

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Public Health

3 Division of

4 (Amendment)

5 902 KAR 100:090. Broad license limits.

6 RELATES TO: KRS 211.842-211.852, 211.990(4), 10 C.F.R. 33.11

7 STATUTORY AUTHORITY: KRS 194.050, 211.090, 211.844

8 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family
9 Services [~~Human Resources~~] is authorized by KRS 211.844 to provide by administrative
10 regulation for the registration and licensing of the possession or use of sources of ionizing
11 or electronic product radiation and to regulate the handling and disposal of radioactive
12 waste. This administrative regulation shall provide a list of quantities of radioactive material
13 which can be licensed under a "Type A", "Type B" or "Type C" specific license of broad
14 scope.

15 Section 1. Applicability. This administrative regulation shall apply to persons who have
16 been approved to use radioactive material under a "Type A", "Type B" or "Type C" specific
17 license of broad scope.

18 Section 2. Table. Except as provided in other applicable provisions of 902 KAR
19 Chapter 100 [~~The following lists provide~~] the quantity limits for the issuance of a "Type A",
20 "Type B" or "Type C" specific license under broad scope as provided in the cabinet's
21 administrative regulation relating to the issuance of specific licenses shall be specified in
22 10 C.F.R. 33.100, Schedule A.[:

LIMITS FOR BROAD LICENSES		
Radioactive Material	Col. I curies	Col. II curies
Antimony-122	4	0.01
Antimony-124	4	0.01
Antimony-125	4	0.01
Arsenic-73	10	0.1
Arsenic-74	4	0.01
Arsenic-76	4	0.01
Arsenic-77	10	0.1
Barium-131	10	0.1
Barium-140	4	0.01
Beryllium-7	10	0.1
Bismuth-210	0.1	0.001
Bromine-82	10	0.1
Cadmium-109	4	0.01
Cadmium-115m	4	0.01
Cadmium-115	10	0.1
Calcium-45	4	0.01
Calcium-47	10	0.1
Carbon-14	100	1.
Cerium-141	10	0.1

Cerium-143	10	0.1
Cerium-144	0.1	0.004
Cesium-131	100	1.
Cesium-134m	100	1.
Cesium-134	0.1	0.004
Cesium-135	1	0.01
Cesium-136	10	0.1
Cesium-137	0.1	0.004
Chlorine-36	1	0.01
Chlorine-38	100	1.
Chromium-51	100	1.
Cobalt-57	10	0.1
Cobalt-58m	100	1.
Cobalt-58	1	0.01
Cobalt-60	0.1	0.004
Copper-64	10	0.1
Dysprosium-165	100	1.
Dysprosium-166	10	0.1
Erbium-169	10	0.1
Erbium-171	10	0.1
Europium-152 (9.2h)	10	0.1

Europium-152 (13-yr.)	0.1	0.001
Europium-154	0.1	0.001
Europium-155	4	0.01
Fluorine-18	100	1.
Gadolinium-153	4	0.01
Gadolinium-159	10	0.1
Gallium-72	10	0.1
Germanium-71	100	1.
Gold-198	10	0.1
Gold-199	10	0.1
Hafnium-181	4	0.01
Holmium-166	10	0.1
Hydrogen-3	100	1.
Indium-113m	100	1.
Indium-114m	4	0.01
Indium-115m	100	1.
Indium-115	4	0.01
Iodine-125	0.1	0.001
Iodine-126	0.1	0.001
Iodine-129	0.1	0.001
Iodine-131	0.1	0.001

Iodine-132	10	0.1
Iodine-133	1	0.01
Iodine-134	10	0.1
Iodine-135	1	0.01
Iridium-192	1	0.01
Iridium-194	10	0.1
Iron-55	10	0.1
Iron-59	1	0.01
Krypton-85	100	1.
Krypton-87	10	0.1
Lanthanum-140	1	0.01
Lutetium-177	10	0.1
Manganese-52	1	0.01
Manganese-54	1	0.01
Manganese-56	10	0.1
Mercury-197m	10	0.1
Mercury-197	10	0.1
Mercury-203	1	0.01
Molybdenum-99	10	0.1
Neodymium-147	10	0.1
Neodymium-149	10	0.1
Nickel-59	10	0.1

Nickel-63	4	0.01
Nickel-65	10	0.1
Niobium-93m	4	0.01
Niobium-95	4	0.01
Niobium-97	100	1.
Osmium-185	4	0.01
Osmium-191m	100	1.
Osmium-191	10	0.1
Osmium-193	10	0.1
Palladium-103	10	0.1
Palladium-109	10	0.1
Phosphorous-32	4	0.01
Platinum-191	10	0.1
Platinum-193m	100	1.
Platinum-193	10	0.1
Platinum-197m	100	1.
Platinum-197	10	0.1
Polonium-210	0.01	0.0001
Potassium-42	4	0.01
Praseodymium-142	10	0.1

Praseodymium-143	10	0.1
Promethium-147	1	0.01
Promethium-149	10	0.1
Radium-226	0.01	0.0001
Rhenium-186	10	0.1
Rhenium-188	10	0.1
Rhodium-103m	1,000	10.
Rhodium-105	10	0.1
Rubidium-86	1	0.01
Rubidium-87	1	0.01
Ruthenium-97	100	1.
Ruthenium-103	1	0.01
Ruthenium-105	10	0.1
Ruthenium-106	0.1	0.001
Samarium-151	1	0.01
Samarium-153	10	0.1
Scandium-46	1	0.01
Scandium-47	10	0.1
Scandium-48	1	0.01
Selenium-75	1	0.01
Silicon-31	10	0.1

