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MEMORANDUM

To: Jennifer Wolsing, General Counsel, Horse Racing Commission

FROM: Emily Caudill, Regulations Compiler

RE: Acknowledgement of Emergency Regulation – 810 KAR 004:010E.

DATE: March 29, 2023

a

A copy of the above listed emergency administrative regulation is enclosed for your files. This emergency administrative regulation became effective on **March 29, 2023** and will expire in 270 days on **December 24, 2023** or when replaced by an ordinary administrative regulation, whichever occurs first.

This emergency administrative regulation is scheduled to be reviewed by the Administrative Regulation Review Subcommittee at its **June 2023**, meeting.

Pursuant to KRS 13A.280, **if** a public hearing is held or you receive written comments on this emergency administrative regulation, the Statement of Consideration for this emergency regulation is due by noon on **June 15, 2023**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to public comment periods and Statements of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

Enclosure

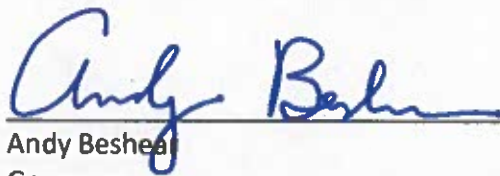
FILED WITH LRC
TIME: 2:45 pm
MAR 29 2023
Emily B Caudill
REGULATIONS COMPILER

STATEMENT OF EMERGENCY

810 KAR 4:010E

This emergency regulatory amendment is promulgated to meet an imminent threat to public health, safety, or welfare, and to prevent a loss of state funds. On March 27, 2023, the Commission was alerted to a safety concern associated with requiring Quarter Horses to race with flat shoes, as currently required for all other horses participating in flat racing in Kentucky. This administrative regulation will align Kentucky with the standards set in prominent Quarter Horse racing jurisdictions. This regulation amendment is filed on an emergency basis to allow Quarter Horses at the April 2023 meet to wear toe grab shoes in order to ensure public health, safety, and welfare.

This emergency regulation will not be replaced by an ordinary administrative regulation at this time. Instead, an ordinary administrative regulation will be filed at a later date, and will contain additional Quarter Horse conditions that are not emergent in nature. The ordinary administrative regulation will not be identical to this emergency administrative regulation.



Andy Beshear
Governor



Ray Perry
Secretary, Public Protection Cabinet

1 PUBLIC PROTECTION CABINET

2 Kentucky Horse Racing Commission

3 (Emergency Amendment)

4 810 KAR 4:010E. Horses.

5 RELATES TO: KRS 230.215

6 STATUTORY AUTHORITY: KRS 230.215(2), 230.260(8)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(8) authorize the
8 Kentucky Horse Racing Commission (the "commission") to promulgate administrative regulations
9 regulating horse racing in Kentucky. This administrative regulation establishes requirements for
10 the participation of horses in horse race meetings, protects the safety and welfare of the horse,
11 and creates a level playing field for participants thereby protecting the integrity of pari-mutuel
12 wagering.

13 Section 1. Definition. "Electronic registration system" means a software application available
14 online and approved by the commission that allows an association's racing secretary or the
15 secretary's designee, or horse identifier or the identifier's designee, full access to horse and
16 trainer records from all tracks in North America, including current owner information.

17 Section 2. Registration and Identification Required.

18 (1) A horse shall not be entered or raced in Kentucky unless:

1 (a) The horse is duly registered, as applicable, in The Jockey Club breed registry, the American
2 Quarter Horse Association, the Appaloosa Horse Club, the Arabian Horse Association Registry,
3 or the American Paint Horse Association, or their respective successors; and

4 (b)

5 1. The registration certificate, virtual or digital certificate, or racing permit issued by the
6 applicable breed registry for the horse is on file with the racing secretary; or

7 2. The information contained on the registration certificate, virtual or digital certificate, or
8 racing permit is available to the racing secretary through the electronic registration system.

9 (2) The stewards may at any time require presentation of a horse's registration certificate,
10 virtual or digital certificate, or racing permit or other proof of ownership.

11 (3) Upon claim, sale, or any other transfer of ownership, the horse's registration certificate or
12 racing permit shall be given to the new owner, and any virtual or digital certificate shall be
13 transferred to the new owner electronically. The new owner shall report the change in
14 ownership to the stewards.

15 (4) If the electronic registration system fails for any reason, the stewards may require
16 presentation of a horse's registration certificate, virtual or digital certificate, or racing permit
17 prior to a horse being entered or raced in Kentucky.

18 Section 3. Ringers Prohibited.

19 (1) A horse shall not be entered or raced in Kentucky designated by a name other than the name
20 under which the horse is currently registered with the applicable breed registry. If a horse's
21 name is changed with the applicable breed registry, and the horse has raced under its previous

1 name, the horse's former name shall be shown parenthetically in the daily race program the
2 first three (3) times the horse races after the name change.

3 (2) A person shall not cause or permit the correct identity of a horse to be concealed or altered.
4 A person shall not refuse to reveal the correct identity of a horse that he or she owns or is in his
5 or her care to a racing official or member of the regular news media.

6 (3) A horse shall not race in Kentucky unless identified by:

7 (a) A legible lip tattoo number applied by agents of the Thoroughbred Racing and Protective
8 Bureau, or by the comparable authorized organization applicable to the breed of the horse;

9 (b) An electronic horse identification microchip that accurately identifies the horse, is
10 compliant with the international standards ISO 11784, is verified by agents of the
11 Thoroughbred Racing Protective Bureau, or its successor, and is documented in The Jockey
12 Club database or by the comparable authorized organization applicable to the breed of the
13 horse; or

14 (c) With regards to a horse from a foreign jurisdiction participating in a graded stakes race,
15 has otherwise been correctly identified to the stewards' satisfaction.

16 (4) A horse shall not be entered or raced in Kentucky if previously involved in a "ringer" case to
17 the extent that:

18 (a) A person having control of the horse knowingly entered or raced the horse while
19 designated by a name other than the name under which the horse was registered with The
20 Jockey Club; or

21 (b) The person having control of the horse participated in or assisted in the entry or racing of
22 some other horse under the name registered as belonging to the horse in question.

1 Section 4. Denervating.

2 (1) A horse that has had a chemical, surgical, or thermal neurectomy at or above the fetlock
3 shall not be permitted to race.

4 (2) A horse that has had a palmar or plantar digital neurectomy may be permitted to race if:

5 (a) The neurectomy has been reported by the trainer to the stewards; and

6 (b) The horse has been approved for racing by the commission veterinarian prior to being
7 entered to race.

8 (3) A horse on which a neurectomy has been performed shall have that fact designated on its
9 registration certificate, virtual or digital certificate, racing permit, and entry in the electronic
10 registration system. Responsibility for ensuring that the neurectomy is correctly noted on the
11 horse's registration certificate, virtual or digital certificate, racing permit, and entry in the
12 electronic registration system shall fall:

13 (a) Jointly on the practicing veterinarian who performed the operation and the trainer of the
14 denerved horse if the neurectomy was performed at a location under the commission's
15 jurisdiction; and

16 (b) Solely on the owner of the denerved horse if the neurectomy was performed at a location
17 not under the commission's jurisdiction.

18 (4) If a horse races in violation of this administrative regulation and participates in the purse
19 distribution, then a protest shall not be considered unless submitted in writing to the stewards
20 within forty-eight (48) hours after the race.

21 (5) If a horse races in violation of this administrative regulation and is claimed, then a protest
22 shall not be considered unless the successful claimant submits a protest in writing within forty-

1 eight (48) hours after the race requesting the claim be voided. If the claim is voided, the horse
2 shall be returned to the owner who started the horse in the race, and the claim price shall be
3 returned to the claimant.

4 (6) A list of all denerved horses shall be posted in the racing secretary's office.

5 Section 5. Health Certificate Required.

6 (1) A horse shall not be stabled on the grounds of a licensed association or any training center
7 under the jurisdiction of the commission unless a Certificate of Veterinary Inspection is issued
8 by an accredited veterinarian:

9 (a) Not more than ten (10) days prior to the horse's arrival on the grounds; or

10 (b) Within a lesser interval as prescribed by the racing association in consultation with the
11 Kentucky Department of Agriculture.

12 (2) Notice of this requirement shall be included in the stall application of all licensed
13 associations and training centers under the jurisdiction of the commission and all condition
14 books of licensed associations.

15 Section 6. Workouts. A horse shall not be schooled in the paddock or taken onto a track on
16 association grounds for training or workout, other than during normal training hours posted by
17 the association, without special permission of the stewards.

18 Section 7. Thoroughbred Age Restrictions.

19 (1) A maiden six (6) years of age or older that has made five (5) life time starts on the flat shall
20 not be entered or start.

21 (2) A first time starter five (5) years of age or older shall be approved by a commission
22 veterinarian prior to entry.

1 Section 8. Other Age Restrictions. A quarter horse, paint horse, Arabian, or Appaloosa horse six
2 (6) years of age or older shall not be entered or raced in a race restricted to maidens. A horse
3 thirteen (13) years of age or older shall not be entered or raced.

4 Section 9. Fillies and Mares Bred.

5 (1) A filly or mare that has been covered by a stallion shall:

6 (a) Be so reported to the racing secretary prior to being entered in a race; and

7 (b) Not be entered in a claiming race, unless a written release from the stallion owner is
8 attached to the filly's or mare's registration certificate, or otherwise provided to the stewards,
9 indicating that the stallion service fee has been paid or satisfied.

10 (2) A list of all fillies and mares so reported, showing the names of stallions to which they have
11 been bred, shall be posted in the racing secretary's office.

12 (3) A filly or mare in-foal shall not be entered in a race 120 days or more after the date of last
13 cover.

14 Section 10. Serviceable for Racing. A horse shall not be entered or raced that:

15 (1) Is not in serviceable, sound racing condition. The stewards may at any time require a horse
16 on association grounds to be examined by a qualified person;

17 (2) Is posted on a veterinarian's list, stewards' list, or starter's list in any racing jurisdiction,
18 unless the horse on a veterinarian's list, stewards' list, or starter's list has a posted off date on
19 or before the date of the race for which it is being entered;

20 (3) Has previously raced, but has made no starts in the last 365 days or more, unless approved
21 by a commission veterinarian prior to entry;

22 (4) Is suspended in any jurisdiction;

- 1 (5) Has been administered any drug in violation of 810 KAR 8:010;
- 2 (6) Is blind or has seriously impaired vision in both eyes;
- 3 (7) Is not correctly identified to the satisfaction of the stewards; or
- 4 (8) Is owned wholly or in part by or is trained by an ineligible person.

5 Section 11. Equipment.

- 6 (1) Riding crops and blinkers shall be used consistently on a horse while racing.
- 7 (2) Permission to change use of any equipment used on a horse from its previous start shall be
- 8 obtained from the stewards.
- 9 (3) A horse's tongue may be tied down during a race with a clean bandage or gauze.
- 10 (4) A horse's bridle shall not weigh more than two (2) pounds.
- 11 (5) Bits shall be of a metallic alloy base of stainless steel or aluminum and may be encased in
- 12 rubber, plastic, or leather.
- 13 (6) War bridles and bitless bridles shall not be used.
- 14 (7) Bar shoes may be used for racing only with permission of the stewards.
- 15 (8) Any goading device, chain, spurs, electrical or mechanical device, or appliance, except for a
- 16 riding crop, that can be used to alter the speed of a horse shall not be used on a horse in a race
- 17 or workout.
- 18 (9)
- 19 (a) Any riding crop shall be subject to inspection and approval by the stewards or the clerk of
- 20 the scales to ensure conformity with the specifications of paragraphs (c) through (e) of this
- 21 subsection.

1 (b) Only riding crops meeting the specifications of this subsection, including the mandatory
2 shock absorbing characteristics, may be used in thoroughbred racing and training.

3 (c) A riding crop shall have a:

- 4 1. Maximum weight of eight (8) ounces;
- 5 2. Maximum length, including flap, of thirty (30) inches; and
- 6 3. Minimum diameter of the shaft of three-eighths (3/8) inch.

7 (d)

8 1. The only additional feature that may be attached to the riding crop is a flap that shall have

9 a:

- 10 a. Maximum length from the end of the shaft of one-half (1/2) inch; and
- 11 b. Maximum width of one and six-tenths (1.6) inches, with a minimum width of eight-tenths
12 (0.8) inch;

13 2. The flap from the end of the shaft shall not contain any reinforcements or additions;

14 3. There shall not be binding within seven (7) inches of the end of the flap;

15 4. The contact area of the shaft shall be smooth, with no protrusion or raised surface, and
16 covered by shock absorbing material throughout its circumference; and

17 5. The flap shall have similar shock absorbing characteristics to that of the contact area.

18 (e) A riding crop shall not have:

- 19 1. Stingers or projections extending through the hole of a popper; and
- 20 2. Any metal parts.

21 (10)

1 (a) Except as set forth in paragraph (c) of this subsection, the [The] following shall not be used
2 on the front shoes of horses while racing or training on any racing surface:

- 3 1. Horse shoes that have toe grabs;
- 4 2. Bends;
- 5 3. Jar calks;
- 6 4. Stickers; and
- 7 5. Any other traction device worn on the front shoes of horses.

8 (b) Wear plates with a height no greater than two (2) millimeters may be used on the front
9 shoes of horses while racing or training.

10 (c) Front horse shoes on Quarter Horses may have a toe grab that measures up to four (4)
11 millimeters from the ground surface side of the shoe. Hind horse shoes on Quarter Horses may
12 have a toe grab, that measures up to one-quarter (1/4) inch from the ground surface side of the
13 shoe.

14 (11) Indiscriminate or brutal use on a horse of a riding crop or any other equipment, as
15 determined by the stewards, at any time on the grounds of a licensed racing association or
16 training center under the jurisdiction of the commission shall be prohibited.

17 Section 12. Sex Alteration. Any alteration in the sex of a horse shall be reported by the horse's
18 trainer to the racing secretary and to the appropriate breed registry applicable to the horse. The
19 alteration shall be noted on the horse's registration certificate, racing permit, virtual or digital
20 certificate, or entry in the electronic system.

1 Section 13. Reporting Death of Horse. A licensed racing association or training center under the
2 jurisdiction of the commission shall report the death or euthanization of any horse on its grounds
3 immediately to the chief commission veterinarian.

4 Section 14. Postmortem Examination. A horse that dies or is euthanized on the grounds of a
5 licensed association or training center under the jurisdiction of the commission shall undergo a
6 postmortem examination at the discretion of the commission. If a postmortem examination is
7 conducted:

8 (1) All shoes and equipment on the horse's legs shall be left on the horse;

9 (2) The commission, through its designee:

10 (a) Shall take possession of the horse upon death;

11 (b) Shall, if commission personnel are present, collect and submit for analysis blood, urine,
12 bodily fluids, or other biologic specimens immediately, if possible before euthanization occurs;
13 and

14 (c) Shall coordinate with the owner or owner's licensed authorized agent to determine and
15 address any insurance requirements.

16 (3) The remains of the horse shall not be returned after completion of the postmortem
17 examination.

18 (4) The presence of a prohibited substance in a specimen collected during the postmortem
19 examination may constitute a violation of 810 KAR 8:010.

20 Section 15. Incorporation by Reference.

21 (1) "ISO 11784", 2004 is incorporated by reference.

1 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
2 the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington,
3 Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m. This document is also available on the
4 International Organization for Standardization ("ISO") website at the following URL:
5 <https://www.iso.org/standard/38799.html>.

6

810 KAR 4:010E

READ AND APPROVED

Jonathan Rabinowitz
Jonathan Rabinowitz *by permission/gw*
Chair, Kentucky Horse Racing Commission

03/28/2023
Date

Ray A. Perry
Ray Perry
Secretary, Public Protection Cabinet

3/29/2023
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on May 22, 2023 at 9:00 a.m. EST at the Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, KY 40511 via Zoom. 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 cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made, unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. EST on May 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

Contact Person: Jennifer Wolsing

Title: General Counsel

Address: Kentucky Horse Racing Commission, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511

Phone: (859) 246-2040

Fax: (859) 246-2039

Email: jennifer.wolsing@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

810 KAR 4:010E

Contact Person: Jennifer Wolsing

Phone: (859) 246-2040

Email: jennifer.wolsing@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the rules concerning horses in thoroughbred and other flat racing.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide specific rules concerning the health and safety of horses in thoroughbred and other flat racing.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the Commission to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This administrative regulation prescribes the conditions relating to the health and safety of horses in thoroughbred and other flat racing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth requirements and rules concerning the health and safety of horses in thoroughbred and other flat racing that enhance the integrity of racing.

