist consultant; Wes Jones, director; and Gordon Slone, commissioner, represented the department.

In response to questions by Co-Chair West, Mr. Slone stated that, beginning in 2012, these administrative regulations required the approval of the US Secretary of the Interior. In 2018, Kentucky had been denied this approval based on the previous version of these requirements. The definition for “long-term treatment” applied to surface coal mining results, especially acid mine drainage, that created the need for persistent, on-going reclamation. In order to address these long-term treatment needs, the division had required a bond to cover treatment costs for approximately twenty (20) years. The US Secretary of the Interior determined that these bond provisions were insufficient, resulting, in part, in the program disapproval. For program approval, the US Secretary of the Interior required a bond sufficient to cover treatment costs for seventy-five (75), rather than twenty (20) years. These administrative regulations were being amended to effectuate that change in bonding requirements. Kentucky had approximately 100 active coal mines, of which ten (10) to fifteen (15) would be required to post bond under these new requirements. Mr. Jones stated that there were eighty-eight (88) long-term treatment bonds that would be required to comply with these requirements. Of those, only a small number were active coal mines. Individual rate cost increases to these active coal mines would vary significantly and total in aggregate approximately \$100 million statewide. Ms. Baase stated that some bond costs had decreased after recalculation.

In response to questions by Co-Chair Lewis, Mr. Slone stated that the division was aware of Senate Bill 89 from this Regular Session of the General Assembly, which would have the effect of

repealing these administrative regulations, leading to continued disapproval of this program by the US Secretary of the Interior. Mr. Jones stated that the division had deferred these administrative regulations pending the resolution of that legislation. Mr. Slone and Mr. Jones stated that the division would comply with the provisions of Senate Bill 89 if they became effective.

In response to questions by Co-Chair West, Mr. Slone stated that there were three (3) to five (5) surety bonding agencies currently issuing these types of bonds. Mr. Jones stated that mining operations were reporting that surety bond agencies required a large amount of liquid capital as collateral for issuing these bonds. It was possible that the new federal administration would have a different opinion than the previous administration pertaining to these bonding requirements.

In response to a question by Representative Bridges, Mr. Slone stated that he was unsure of the amount that the severance tax levied on coal companies in 2023. Mr. Slone and Mr. Jones stated that it would be difficult to determine how these administrative regulations would affect competition with other states because other coal-producing states had very different regulatory frameworks.

In response to questions by Co-Chair West, Mr. Jones stated that all states operated differently pertaining to coal mining reclamation. Mr. Slone stated that some states had third-party trust programs to offset costs. Ms. Baase stated that other states probably did not use the term, “long-term treatment.” Other states used “acid mine drainage” or “water pollution discharges.” Bond requirements were necessary regardless of the term used. Mr. Slone stated that, while it was possible that new requirements could cause some coal companies financial strain, permittees were able to appeal fees and tax rates through the Office of Administrative Hearings.

In response to Representative Bridges, Mr. Slone stated that the division had not received financial penalties as a result of the disapproval; however, it was possible that ongoing disapproval might result in federal authorities assuming control of Kentucky’s program and developing independent bonding requirements.

In response to a question by Co-Chair West, Mr. Jones stated that he would follow up with the subcommittee and submit specific bonding calculations.

Co-Chair West stated that these administrative regulations should be found deficient without delay because the requirements in these proposed regulations would have a significant negative impact on the state’s coal industry, including business closures, at a time when energy sources were of an emergent necessity. Senate Bill 89 clearly expressed the General Assembly’s will in this matter. Additionally, it was possible that the new federal administration would not continue to disapprove Kentucky’s program. Co-Chair West made a motion, seconded by Co-Chair Lewis, to find these administrative regulations deficient. A roll-call vote was conducted. With five (5) votes to find 401 KAR 010:001 and 010:015 deficient, these administrative regulations were found deficient by this subcommittee.

Compiler’s Note: Pursuant to KRS 13A.335(3)(a), a new Section 2 was added to this administrative regulation to reflect the finding of deficiency.

[405 KAR 010:015](#). General bonding provisions.

Compiler’s Note: Pursuant to KRS 13A.335(3)(a), a new Section 13 was added to this administrative regulation to reflect the finding of deficiency.

PUBLIC PROTECTION CABINET: Department of Financial Institutions: Credit Unions

[808 KAR 003:050](#). Conduct of credit unions. Kathryn Adams-Cornett, general counsel, and Marni Gibson, commissioner, represented the department. John Cooper, government affairs consultant, and Timothy Schenk, general counsel, Kentucky Bankers Association, appeared in opposition to this administrative regulation.

In response to questions by Co-Chair West, Ms. Gibson stated

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that this administrative regulation proposed to add a low-income designation for some credit unions. The National Credit Union Administration (NCUA) allowed low-income designation credit unions and established parameters under which low-income designation credit unions could operate. Low-income designation credit unions operated in over thirty (30) states. This proposed amendment would allow exceptions to the statutory cap for member business lending in order to allow credit unions to increase business lending programs to underserved members, allow the acceptance of supplemental capital from outside sources to augment retained earnings, and accept non-member deposits.

In response to questions by Co-Chair West, Mr. Schenk stated that in order to join a credit union, a depositor was required to be a part of a specific community, agency, or association. A depositor was considered a shareholder in that credit union. The Kentucky Bankers Association was concerned about statutory conflicts and expansion related to the fees connected with membership in credit unions.

In response to questions by Co-Chair Lewis, Mr. Cooper stated that the Kentucky Bankers Association was unable to reach a compromise on this matter unless there were amendments to the authorizing statutes. Mr. Cooper and Mr. Schenk stated that the Kentucky Bankers Association would continue to work with the department to reassess the future of these proposed changes during the interim period.

In response to questions by Co-Chair West, Ms. Gibson stated that every credit union's fee structure was different, but member fees were generally nominal. The low-income designation would leave existing fields of membership intact, and non-member deposits would still need to fall within a credit union's field of membership in order to be accepted (subject to limitations including lending, paying shares, or paying interest to members within the guidelines set by the NCUA).

In response to a question by Senator Wilson, Ms. Gibson stated that non-members could only utilize IRA or other investment programs at a credit union if the credit union was categorized as a low-income designation. A member of a low-income designation credit union was not required to also be low income.

Co-Chair Lewis stated that provisions in this administrative regulation seemed to conflict with the authorizing statute. In response, Ms. Adams-Cornett provided an additional statutory citation to support the agency's position. Co-Chair Lewis stated that issues of statutory authority were not the subcommittee's only grounds for a finding of deficiency. This subcommittee had authority to find an administrative regulation deficient if the requirements seemed deficient for any reason. Co-Chair Lewis made a motion, seconded by Senator Raque Adams, to find this administrative regulation deficient. A roll-call vote was conducted. With five (5) votes for a finding of deficiency and one (1) vote opposed to a finding of deficiency, this administrative regulation was found deficient by this subcommittee.

Compiler's Note: Pursuant to KRS 13A.335(3)(a), a new Section 10 was added to this administrative regulation to reflect the finding of deficiency.

Administrative Regulations Reviewed by this Subcommittee:

KENTUCKY PUBLIC PENSIONS AUTHORITY (KPPA): General Rules

[105 KAR 001:451](#). Quasi-governmental employer reports on independent contractors and leased employees. Nathan Goodrich, staff attorney supervisor, represented the authority.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 5 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

BOARDS AND COMMISSIONS: Board of Veterinary Examiners

[201 KAR 016:510](#). Fees for veterinarians. Dr. John Park, DVM, chair, and Michelle Shane, executive director, represented the board.

[201 KAR 016:513](#). Fees for Allied Animal Health Professional (AAHP) permits.

[201 KAR 016:515](#). Fees for veterinary facility registrations.

[201 KAR 016:517](#). Fees for AAHP facility registrations.

[201 KAR 016:730](#). Approved Allied Animal Health Professional (AAHP) programs; education requirements.

[201 KAR 016:731](#). Examination requirements for AAHP providers.

[201 KAR 016:732](#). Application requirements for AAHP permits - reinstatement.

[201 KAR 016:735](#). Renewal requirements for AAHP permits – renewal notice – expiration.

[201 KAR 016:737](#). Responsibilities for AAHP providers; limitations on practice.

[201 KAR 016:762](#). Application requirements for Veterinary facility registration; veterinarian managers; registered responsible parties.

[201 KAR 016:765](#). Veterinary facilities – renewal notice – requirements for renewal and reinstatement.

A motion was made and seconded to approve the following amendments: to amend Section 6 and incorporated material to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

[201 KAR 016:767](#). Registered veterinary facilities – duties of registered responsible parties and veterinarian managers.

A motion was made and seconded to approve the following amendments: to amend Section 5 and incorporated material to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

[201 KAR 016:772](#). Application requirements for AAHP facility registration; AAHP managers; registered responsible parties.

[201 KAR 016:775](#). AAHP facilities – renewal notice – requirements for renewal and reinstatement.

A motion was made and seconded to approve the following amendments: to amend Section 5 and incorporated material to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

[201 KAR 016:777](#). Registered AAHP facilities - duties of registered responsible parties and AAHP managers.

A motion was made and seconded to approve the following amendments: to amend Section 7 and incorporated material to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Speech-Language Pathology and Audiology

[201 KAR 017:120](#). Audiology and Speech-Language Pathology Interstate Compact. Sara Janes, staff attorney, and Ciera Sherwood, M.S., board member, represented the board.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Board of Licensed Professional Counselors

[201 KAR 036:050](#). Complaint management process. Dr.

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Andrea Brooks, LPCC-S, chair, Sara Janes, board counsel, represented the board.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 3, 5, 6, 8, and 9 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

[201 KAR 036:100E](#). Counseling compact.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 2 to add the newly adopted Rulemaking on Fees. Without objection, and with agreement of the agency, the amendments were approved.

[201 KAR 036:100](#). Counseling compact.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A; and (2) to amend Section 2 to add the newly adopted Rulemaking on Fees. 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, Jenny Gilbert, legislative liaison, represented the department.

In response to a question by Co-Chair Lewis, Ms. Gilbert stated that the elk population was strong, and the agency was monitoring the bull versus cow population. Changes to the baiting requirements would help make the hunting fairer and would improve population tracking programs.

A motion was made and seconded to approve the following amendments: to amend Sections 8 and 16 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

[301 KAR 002:172](#). Deer hunting seasons, zones, and requirements.

In response to a question by Co-Chair Lewis, Ms. Gilbert stated that the basis for the expansion in hunting dates was to allow youth a better opportunity to hunt and an opportunity for more chances for success for young hunters, as well as a means to assist in controlling deer populations.

[301 KAR 002:300](#). Black bear seasons and requirements.

Licensing

[301 KAR 005:022](#). License, tag, and permit fees.

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.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Driver's License

[601 KAR 012:120E](#). Testing applicants for initial or renewal instruction permit, initial or renewal operator's license, or reinstatement. Jesse Rowe, assistant general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 5 to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION AND LABOR CABINET: Department of Education

[704 KAR 003:315](#). Certification of nonpublic schools. Matthew Courtney, policy advisor, and Todd Allen, deputy commissioner and general counsel, represented the department.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2 through 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Workplace Standards: Occupational Safety and Health

[803 KAR 002:300](#). General. Jason Hernandez, general counsel; Robin Maples, occupational safety and health specialist; and Chuck Stribling, deputy commissioner, represented the department.

[803 KAR 002:320](#). Toxic and hazardous substances.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO paragraph and Sections 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

KENTUCKY HORSE RACING AND GAMING CORPORATION: General

[810 KAR 002:070](#). Thoroughbred and other flat racing associations. Ashleigh Bailey, chief legal officer, and Jamie Eads, president and CEO, represented the corporation.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO, STATUTORY AUTHORITY, and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 3 through 6, 8, 10, 13 through 16, 20, 21, 23, 25 through 32, and 34 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Flat and Steeplechase Racing

[810 KAR 004:030](#). Entries, subscriptions, and declarations.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2 through 4, 6, 11 through 13, 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.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services

[907 KAR 001:595E](#). Model Waiver II service coverage and reimbursement policies and requirements. Dr. Leslie Hoffmann, deputy commissioner, and Jonathan Scott, regulation coordinator, represented the department.

Payments and Services

[907 KAR 003:100E](#). Reimbursement for acquired brain injury waiver services.

Certified Provider Requirements

[907 KAR 007:015E](#). Reimbursement for home and community-based waiver services version 2.

Supports for Community Living Waiver

[907 KAR 012:020E](#). Reimbursement for New Support for Community Living Waiver Services.

Eligibility

[907 KAR 020:005E](#). Medicaid technical eligibility requirements not related to a modified adjusted gross income standard or former foster care individuals.

Office of Human Resource Management: Administration

[920 KAR 001:090](#). Client Civil Rights complaint process. Jay Klein, assistant director, represented the office.

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Department for Community Based Services: Daycare

[922 KAR 002:020](#). Child Care Assistance Program (CCAP) improper payments, claims, and penalties. Andrea Day, division director, represented the department.

In response to questions by Co-Chair West, Ms. Day stated that claims \$10,000 and above were rare, but the existing administrative regulation did not address claims of that size. The department worked with the Office of the Inspector General to develop these changes. The department worked directly with providers prior to an escalation of a case (including payment arrangements), but the proposed revisions were aimed at cases in which mediation had failed to result in a solution. These cases consisted primarily of fraud.

A motion was made and seconded to approve the following amendments: to amend Sections 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.

The following administrative regulations were deferred or removed from the March 10, 2025, subcommittee agenda:

BOARDS AND COMMISSIONS: Board of Pharmacy

[201 KAR 002:416E](#). Pharmacy annual reporting of cost dispensing data.