Silver-105	4	0.01
Silver-110m	0.1	0.001
Silver-111	10	0.1
Sodium-22	0.1	0.001
Sodium-24	4	0.01
Strontium-85m	1,000	10.
Strontium-85	4	0.01
Strontium-89	4	0.01
Strontium-90	0.01	0.0001
Strontium-91	10	0.1
Strontium-92	10	0.1
Sulfur-35	10	0.1
Tantalum-182	4	0.01
Technetium-96	10	0.1
Technetium- 97m	10	0.1
Technetium-97	10	0.1
Technetium- 99m	100	1.
Technetium-99	4	0.01
Tellurium-125m	4	0.01
Tellurium-127m	4	0.01

Tellurium-127	10	0.1
Tellurium-129m	1	0.01
Tellurium-129	100	1.
Tellurium-131m	10	0.1
Tellurium-132	1	0.01
Terbium-160	1	0.01
Thallium-200	10	0.1
Thallium-201	10	0.1
Thallium-202	10	0.1
Thallium-204	1	0.01
Thulium-170	1	0.01
Thulium-171	1	0.01
Tin-113	1	0.01
Tin-125	1	0.0
Tungsten-181	1	0.1
Tungsten-185	1	0.01
Tungsten-187	10	0.1
Vanadium-48	1	0.01
Xenon-131m	1,000	10.
Xenon-133	100	1.
Xenon-135	100	1.
Ytterbium-175	10	0.1

Yttrium-90	4	0.01
Yttrium-91	4	0.01
Yttrium-92	10	0.1
Yttrium-93	4	0.01
Zinc-65	4	0.01
Zinc-69m	10	0.1
Zinc-69	100	1.
Zirconium-93	4	0.01
Zirconium-95	4	0.01
Zirconium-97	4	0.01
A radioactive material other than other than source material, special nuclear material, or alpha emitting radioactive material not listed above.	0.1	0.001

902 KAR 100:090

REVIEWED:

Jeffrey D. Howard, Jr., M.D. Date
Acting Commissioner, Department for Public Health

APPROVED:

Scott W. Brinkman, Date
Acting Secretary, Cabinet for Health and Family Services

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall, if requested, be held on _____, 2018, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621. Individuals interested in attending this hearing shall notify this agency in writing by _____, 2018, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until _____, 2018. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Laura Begin, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621, Phone: 502-564-6746, Fax: 502-564-2767; Laura.Begin@ky.gov.

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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 902 KAR 100:090

Agency Contact:

Phone Number: (502) 564-

Email:

Contact Person: Julie Brooks

Phone Number: (502) 564-3970

Email: julied.brooks@ky.gov

Provide a brief summary of:

(a) What this administrative regulation does: This regulation provides a listing of the quantities of radioactive material which can be licensed under a Type B or Type C broad scope license.

(b) The necessity of this administrative regulation: This administrative regulation provides the federal regulation that prescribes requirements for issuance of specific licenses of broad scope for byproduct material and governance of holders of such licenses. As an Agreement State with the authority to operate its radiation program, the Department for Public Health, Radiation Health Branch, is required to maintain a compatible set of regulations to those of the U.S. Nuclear Regulatory Commission which govern the receipt, transfer, possession, use, and distribution of radioactive material in the Commonwealth. 10 C.F.R. 33.11 list the specific licenses of broad scope, and 10 C.F.R. 33.100 Schedule A, contains the list of quantities of radioactive material which can be licensed under Type A, Type B and Type C. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet. KRS 211.844(1) requires the Cabinet to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. This administrative regulation regulates the quantities of radioactive material to be licensed under Type B or Type C specific license of broad scope.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By referencing the federal standards, affected licensees are given the most up-to-date list of quantities of radioactive material for licensing. As a

result, affected entities do not have inconsistent state and federal requirements during the time that it takes the Cabinet to amend the state regulation.

(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 current administrative regulation has a list of radioactive quantities for licensing as Type B and Type C and has not been updated since 1992. This amendment adds licensing under Type A and the federal rule that contains the most up-to-date quantity requirements, 10 C.F.R. 33.100, Schedule A, is being referenced. As a result, affected entities may see the current quantities instead of finding inconsistencies between state and federal requirements.

(b) The necessity of the amendment to this administrative regulation: The amendment provides for licensing under Type A and references the most up to date quantities of radioactive materials licensed under Type A, Type B and Type C licenses.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.844(1) requires the Cabinet to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. As a result, the Cabinet is responsible for maintaining counterpart regulations to those of the federal government. This amendment results in conformity between state and federal regulations.

(d) How the amendment will assist in the effective administration of the statutes: Once the amendment is effective, Kentucky regulation will reference the most up-to-date list of quantities of radioactive material for licensing. This provides clarity to the licensees affected by 902 KAR Chapter 100 regulations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

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

(a) List the actions that each of the regulated entities identified in questions (3) will have to take to comply with this administrative regulation or amendment:

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3):

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

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

(a) Initially: 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:

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

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

(9) TIERING: Is tiering applied? (Explain why or why not.) No. This administrative regulation affects all radioactive materials licensees subject to 902 KAR Chapter 100 regulations.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation: 902 KAR 100:090

Agency Contact:

Phone Number: (502) 564-

Email:

Contact Person: Julie Brooks

Phone Number: (502) 564-3970

Email: julied.brooks@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? None will be impacted by this administrative regulation as it contains no new requirements.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to adopt administrative regulations necessary to protect the health of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the Cabinet. KRS 211.844(1) requires the Cabinet to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and to regulate the handling and disposal of radioactive waste. This administrative regulation regulates the handling of radioactive materials. 10 C.F.R. 30.70, Schedule A, contains these federal requirements that Kentucky must be consistent with.

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

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation generates no revenue.

(b) (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation generates no revenue.

(c) How much will it cost to administer this program for the first year? This administrative regulation does not add costs to the agency.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation does not add costs to the agency.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation: