902 KAR 100:070. Packaging and transportation of radioactive material.

RELATES TO: KRS 194A.005(1), 211.180(1), 211.842-211.852, 211.990(4), 10 C.F.R. Part 71, 73.2, 73.37, 49 C.F.R. 173.403, 42 U.S.C. 2011

STATUTORY AUTHORITY: KRS 194A.050(1), 211.090(3), 211.844(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.844(1) requires the Cabinet for Health and Family Services to promulgate administrative regulations for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. This administrative regulation establishes requirements for packaging and transportation of radioactive material.

Section 1. Definitions. (1) "Agreement state" means a state with which the United States Nuclear Regulatory Commission (NRC) or the United States Atomic Energy Commission has entered into an effective agreement under subsection 274 b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021(b) et seq.).

(2) "Armed escort" is defined by 10 C.F.R. 73.2.

(3) "Cabinet" is defined by KRS 194A.005(1).

(4) "Highway route controlled quantity" is defined by 49 C.F.R. 173.403.

(5) "Licensee" means a person who holds:

(a) A specific license issued by the cabinet pursuant to 902 KAR 100:040 and this administrative regulation;

(b) A specific license issued by the U.S. Nuclear Regulatory Commission or an Agreement state; or

(c) A general license pursuant to 902 KAR 100:050 or equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement state.

Section 2. Applicability. This administration regulation shall apply to a licensee. The licensee shall comply with 10 C.F.R. Part 71 except as established in subsections (1) through (3) of this section.

(1) The licensee shall not be subject to the following:

(a) 10 C.F.R. 71.2;

(b) 10 C.F.R. 71.6;

(c) 10 C.F.R. 71.11;

(d) 10 C.F.R. 71.14(b);

(e) 10 C.F.R. 71.19;

(f) 10 C.F.R. 71.31;

(g) 10 C.F.R. 71.33;

(h) 10 C.F.R. 71.35;

(i) 10 C.F.R. 71.37;

(j) 10 C.F.R. 71.38;

(k) 10 C.F.R. 71.39;

(l) 10 C.F.R. 71.41;

(m) 10 C.F.R. 71.43;

(n) 10 C.F.R. 71.45;

(o) 10 C.F.R. 71.51;

(p) 10 C.F.R. 71.55;

(q) 10 C.F.R. 71.59;

(r) 10 C.F.R. 71.61;

(s) 10 C.F.R. 71.63;

(t) 10 C.F.R. 71.64;
(u) 10 C.F.R. 71.65;
(v) 10 C.F.R. 71.70;
(w) 10 C.F.R. 71.71;
(x) 10 C.F.R. 71.73;
(y) 10 C.F.R. 71.74;
(z) 10 C.F.R. 71.75;
(aa) 10 C.F.R. 71.77;
(bb) 10 C.F.R. 71.85 (a)-(c);
(cc) 10 C.F.R. 71.91(b);
(dd) 10 C.F.R. 71.101(c)(2), (d) and (e); or
(ee) 10 C.F.R. 71.107-125.

(2) Each application for a specific license shall be filed pursuant to 902 KAR 100:040.

(3) Reference to the "Commission", "NRC", or an agreement state shall be deemed to be a reference to the "Cabinet for Health and Family Services, Department for Public Health, Radiation Health Branch", the NRC, or an agreement state except as established in the following:

(a) 10 C.F.R. 71.17; and
(b) 10 C.F.R. 71.88.

(4) Reference to the Commission, NRC, Nuclear Regulatory Commission, United States Nuclear Regulatory Commission, or Administrator of the appropriate Regional Office in 10 C.F.R. Part 71 shall be deemed to be reference to the Cabinet for Health and Family Services, Department for Public Health, Radiation Health Branch, except when used in the following:

(a) 10 C.F.R 71.5(b);
(b) 10 C.F.R. 71.10;
(c) 10 C.F.R. 71.17(c)(3) and (e);
(d) 10 C.F.R. 71.85(c);
(e) 10 C.F.R. 71.88(a)(4);
(f) 10 C.F.R. 71.93(c);
(g) 10 C.F.R. 71.95; and
(h) 10 C.F.R. 71.97(c)(3)(iii) and (f).

Section 3. Transport of Highway Route Controlled Quantities. (1) Advanced notification shall be provided in accordance with 10 C.F.R. 71.97 prior to the transport, or delivery to a carrier for transport, of highway route controlled quantities.

(2) All licensees of the cabinet, NRC, or another Agreement state shall arrange for armed escort when transporting materials through the Commonwealth.

(3) Armed escort may be provided by either the Kentucky State Police (KSP) or private security firm meeting the requirements of 10 C.F.R. 73.37.

(4) The cabinet may require advanced notice of and armed escort for other quantities of radioactive materials for the protection of public health and safety.

(5) Payment for escort provided by KSP shall be made in accordance with 902 KAR 100.012, Section 4.

Section 4. Notice to Employees. The KR-441 "Notice to Employees" shall be posted instead of the NRC Form 3 as specified in 10 C.F.R. Part 71.

Section 5. Incorporation by Reference. (1) KR-441 "Notice to Employees" 9/18, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law,

at the Kentucky Department for Public Health, Division of Public Health Protection and Safety, Radiation Health Branch, 275 East Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. (1 Ky.R. 403; eff. 2-5-1975; 2 Ky.R. 479; eff. 4-14-1976; 12 Ky.R. 1044; eff. 1-3-1986; 13 Ky.R. 1769; eff. 5-14-1987; 18 Ky.R. 1525; eff. 1-10-1992; 26 Ky.R. 2402; 27 Ky.R. 976; eff. 10-16-2000; 37 Ky.R. 1827; 2618; eff. 6-3-2011; 41 Ky.R. 914; 1606; eff. 2-5-2015; 45 Ky.R. 510, 1248, 1631; eff. 12-12-2018.)