Board of Optometric Examiners

[201 KAR 005:010](#). Application for licensure; endorsement.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Mine Permits: Bond and Insurance Requirements

[405 KAR 010:001](#). Definitions for 405 KAR Chapter 10.

[405 KAR 010:015](#). General bonding provisions.

TRANSPORTATION CABINET: Department of Vehicle Regulation

[601 KAR 012:120](#). Testing applicants for initial or renewal instruction permit, initial or renewal operator's license, or reinstatement.

PUBLIC PROTECTION CABINET: Department of Insurance: Agents, Consultants, Solicitors, and Adjusters

[806 KAR 009:360](#). Pharmacy Benefit Manager License.

Department of Financial Institutions: Credit Unions

[808 KAR 003:050](#). Conduct of credit unions.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Medicaid Services

[907 KAR 001:835E](#). Michelle P. waiver services and reimbursement.

Payments and Services

[907 KAR 003:210E](#). Acquired brain injury long-term care waiver services and reimbursement.

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

[908 KAR 001:410](#). Recovery housing.

The subcommittee adjourned at 2:20 p.m. The next meeting of this subcommittee was tentatively scheduled for April 8, 2025, 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.

SENATE STANDING COMMITTEE ON EDUCATION
Meeting of February 20, 2025

The Senate Standing Committee on Education met on February 20, 2025 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on January 2, 2025 and February 5, 2025, pursuant to KRS 13A.290(6):

January 2, 2025
013 KAR 6:020
013 KAR 6:010

February 5, 2025
704 KAR 3:365
013 KAR 2:130
013 KAR 2:120

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the February 20, 2025 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

SENATE STANDING COMMITTEE ON HEALTH SERVICES
Meeting of February 26, 2025

The following administrative regulations were available for consideration and placed on the agenda of the Senate Standing Committee on Health Services for its meeting of February 26, 2025, having been referred to the Committee on December 4, 2024, pursuant to KRS 13A.290(6):

201 KAR 002:480 Proposed

Committee activity in regards to review of the above-referenced administrative regulations is reflected in the minutes of the February 11, 2025 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

SENATE STANDING COMMITTEE ON TRANSPORTATION
Meeting of February 26, 2025

The Sente Transportation met on 2/26/25 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on 12/4/2024,

pursuant to KRS 13A.290(6):

600 KAR 004:010

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

none

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

none

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the 2/26/25 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

HOUSE STANDING COMMITTEE ON PRIMARY AND SECONDARY EDUCATION
Meeting of March 5, 2025

The House Committee on Primary and Secondary Education met on March 5, 2025 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on February 5, 2025, pursuant to KRS 13A.290(6):

704 KAR 3:365

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the March 5, 2025 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

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**HOUSE STANDING COMMITTEE ON FAMILIES AND CHILDREN
Meeting of March 6, 2025**

The following administrative regulations were available for consideration and placed on the agenda of the House Standing Committee on Families and Children for its meeting on March 6, 2025, having been referred to the Committee on March 5, 2025, pursuant to KRS 13A.290(6):

921 KAR 001:400

Committee activity in regards to review of the above-referenced administrative regulations is reflected in the minutes of the March 6, 2025 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**SENATE STANDING COMMITTEE ON FAMILIES AND CHILDREN
Meeting of March 11, 2025**

The following administrative regulations were available for consideration and placed on the agenda of the Senate Standing Committee on Families and Children for its meeting on March 11, 2025, having been referred to the Committee on March 5, 2025, pursuant to KRS 13A.290(6):

921 KAR 001:400

Committee activity in regards to review of the above-referenced administrative regulations is reflected in the minutes of the March 11, 2025 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**SENATE STANDING COMMITTEE ON BANKING AND INSURANCE
Meeting of March 11, 2025**

The Senate Standing Committee on Banking and Insurance met on March 11, 2025 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on March 5, 2025, pursuant to KRS 13A.290(6):

808 KAR 009:010

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the March 11, 2025 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**HOUSE STANDING COMMITTEE ON TRANSPORTATION
Meeting of March 11, 2025**

The House Transportation Committee met on March 11, 2025 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on March 5, 2025, pursuant to KRS 13A.290(6):

502 KAR 010:120

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

none

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

none

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the March 11, 2025 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

**SENATE STANDING COMMITTEE ON TRANSPORTATION
Meeting of March 12, 2025**

The Senate Transportation Committee met on March 12, 2025 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on March 5, 2025, pursuant to KRS 13A.290(6):

502 KAR 010:120

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

none

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

none

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

none

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the March 12, 2025 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

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**HOUSE STANDING COMMITTEE ON BANKING AND
INSURANCE
Meeting of March 12, 2025**

The House Standing Committee on Banking and Insurance met on March 12, 2025 and a quorum was present. The following administrative regulations were available for consideration having been referred to the Committee on March 5, 2025, pursuant to KRS 13A.290(6):

808 KAR 009:010

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(8) and 13A.030(2):

None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the March 12, 2025 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

CUMULATIVE SUPPLEMENT

Unless otherwise noted, information contained in these indexes relates only to administrative regulations printed in this, the 51st year of the *Administrative Register of Kentucky*, from July 2024 through June 2025.

Locator Index - Effective Dates

J – 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.

NOTE: Regulations listed with a “50 Ky.R.” notation are regulations that were originally published in the previous year’s issues of the *Administrative Register of Kentucky* but had not yet gone into effect when the last *Register* year ended.

KRS Index

J – 12

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

J – 26

A list of administrative regulations for which certification letters have been filed pursuant to KRS 13A.3104 during this *Register* year.