(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 will allow Quarter Horses to wear toe grab horses shoes, while participating in the April 2023 Sandy Ridge meet at the Red Mile.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to preserve the health and safety of the human and equine athletes participating in the April 2023 Sandy Ridge meet at the Red Mile, by providing the horses with sufficient traction to safely exit the starting gate.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 230.215(2) and 230.260(8) authorize the commission to promulgate administrative regulations

regulating horse racing in Kentucky and this amendment involves when a horse may be entered or raced in Kentucky.

(d) How the amendment will assist in the effective administration of the statutes: This amendment provides additional conditions in which a horse may be entered or raced in Kentucky, thereby continuing with the commission's legislative purpose of providing specific rules concerning the health and safety of horses in thoroughbred and other flat racing.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky's licensed thoroughbred race tracks, and all individual participants in horse racing, are potentially affected by this administrative regulation's establishment of fundamental rules pertaining to the conduct of racing. In the year 2017, the Commission licensed over 22,000 individuals to participate in horse racing. This number is consistent from year to year.

(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: Participants in horse racing, and especially owners, trainers, veterinarians, and jockeys, will be required to adhere to the requirements and rules set forth in this administrative regulation pertaining to the health and safety of horses in thoroughbred and other flat racing. In particular, Quarter Horse owners and trainers may voluntarily choose to allow their horses to compete with toe grab horse shoes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No significant costs are associated with complying with this administrative regulation. Outfitting one's horse in toe grab horse shoes is voluntary.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Participants in racing will benefit from clearly defined rules concerning the health and safety of horses that enhance the integrity of racing. Moreover, Quarter Horses participating in the April 2023 meet will be able to compete more safely.

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

(a) Initially: There is no initial administrative cost to implement this administrative regulation.

(b) On a continuing basis: There is no continuing 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: No significant funding will be necessary to implement and enforce this administrative regulation. Any minimal costs will be funded from the budget of the Commission.

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

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any new fees or increase any current fees to participate.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not applied because this administrative regulation will apply to all similarly situated entities in an equal manner.

FISCAL NOTE

Regulation: 810 KAR 4:010E
Contact Person: Jennifer Wolsing
Phone: +1 (859) 246-2040
Email: jennifer.wolsing@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? The Kentucky Horse Racing Commission will be impacted by this administrative regulation.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 230.215, 230.225, 230.240, 230.260, 230.290, 230.310, 230.320, 230.370.

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

(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 will not generate revenue for state or local government for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for state or local government for subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no cost to administer this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be no cost to administer this regulation for subsequent years.

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

Revenues (+/-): Neutral.

Expenditures (+/-): Neutral.

Other Explanation: N/A

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect. There will be no effect on the expenditures and cost savings of regulated entities for the period that this emergency regulation will be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? Regulated entities will have no defined cost savings for the period that this emergency regulation will be in effect. However, regulated entities with horses entered in the 2023 Sandy Ridge meet would arguably save veterinary costs because their Quarter Horses will have a safer experience.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? Regulated entities will have no defined cost savings for the period that this emergency regulation will be in effect. However, regulated entities with horses entered in the 2023 Sandy Ridge meet would arguably save veterinary costs because their Quarter Horses will have a safer experience.

(c) How much will it cost the regulated entities for the first year? Regulated entities will not face any costs due to this emergency regulations, for the period that this emergency regulation will be in effect.

(d) How much will it cost the regulated entities for subsequent years? Regulated entities will not face any costs due to this emergency regulations, for the period that this emergency regulation will be in effect.

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

Cost Savings (+/-): \$0.00

Expenditures (+/-): \$0.00

Other Explanation: N/A

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]: This regulation will not have a major economic impact,

because it will not generate any negative economic impact on state government, local government, or regulated entities.