

15.272 Written report by agency -- Advisory committee review -- Consultation by regulatory relief office -- Review of application -- Written agreement. (Effective March 15, 2024)

- (1) (a) Subject to paragraphs (c) and (g) of this subsection, no later than thirty (30) days after the day on which an applicable agency receives a complete application for review, the applicable agency shall provide a written report to the director of the applicable agency's findings.
- (b) The report shall:
 1. Describe any identifiable, likely, and significant harm to the health, safety, or financial well-being of consumers that the relevant administrative regulation protects against; and
 2. Make a recommendation to the regulatory relief office that the applicant either be admitted or denied entrance into the regulatory sandbox.
- (c)
 1. The applicable agency may request an additional five (5) business days to deliver the written report by providing notice to the director, and the request shall automatically be granted.
 2. The applicable agency may only request one (1) extension per application.
- (d) If the applicable agency recommends an applicant under this section be denied entrance into the regulatory sandbox, the written report shall include a description of the reasons for the recommendation, including why a temporary waiver or suspension of the relevant administrative regulations would potentially significantly harm the health, safety, or financial well-being of consumers or the public and the likelihood of such harm occurring.
- (e) If the applicable agency determines that the consumer's or public's health, safety, or financial well-being can be protected through less restrictive means than the existing relevant administrative regulations, then the applicable agency shall provide a recommendation of how that can be achieved.
- (f) If an applicable agency fails to deliver a written report as described in this subsection, the director shall assume that the applicable agency does not object to the temporary waiver or suspension of the relevant administrative regulations for an applicant seeking to participate in the regulatory sandbox.
- (g) Notwithstanding any other provision of this section, an applicable agency may by written notice to the regulatory relief office:
 1. Within the thirty (30) days after the day on which the applicable agency receives a complete application for review, or within thirty-five (35) days if an extension has been requested by the applicable agency, reject an application if the applicable agency determines, in the applicable agency's sole discretion, that the applicant's offering fails to comply with standards or specifications:
 - a. Required by federal law or regulation; or
 - b. Previously approved for use by a federal agency; or
 2. Reject an application preliminarily approved by the regulatory relief

office, if the applicable agency:

- a. Recommends rejection of the application in accordance with paragraph (d) of this subsection in the agency's written report; and
 - b. Provides in the written notice under this paragraph a description of the applicable agency's reasons why approval of the application would create a substantial risk of harm to the health or safety of the public, or create unreasonable expenses for taxpayers in the state.
- (h) If an applicable agency rejects an application under paragraph (g) of this subsection, the regulatory relief office shall not approve the application.
- (2)
 - (a) Upon receiving a written report described in subsection (1) of this section, the director shall provide the application and the written report to the advisory committee.
 - (b) The director may call the advisory committee to meet as needed, but not less than once per quarter if applications are available for review.
 - (c) After receiving and reviewing the application and each written report, the advisory committee shall provide to the director the advisory committee's recommendation as to whether the applicant may be admitted as a sandbox participant under this section and KRS 15.268.
 - (d) As part of the advisory committee's review of each written report, the advisory committee shall use the criteria required for an applicable agency as described in subsection (1) of this section.
- (3)
 - (a) In reviewing an application and each applicable agency's written report, the regulatory relief office shall consult with each applicable agency and the advisory committee before admitting an applicant into the regulatory sandbox.
 - (b) The consultation with each applicable agency and the consultation with the advisory committee may include seeking information about whether the applicable agency has previously:
 1. Issued a license or other authorization to the applicant; and
 2. Investigated, sanctioned, or pursued legal action against the applicant.
- (4) In reviewing an application under this section, the regulatory relief office and each applicable agency shall consider whether a competitor to the applicant is or has been a sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a sandbox participant.
- (5) In reviewing an application under this section, the regulatory relief office shall consider whether:
 - (a) The applicant's plan will adequately protect consumers from potential harm identified by an applicable agency in the applicable agency's written report;
 - (b) The risk of harm to consumers is outweighed by the potential benefits to consumers from the applicant's participation in the regulatory sandbox; and
 - (c) Certain administrative regulations that regulate an offering shall not be waived or suspended even if the applicant is approved as a sandbox participant, including applicable antifraud or disclosure provisions.

- (6) (a) An applicant becomes a sandbox participant if the regulatory relief office approves the application for the regulatory sandbox and enters into a written agreement with the applicant describing the specific administrative regulations that may be waived or suspended as part of participation in the regulatory sandbox.
- (b) Notwithstanding any other provision of KRS 15.262 to 15.278, the regulatory relief office shall not enter into a written agreement with an applicant that waives or suspends a tax, fee, or charge that is administered by the Department of Revenue or that is described in KRS Chapters 131 to 144.
- (c) Notwithstanding any other provision of KRS 15.262 to 15.278, the regulatory relief office shall not enter into a written agreement with an applicant that waives or suspends a requirement for licensure or regulation of a health facility by the Cabinet for Health and Family Services pursuant to KRS Chapter 216B.

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