Technical Amendment Index

J – 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

J – 30

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 51. The " <i>Register</i> 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 <i>Register</i> 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		Am Comments	2002	3-5-2024
**	Withdrawn, deferred more than twelve months (KRS 13A.300(2)(e) and 13A.315(1)(d))		Replaced	51 Ky.R. 105	6-18-2024
***	Withdrawn before being printed in Register		Resubmitted	1238	11-26-2024
IJC	Interim Joint Committee		Am Comments	1764	3-10-2025
(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.		202 KAR 002:020E	51 Ky.R. 471	8-6-2024
			Replaced	538	3-4-2025
			202 KAR 007:201E	51 Ky.R. 622	9-3-2024
			Replaced	748	2-5-2025
			202 KAR 007:301E	51 Ky.R. 626	9-3-2024
			Replaced	752	2-5-2025
			202 KAR 007:330E	51 Ky.R. 630	9-3-2024
			Replaced	756	2-5-2025
			202 KAR 007:401E	51 Ky.R. 634	9-3-2024
			Replaced	1433	2-13-2025
			202 KAR 007:560E	51 Ky.R. 640	9-3-2024
			Replaced	1277	2-5-2025
			501 KAR 006:330E	50 Ky.R. 2356	5-15-2024
			Expired; Ordinary SOC not filed by deadline		9-13-2024
			501 KAR 006:430E	50 Ky.R. 2358	5-15-2024
			Replaced	884	2-4-2025
			502 KAR 010:120E	51 Ky.R. 1067	10-30-2024
			Replaced	1653	3-12-2025
			601 KAR 012:120E	51 Ky.R. 1240	12-6-2024
			Am Comments	1764	3-10-2025
			803 KAR 002:110E	51 Ky.R. 847	9-30-2024
			803 KAR 002:320E	51 Ky.R. 1244	11-19-2024
			803 KAR 025:089E	50 Ky.R. 2360	5-14-2024
			Replaced	2478	12-3-2024
			807 KAR 005:015E	51 Ky.R. 14	5-31-2024
			Am Comments	474	8-15-2024
			As Amended	646	9-10-2024
			Expired		2-25-2025
			Resubmitted	1751	2-25-2025
			902 KAR 045:001E	50 Ky.R. 2362	4-24-2024
			Replaced	51 Ky.R. 1118	11-18-2024
			902 KAR 045:012E	50 Ky.R. 2364	4-24-2024
			Replaced	51 Ky.R. 1119	2-5-2025
			902 KAR 045:021E	50 Ky.R. 2368	4-24-2024
			Replaced	51 Ky.R. 1121	11-18-2024
			902 KAR 045:031E	50 Ky.R. 2373	4-24-2024
			Replaced	51 Ky.R. 912	11-18-2024
			907 KAR 001:595E	51 Ky.R. 1361	12-23-2024
			907 KAR 001:835E	51 Ky.R. 1365	12-23-2024
			907 KAR 003:100E	51 Ky.R. 1379	12-23-2024
			907 KAR 003:210E	51 Ky.R. 1382	12-23-2024
			907 KAR 007:015E	51 Ky.R. 1401	12-23-2024
			907 KAR 010:840E	51 Ky.R. 1759	2-24-2025
			907 KAR 012:020E	51 Ky.R. 1406	12-23-2024
			907 KAR 020:005E	51 Ky.R. 1410	12-23-2024
			915 KAR 001:010E	50 Ky.R. 2378	4-18-2024
			Am Comments	51 Ky.R. 226	7-15-2024
			Replaced	51 Ky.R. 922	11-18-2024
			915 KAR 001:020E	50 Ky.R. 2383	4-18-2024
			Am Comments	51 Ky.R. 230	7-15-2024
			Replaced	51 Ky.R. 925	11-18-2024
			922 KAR 001:350E	51 Ky.R. 207	7-1-2024
			Replaced	51 Ky.R. 932	11-18-2024
			922 KAR 001:360E	51 Ky.R. 1636	1-22-2025
			922 KAR 002:090E	51 Ky.R. 22	5-20-2024
			Replaced	149	2-13-2025
013 KAR 002:120E	50 Ky.R. 2349	4-30-2024			
Expired		1-25-2025			
013 KAR 002:130E	50 Ky.R. 2352	4-30-2024			
Expired		1-25-2025			
016 KAR 001:030E	51 Ky.R. 191	7-15-2024			
Replaced	329	11-8-2024			
016 KAR 002:030E	51 Ky.R. 195	7-15-2024			
Replaced	333	11-8-2024			
016 KAR 009:010E	51 Ky.R. 197	7-8-2024			
As Amended	645	9-10-2024			
Replaced	851	11-8-2024			
016 KAR 009:030E	51 Ky.R. 10	5-31-2024			
016 KAR 009:080E	51 Ky.R. 200	7-8-2024			
Replaced	851	11-8-2024			
016 KAR 009:100E	51 Ky.R. 204	7-8-2024			
Replaced	853	11-8-2024			
031 KAR 002:010E	50 Ky.R. 2147	4-15-2024			
As Amended	51 Ky.R. 218	7-9-2024			
Replaced	239	11-5-2024			
031 KAR 003:041E	50 Ky.R. 2150	4-15-2024			
As Amended	51 Ky.R. 219	7-9-2024			
Replaced	240	11-5-2024			
031 KAR 004:031E	50 Ky.R. 2152	4-15-2024			
Am Comments	51 Ky.R. 220	7-9-2024			
As Amended	645	9-10-2024			
Replaced	657	12-31-2024			
031 KAR 004:220E	50 Ky.R. 2154	4-15-2024			
As Amended	51 Ky.R. 221	7-9-2024			
Replaced	220	11-5-2024			
031 KAR 005:026E	50 Ky.R. 2158	4-15-2024			
As Amended	51 Ky.R. 223	7-9-2024			
Replaced	492	8-22-2024			
031 KAR 005:040E	50 Ky.R. 2161	4-15-2024			
As Amended	51 Ky.R. 224	7-9-2024			
Replaced	245	12-31-2024			
101 KAR 002:210E	51 Ky.R. 620	9-13-2024			
200 KAR 005:021E	51 Ky.R. 12	5-16-2024			
As Amended	474	8-13-2024			
Replaced	658	12-31-2024			
201 KAR 002:416E	51 Ky.R. 1359	12-17-2024			
201 KAR 017:120E	51 Ky.R. 1237	11-26-2024			
As Amended	1643	2-10-2025			
201 KAR 028:240E	50 Ky.R. 2354	5-14-2024			
As Amended	51 Ky.R. 225	7-9-2024			
Replaced	499	9-25-2024			
201 KAR 036:100E	50 Ky.R. 1649	9-14-2024			

LOCATOR INDEX - EFFECTIVE DATES

Regulation Number	Ky.R. & Page No.	Effective Date	Regulation Number	Ky.R. & Page No.	Effective Date
ORDINARY ADMINISTRATIVE REGULATIONS			As Amended	1644	
011 KAR 004:080			030 KAR 007:011	50 Ky.R. 2110	10-1-2024
Amended	50 Ky.R. 2238		031 KAR 002:010		
As Amended	51 Ky.R. 483	9-17-2024	Amended	50 Ky.R. 2247	
011 KAR 015:090			As Amended	51 Ky.R. 239	11-5-2024
Amended	50 Ky.R. 2240		031 KAR 003:041	50 Ky.R. 2319	
As Amended	51 Ky.R. 483	9-17-2024	As Amended	51 Ky.R. 240	11-5-2024
011 KAR 015:110			031 KAR 004:031	50 Ky.R. 2321	
Amended	50 Ky.R. 2245		As Amended	51 Ky.R. 241	
As Amended	51 Ky.R. 488	9-17-2024	As Amended	657	12-31-2024
013 KAR 002:120	50 Ky.R. 2459		031 KAR 004:220	50 Ky.R. 2323	
As Amended	51 Ky.R. 1416	2-25-2025	As Amended	51 Ky.R. 220	11-5-2024
013 KAR 002:130	50 Ky.R. 2461		031 KAR 004:230	51 Ky.R. 818	
As Amended	51 Ky.R. 1417	2-25-2025	As Amended	1253	
013 KAR 006:010	51 Ky.R. 596		031 KAR 005:026		
As Amended	1252	2-25-2025	Amended	50 Ky.R. 2250	
013 KAR 006:020	51 Ky.R. 598		As Amended	51 Ky.R. 244	
As Amended	1253	2-25-2025	As Amended IJC	492	8-22-2024
016 KAR 001:030			031 KAR 005:040	50 Ky.R. 2326	
Amended	51 Ky.R. 329	11-8-2024	As Amended	51 Ky.R. 245	12-31-2024
016 KAR 002:030			040 KAR 005:010		
Amended	51 Ky.R. 333	11-8-2024	Amended	51 Ky.R. 1187	
016 KAR 002:110	50 Ky.R. 2464		As Amended	1644	
As Amended	51 Ky.R. 489	9-17-2024	040 KAR 009:010		
016 KAR 002:140	50 Ky.R. 2466		Amended	51 Ky.R. 1696	
As Amended	51 Ky.R. 490		040 KAR 009:020		
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SYMBOL KEY:

- * Statement of Consideration not filed by deadline
- ** Withdrawn, deferred more than twelve months (KRS)

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319C.010	907 KAR 015:005		201 KAR 016:614
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	201 KAR 005:010	321.211	201 KAR 016:590
320.250	201 KAR 005:005		201 KAR 016:612
	201 KAR 005:010		201 KAR 016:510
320.270	201 KAR 005:005	321.221	201 KAR 016:590
	201 KAR 005:010		201 KAR 016:612
320.280	201 KAR 005:090		201 KAR 016:510
	201 KAR 005:005	321.235	201 KAR 016:562
320.310	201 KAR 005:005		201 KAR 016:590
320.331	201 KAR 005:005		201 KAR 016:612
321.175	201 KAR 016:513		201 KAR 016:510
	201 KAR 016:730		201 KAR 016:513
	201 KAR 016:731		201 KAR 016:515
	201 KAR 016:732		201 KAR 016:517
	201 KAR 016:735		201 KAR 016:730
	201 KAR 016:737		201 KAR 016:731
	201 KAR 016:772		201 KAR 016:732
	201 KAR 016:775		201 KAR 016:735
	201 KAR 016:762		201 KAR 016:737
321.181	201 KAR 016:562		201 KAR 016:765
	902 KAR 002:020		201 KAR 016:767
	201 KAR 016:513		201 KAR 016:772
	201 KAR 016:730		201 KAR 016:775
	201 KAR 016:731		201 KAR 016:777
	201 KAR 016:732	321.236	201 KAR 016:612
	201 KAR 016:735		201 KAR 016:762
	201 KAR 016:737		201 KAR 016:767
	201 KAR 016:772		201 KAR 016:777
	201 KAR 016:775		201 KAR 016:614
	201 KAR 016:520	321.320	201 KAR 016:510
	201 KAR 016:590		201 KAR 016:515
	201 KAR 016:762		201 KAR 016:517
	201 KAR 016:767	321.351	201 KAR 016:562
	201 KAR 016:777	321.352	201 KAR 016:612
321.187	201 KAR 016:612		201 KAR 016:614
	201 KAR 016:737	321.441	201 KAR 016:520
321.189	201 KAR 016:732		201 KAR 016:530
	201 KAR 016:762		201 KAR 016:590
	201 KAR 016:765		201 KAR 016:612
	201 KAR 016:772		201 KAR 016:614
	201 KAR 016:775	321.442	201 KAR 016:590
321.190	201 KAR 016:590		201 KAR 016:612
	201 KAR 016:612	321.443	201 KAR 016:612
	201 KAR 016:510	321.990	201 KAR 016:612
	201 KAR 016:614		201 KAR 016:614
321.193	201 KAR 016:520	322.010	201 KAR 018:010
	201 KAR 016:530		201 KAR 018:030
	201 KAR 016:510	322.040	201 KAR 018:010
321.200	201 KAR 016:732		201 KAR 018:030
	201 KAR 016:737		401 KAR 048:320
321.201	201 KAR 016:510	322.040-322.050	201 KAR 018:115
	201 KAR 016:614	322.045	201 KAR 018:010
	201 KAR 016:530		201 KAR 018:030
321.203	201 KAR 016:612	322.120	201 KAR 018:010
	201 KAR 016:515		201 KAR 018:030
	201 KAR 016:517		201 KAR 018:115
	201 KAR 016:737	322.160	201 KAR 018:115
	201 KAR 016:762	322.180	201 KAR 018:192
	201 KAR 016:765		201 KAR 018:196

KRS SECTION	REGULATION	KRS SECTION	REGULATION
322.190	201 KAR 018:115	344.600-344.680	104 KAR 001:080
	201 KAR 018:192	344.990	104 KAR 001:050
	201 KAR 018:196	Chapter 350	405 KAR 010:001
322.220	201 KAR 018:115	350.020	405 KAR 010:015
322.290	201 KAR 018:192	350.060	405 KAR 010:015
	201 KAR 018:196	350.062	405 KAR 010:015
327.010	907 KAR 001:835	350.064	405 KAR 010:015
	907 KAR 003:210	350.093	405 KAR 010:015
333.020	902 KAR 002:020	350.095	405 KAR 010:015
333.090	907 KAR 001:028	350.100	405 KAR 010:015
333.130	902 KAR 002:020	350.151	405 KAR 010:015
334.010	907 KAR 001:039	350.465	405 KAR 010:015
334.040	907 KAR 001:039	350.503	405 KAR 010:015
334.200	907 KAR 001:039	367.828	201 KAR 002:416
334A.020	907 KAR 001:835	369.101-369.120	907 KAR 001:044
	907 KAR 003:210		907 KAR 001:835
	907 KAR 001:039	Chapter 387	915 KAR 002:010
334A.030	016 KAR 002:120	402.050	501 KAR 006:410
334A.033	016 KAR 002:120	402.080	501 KAR 006:410
334A.035	016 KAR 002:120	403.160	921 KAR 001:400
334A.050	016 KAR 002:120	403.190	102 KAR 001:320
334A.060	016 KAR 002:120		102 KAR 001:380
334A.188	201 KAR 017:120	403.210-403.240	921 KAR 001:400
335.080	907 KAR 015:005	403.352	922 KAR 001:470
335.100	907 KAR 015:005	403.707	502 KAR 012:010
	907 KAR 001:835		802 KAR 003:020
335.300	907 KAR 015:005	405.430	921 KAR 001:400
	907 KAR 001:835	405.440	921 KAR 001:400
	907 KAR 003:210	405.450	921 KAR 001:400
335.500-335.599	739 KAR 002:160	405.991	921 KAR 001:400
	201 KAR 036:050	406.021	921 KAR 001:400
335.500	907 KAR 015:005	406.025	921 KAR 001:400
	907 KAR 001:835	421.500	501 KAR 006:510
	907 KAR 003:210	421.570	502 KAR 012:010
335.540	201 KAR 036:050	422.317	907 KAR 001:044
335.545	201 KAR 036:050	424.130	040 KAR 010:010
335.560	201 KAR 036:100	424.170	702 KAR 004:090
335B.010	900 KAR 001:009	424.290	031 KAR 002:010
335B.020	900 KAR 001:009	434.840-434.860	907 KAR 001:044
336.232	787 KAR 001:370	438.305	902 KAR 045:001
336.248	787 KAR 001:010		902 KAR 045:031
Chapter 337	780 KAR 003:072	Chapter 439	501 KAR 006:530
337.275	922 KAR 002:160		501 KAR 006:300
338.015	803 KAR 002:320		501 KAR 006:310
	803 KAR 002:300		501 KAR 006:340
338.031	803 KAR 002:320	439.268	501 KAR 006:470
338.111	803 KAR 002:110	439.380	501 KAR 006:450
338.171	803 KAR 002:110	439.510	501 KAR 006:340
339.230	815 KAR 035:060	439.590	501 KAR 006:510
341.070	787 KAR 001:010	439.600	501 KAR 006:490
341.190	787 KAR 001:010		501 KAR 006:510
341.243	787 KAR 001:010	439.610	501 KAR 006:490
341.250	787 KAR 001:010		501 KAR 006:510
341.262	787 KAR 001:010	439.3110	501 KAR 006:510
341.360	907 KAR 020:005	439.3401	910 KAR 001:210
341.413	787 KAR 001:360	439.3405	501 KAR 006:400
344.010	104 KAR 001:010		501 KAR 006:510
	104 KAR 001:080	439.310-439.440	501 KAR 001:080
	201 KAR 020:320	440.010	501 KAR 006:510
344.010-344.500	920 KAR 001:090	440.450	501 KAR 006:450
344.015	104 KAR 001:050	441.005	501 KAR 013:010
344.020	920 KAR 001:090	441.045	501 KAR 013:010
344.030	920 KAR 001:090	441.055	501 KAR 013:010
	104 KAR 001:010	441.146	501 KAR 006:510
	101 KAR 002:102	441.148	501 KAR 006:510
	101 KAR 003:015	441.540	501 KAR 006:380
344.040	104 KAR 001:040	441.550	501 KAR 006:380
344.050	104 KAR 001:040	441.560	501 KAR 013:010
344.060	104 KAR 001:040	446.010	500 KAR 001:010
344.070	104 KAR 001:040		500 KAR 001:021
344.130	104 KAR 001:010	446.400	202 KAR 007:401
344.190	104 KAR 001:010		202 KAR 007:410
344.360-344.385	104 KAR 001:080	454.220	921 KAR 001:400
344.367	104 KAR 001:010	454.415	501 KAR 006:440

KRS SECTION	REGULATION	KRS SECTION	REGULATION
504.150	501 KAR 006:450	21 C.F.R.	902 KAR 020:036
510.010-510.140	502 KAR 012:010		201 KAR 002:165
510.120	501 KAR 006:410	23 C.F.R.	603 KAR 005:050
Chapter 514	921 KAR 002:015		603 KAR 005:066
523.100	915 KAR 001:010	24 C.F.R.	104 KAR 001:080
	915 KAR 001:020		907 KAR 016:005
524.140	502 KAR 012:010	26 C.F.R.	900 KAR 001:009
527.070	922 KAR 002:120	28 C.F.R.	920 KAR 001:090
527.100	922 KAR 001:350		907 KAR 016:005
527.110	922 KAR 001:350	29 C.F.R.	104 KAR 001:050
529.010	502 KAR 012:010		902 KAR 010:123
529.100	502 KAR 012:010		780 KAR 003:072
530.020	502 KAR 012:010		202 KAR 007:596
530.064	502 KAR 012:010		815 KAR 035:060
531.310	502 KAR 012:010		803 KAR 002:320
532.100	501 KAR 013:010		803 KAR 002:300
532.200-532.262	501 KAR 006:510		101 KAR 002:102
532.400	501 KAR 001:080	30 C.F.R.	101 KAR 003:015
532.040-532.060	501 KAR 001:080		405 KAR 010:001
600.020	922 KAR 001:350	34 C.F.R.	405 KAR 010:015
	922 KAR 001:490		016 KAR 002:120
	922 KAR 002:160		016 KAR 009:080
	922 KAR 001:470		016 KAR 009:100
	502 KAR 012:010		902 KAR 030:200
	922 KAR 001:360		922 KAR 002:160
605.090	922 KAR 001:350		011 KAR 004:080
	922 KAR 001:490		016 KAR 002:140
605.120	922 KAR 001:490		907 KAR 001:835
	922 KAR 002:160		907 KAR 003:100
605.130	922 KAR 001:490	40 C.F.R.	405 KAR 010:001
610.015	501 KAR 006:300	41 C.F.R.	105 KAR 001:140
610.110	922 KAR 001:350	42 C.F.R.	201 KAR 002:210
610.320	501 KAR 006:300		806 KAR 017:570
610.340	501 KAR 006:300		922 KAR 001:350
620.020	922 KAR 002:090		105 KAR 001:140
	201 KAR 020:215		907 KAR 010:015
	922 KAR 002:160		907 KAR 001:044
	201 KAR 020:320		907 KAR 015:005
	201 KAR 020:620		907 KAR 001:028
620.030	922 KAR 002:090		907 KAR 001:595
	922 KAR 002:120		907 KAR 001:835
	922 KAR 001:350		907 KAR 003:100
	201 KAR 039:120		907 KAR 003:210
	502 KAR 012:010		907 KAR 007:015
	907 KAR 001:835		907 KAR 012:020
	907 KAR 003:210		907 KAR 020:005
620.050	922 KAR 001:350		907 KAR 001:039
	922 KAR 001:490		907 KAR 016:020
	922 KAR 001:470		907 KAR 010:840
620.051	922 KAR 001:470	45 C.F.R.	922 KAR 002:090
620.140	922 KAR 001:350		910 KAR 001:270
620.360	922 KAR 001:350		806 KAR 017:570
620.363	922 KAR 001:350		922 KAR 001:060
Chapter 625	922 KAR 001:050		922 KAR 002:120
	922 KAR 001:060		922 KAR 001:350
	922 KAR 001:490		105 KAR 001:140
625.050-625.120	922 KAR 001:470		922 KAR 001:490
635.120	501 KAR 006:300		922 KAR 002:160
640.070	501 KAR 006:450		902 KAR 028:010
640.075	501 KAR 006:450		907 KAR 001:044
2 C.F.R.	702 KAR 004:090		910 KAR 001:210
7 C.F.R.	922 KAR 002:160		502 KAR 012:010
	405 KAR 010:001		921 KAR 001:400
	921 KAR 003:030		806 KAR 009:360
	902 KAR 045:001		920 KAR 001:090
	920 KAR 001:090		922 KAR 002:020
12 C.F.R.	808 KAR 003:050		907 KAR 001:835
16 C.F.R.	922 KAR 002:120		907 KAR 020:005
	922 KAR 001:350		907 KAR 016:015
	201 KAR 015:110		201 KAR 036:050
	603 KAR 005:350	47 C.F.R.	202 KAR 006:090
17 C.F.R.	200 KAR 014:011	49 C.F.R.	922 KAR 002:120
20 C.F.R.	921 KAR 002:015		600 KAR 004:010
	922 KAR 002:160		502 KAR 010:120

KRS SECTION	REGULATION	KRS SECTION	REGULATION
5 U.S.C.	920 KAR 001:090		921 KAR 001:400
7 U.S.C.	922 KAR 002:160		908 KAR 001:410
	921 KAR 003:030		920 KAR 001:090
	920 KAR 001:090		922 KAR 002:020
8 U.S.C.	922 KAR 001:350		907 KAR 001:595
	907 KAR 020:005		907 KAR 001:835
9 U.S.C.	202 KAR 006:090		907 KAR 003:100
10 U.S.C.	017 KAR 004:030		907 KAR 003:210
	202 KAR 007:201		907 KAR 007:015
	202 KAR 007:301		907 KAR 012:020
	202 KAR 007:330		907 KAR 020:005
15 U.S.C.	808 KAR 010:260		922 KAR 001:360
	902 KAR 010:123		907 KAR 016:020
	200 KAR 014:011	47 U.S.C.	907 KAR 010:840
	600 KAR 004:010		807 KAR 005:015
	902 KAR 010:120	49 U.S.C.	202 KAR 006:090
20 U.S.C.	704 KAR 003:550		600 KAR 004:010
	808 KAR 003:050		502 KAR 010:120
	011 KAR 004:080	52 U.S.C.	921 KAR 003:030
	704 KAR 003:365	Pub.L. 108-173	806 KAR 017:570
	920 KAR 001:090	Pub.L. 109-171	920 KAR 001:090
	907 KAR 016:020	Pub.L. 111-148	105 KAR 001:411
23 U.S.C.	600 KAR 004:010	Pub.L. 111-5	200 KAR 015:010
25 U.S.C.	922 KAR 002:160	Pub.L. 114-94	600 KAR 004:010
26 U.S.C.	105 KAR 001:120	2022 Ky. Acts ch. 199	787 KAR 001:360
	105 KAR 001:190	2023 Ky. Acts ch. 78	902 KAR 045:001
	105 KAR 001:411		902 KAR 045:012
	105 KAR 001:140		902 KAR 045:021
	102 KAR 001:320		902 KAR 045:031
	200 KAR 014:011	Ky. Const. Sec. 172	103 KAR 005:200
	200 KAR 015:010	Pres. EO 009	920 KAR 001:090
	900 KAR 001:009		
	102 KAR 001:380		
	908 KAR 001:410		
29 U.S.C.	104 KAR 001:040		
	806 KAR 017:570		
	105 KAR 001:120		
	922 KAR 002:160		
	780 KAR 003:072		
	201 KAR 015:110		
	907 KAR 015:005		
	920 KAR 001:090		
	907 KAR 001:835		
	907 KAR 003:100		
	101 KAR 002:034		
	101 KAR 002:102		
	101 KAR 003:015		
30 U.S.C.	405 KAR 010:001		
	405 KAR 010:015		
34 U.S.C.	922 KAR 002:160		
	502 KAR 012:010		
38 U.S.C.	922 KAR 002:160		
	907 KAR 020:035		
	907 KAR 020:005		
	017 KAR 003:042		
42 U.S.C.	922 KAR 002:090		
	104 KAR 001:040		
	601 KAR 012:080		
	921 KAR 002:015		
	806 KAR 017:570		
	922 KAR 001:060		
	922 KAR 001:350		
	105 KAR 001:411		
	910 KAR 001:270		
	922 KAR 001:490		
	922 KAR 002:160		
	011 KAR 015:090		
	907 KAR 010:015		
	921 KAR 003:030		
	922 KAR 001:470		
	922 KAR 005:120		
	907 KAR 001:044		
	907 KAR 001:028		
	910 KAR 001:210		

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.

Regulation Number	Letter Filed Date	Action
004 KAR 001:010	08-12-2024	Remain in Effect without Amendment
004 KAR 001:030	08-12-2024	Remain in Effect without Amendment
004 KAR 001:040	08-12-2024	Remain in Effect without Amendment
004 KAR 001:050	08-12-2024	Remain in Effect without Amendment
011 KAR 004:020	02-19-2025	Remain in Effect without Amendment
011 KAR 004:030	02-19-2025	Remain in Effect without Amendment
011 KAR 004:040	02-19-2025	Remain in Effect without Amendment
011 KAR 004:050	02-19-2025	Remain in Effect without Amendment
011 KAR 004:060	02-19-2025	Remain in Effect without Amendment
011 KAR 005:033	02-19-2025	Remain in Effect without Amendment
011 KAR 005:110	02-19-2025	Remain in Effect without Amendment
011 KAR 005:130	02-19-2025	Remain in Effect without Amendment
011 KAR 005:140	02-19-2025	Remain in Effect without Amendment
011 KAR 005:150	02-19-2025	Remain in Effect without Amendment
011 KAR 005:160	02-19-2025	Remain in Effect without Amendment
011 KAR 005:170	02-19-2025	Remain in Effect without Amendment
011 KAR 005:180	02-19-2025	Remain in Effect without Amendment
011 KAR 005:200	02-19-2025	Remain in Effect without Amendment
011 KAR 007:010	02-28-2025	Remain in Effect without Amendment
011 KAR 007:020	02-28-2025	Remain in Effect without Amendment
011 KAR 008:010	02-28-2025	Remain in Effect without Amendment
011 KAR 008:020	02-28-2025	Remain in Effect without Amendment
011 KAR 008:040	02-28-2025	Remain in Effect without Amendment
011 KAR 010:010	02-28-2025	Remain in Effect without Amendment
011 KAR 010:020	02-28-2025	Remain in Effect without Amendment
011 KAR 012:010	01-17-2025	To be amended; filing deadline 07-16-2026
011 KAR 012:020	01-17-2025	To be amended; filing deadline 07-16-2026
011 KAR 012:030	01-17-2025	To be amended; filing deadline 07-16-2026
011 KAR 012:030	01-17-2025	To be amended; filing deadline 07-16-2026
011 KAR 012:040	01-17-2025	To be amended; filing deadline 07-16-2026
011 KAR 012:050	01-17-2025	To be amended; filing deadline 07-16-2026
011 KAR 012:060	01-17-2025	To be amended; filing deadline 07-16-2026
011 KAR 012:070	01-17-2025	To be amended; filing deadline 07-16-2026
011 KAR 012:090	01-17-2025	To be amended; filing deadline 07-16-2026
011 KAR 013:010	02-28-2025	Remain in Effect without Amendment
011 KAR 014:010	02-28-2025	Remain in Effect without Amendment
011 KAR 014:020	02-28-2025	Remain in Effect without Amendment
011 KAR 014:030	02-28-2025	Remain in Effect without Amendment
011 KAR 014:040	02-28-2025	Remain in Effect without Amendment
011 KAR 014:050	02-28-2025	Remain in Effect without Amendment
011 KAR 014:060	02-28-2025	Remain in Effect without Amendment
011 KAR 014:070	02-28-2025	Remain in Effect without Amendment
011 KAR 014:080	02-28-2025	Remain in Effect without Amendment
011 KAR 015:010	02-28-2025	Remain in Effect without Amendment
011 KAR 015:020	02-28-2025	Remain in Effect without Amendment
011 KAR 015:030	02-28-2025	Remain in Effect without Amendment
011 KAR 015:050	02-28-2025	Remain in Effect without Amendment
011 KAR 015:060	02-28-2025	Remain in Effect without Amendment
011 KAR 015:070	02-28-2025	Remain in Effect without Amendment
011 KAR 015:080	02-28-2025	Remain in Effect without Amendment
011 KAR 015:100	02-28-2025	Remain in Effect without Amendment
011 KAR 016:030	03-03-2025	Remain in Effect without Amendment
011 KAR 016:040	03-03-2025	Remain in Effect without Amendment
011 KAR 016:050	03-03-2025	Remain in Effect without Amendment
011 KAR 016:060	03-03-2025	Remain in Effect without Amendment
011 KAR 016:070	03-03-2025	Remain in Effect without Amendment
011 KAR 017:010	10-01-2024	Remain in Effect without Amendment
011 KAR 017:040	10-01-2024	Remain in Effect without Amendment
011 KAR 017:050	10-01-2024	Remain in Effect without Amendment
011 KAR 017:060	10-01-2024	Remain in Effect without Amendment

CERTIFICATION LETTER SUMMARIES

Regulation Number	Letter Filed Date	Action
011 KAR 017:070	10-01-2024	Remain in Effect without Amendment
011 KAR 017:080	10-01-2024	Remain in Effect without Amendment
011 KAR 017:090	10-01-2024	Remain in Effect without Amendment
011 KAR 017:100	10-01-2024	Remain in Effect without Amendment
011 KAR 017:110	10-01-2024	Remain in Effect without Amendment
011 KAR 019:010	02-28-2025	Remain in Effect without Amendment
011 KAR 019:020	02-28-2025	Remain in Effect without Amendment
011 KAR 019:030	02-28-2025	Remain in Effect without Amendment
011 KAR 020:001	02-28-2025	Remain in Effect without Amendment
011 KAR 020:010	02-28-2025	Remain in Effect without Amendment
011 KAR 020:020	02-28-2025	Remain in Effect without Amendment
011 KAR 020:030	02-28-2025	Remain in Effect without Amendment
011 KAR 020:040	02-28-2025	Remain in Effect without Amendment
011 KAR 020:050	02-28-2025	Remain in Effect without Amendment
011 KAR 020:060	02-28-2025	Remain in Effect without Amendment
011 KAR 020:070	02-28-2025	Remain in Effect without Amendment
013 KAR 002:110	05-16-2024	Remain in Effect without Amendment
016 KAR 002:020	10-02-2024	Remain in Effect without Amendment
016 KAR 002:090	06-25-2024	Remain in Effect without Amendment
016 KAR 008:040	10-02-2024	Remain in Effect without Amendment
031 KAR 006:020	10-04-2024	Remain in Effect without Amendment
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040 KAR 002:145	07-23-2024	Remain in Effect without Amendment
040 KAR 002:345	12-02-2024	Remain in Effect without Amendment
103 KAR 028:150	12-06-2024	Remain in Effect without Amendment
103 KAR 044:060	12-12-2024	To be amended; filing deadline 06-12-2026
106 KAR 002:040	11-22-2024	Remain in Effect without Amendment
201 KAR 002:400	12-02-2024	Remain in Effect without Amendment
201 KAR 009:023	02-26-2025	Remain in Effect without Amendment
201 KAR 009:024	02-26-2025	Remain in Effect without Amendment
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201 KAR 020:400	01-03-2025	Remain in Effect without Amendment
201 KAR 022:010	03-03-2025	Remain in Effect without Amendment
201 KAR 022:035	03-03-2025	Remain in Effect without Amendment
201 KAR 022:040	03-03-2025	Remain in Effect without Amendment
201 KAR 022:052	03-03-2025	Remain in Effect without Amendment
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201 KAR 028:235	11-22-2024	To be amended; filing deadline 05-22-2026
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704 KAR 003:540	08-08-2024	Remain in Effect without Amendment
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804 KAR 006:020	10-30-2024	Remain in Effect without Amendment

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804 KAR 011:010	02-12-2025	Remain in Effect without Amendment
806 KAR 039:030	01-09-2025	Remain in Effect without Amendment
815 KAR 015:010	12-02-2024	To be amended; filing deadline 06-02-2026
815 KAR 015:025	12-02-2024	To be amended; filing deadline 06-02-2026
815 KAR 015:027	12-02-2024	To be amended; filing deadline 06-02-2026
900 KAR 006:125	07-18-2024	Remain in Effect without Amendment
900 KAR 006:130	01-27-2025	Remain in Effect without Amendment
902 KAR 020:360	07-18-2024	Remain in Effect without Amendment
902 KAR 055:040	07-18-2024	Remain in Effect without Amendment
902 KAR 055:095	07-23-2024	To be amended; filing deadline 01-23-2026
902 KAR 100:180	10-09-2024	Remain in Effect without Amendment
907 KAR 001:045	10-21-2024	Remain in Effect without Amendment
907 KAR 001:047	10-21-2024	Remain in Effect without Amendment
907 KAR 001:102	10-21-2024	Remain in Effect without Amendment
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907 KAR 001:720	02-05-2025	Remain in Effect without Amendment
907 KAR 001:755	02-05-2025	Remain in Effect without Amendment
907 KAR 001:780	02-05-2025	Remain in Effect without Amendment
907 KAR 003:100	02-05-2025	Remain in Effect without Amendment
907 KAR 003:125	02-05-2025	Remain in Effect without Amendment
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922 KAR 005:040	12-09-2024	Remain in Effect without Amendment
922 KAR 005:090	12-09-2024	Remain in Effect without Amendment

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The Technical Amendment Index is a list of administrative regulations that have had technical, nonsubstantive amendments made during the 51st 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).

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201 KAR 020:506	6-25-2024	810 KAR 007:060	7-1-2024
806 KAR 017:585	8-1-2024	810 KAR 007:070	7-1-2024
806 KAR 039:030	11-12-2024	810 KAR 008:010	7-1-2024
808 KAR 015:030	12-9-2024	810 KAR 008:020	7-1-2024
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