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REGULATIONS COMPILER

1 ENERGY AND ENVIRONMENT CABINET

2 Department for Natural Resources

3 Division of Conservation

4 (New Administrative Regulation)

5 416 KAR 1: 001. Definitions for 416 KAR Chapter 1.

6 RELATES TO: KRS 146.080-146.115, 224.71-100-224.71-140, 262.610-262.660

7 STATUTORY AUTHORITY: KRS 146.110-146.115, 262.090, 262.610, 262.660

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.110 through 146.115

9 authorizes the Soil and Water Conservation Commission to promulgate administrative regulations
10 governing administration of the Kentucky Soil Erosion and Water Quality Cost-share Fund. KRS
11 262.660 authorizes the Soil and Water Conservation Commission to promulgate administrative
12 regulations governing the administration of the Equipment Revolving Loan Fund as expressed in
13 KRS 262.610 through 262.650. This administrative regulation establishes definitions for 416 KAR
14 Chapter 1.

15 Section 1. Definitions.

16 (1) "Agricultural or silvicultural production" means any farm operation on a tract of land,
17 including all income-producing improvements and farm dwellings, together with other farm
18 buildings and structures incident to the operation and maintenance of the farm, used for the
19 production of livestock, livestock products, poultry, poultry products, milk, milk products, or
20 silviculture products, or for the growing of crops such as tobacco, corn, soybeans, small grains, fruit,
21 and vegetables; or devoted to and meeting the requirements and qualifications for payments to

1 agriculture programs under an agreement with the state or federal government.

2 (2) "Agriculture water quality plan" is defined by KRS 224.71-100(10).

3 (3) "Animal waste" means feces, urine, or other excrement, digestive emission, urea, or
4 similar substance emitted by animals, including any form of livestock, poultry, or fish. This includes
5 animal waste that is mixed or commingled with bedding, compost, feed, soil, or any other material
6 typically found with this waste.

7 (4) "Applicant" for purposes of 416 KAR 1:010, means a person who applies for cost-share
8 assistance from the Kentucky Soil Erosion and Water Quality Cost-share Fund.

9 (5) "Available funds" means moneys budgeted, unobligated, and distributed to the
10 commission for the purposes of KRS 146.115.

11 (6) "Best management practices" means, for agricultural or silvicultural production, the most
12 effective, practical, and economical means of reducing and preventing water pollution provided by
13 the United States Department of Agriculture Natural Resources Conservation Service or the Soil and
14 Water Conservation Commission.

15 (7) "Case file" means the collection of materials that are assembled and maintained for each
16 application for cost-share assistance.

17 (8) "Conservation district" or "district" is defined by KRS 262.010(3).

18 (9) "Cost-share assistance" means cost-share funds awarded by the commission from the
19 Kentucky Soil Erosion and Water Quality Cost-share Fund.

20 (10) "Direct aid" means appropriated funds awarded to conservation districts by the
21 commission.

22 (11) "District supervisor" means a member of the governing board of a conservation district.

23 (12) "Division" means the Kentucky Division of Conservation.

1 (13) "Eligible land" means land on which agricultural or silvicultural production is being
2 conducted.

3 (14) "Equipment" means heavy or specialized equipment purchased through the Equipment
4 Revolving Loan Program for the purpose of conserving soil resources, the prevention and control
5 of soil erosion, and the conservation and protection of water resources related to those purposes.

6 (15) "Groundwater" means subsurface water occurring in the zone of saturation beneath the
7 water table and any perched water zones below the B soil horizon.

8 (16) "Infrastructure" is defined by KRS 262.010(5).

9 (17) "Performance and maintenance agreement" means a written agreement between an
10 eligible person and the district in which the eligible person agrees to implement and to maintain the
11 best management practices for which cost-share assistance is being awarded.

12 (18) "Primary applicant" for purposes of 416 KAR 1:020 means:

13 (a) A conservation district applying on its own for equipment;

14 (b) The person applying jointly with a conservation district for equipment; or

15 (c) A conservation district applying for infrastructure.

16 The primary applicant is responsible for monthly payments, insurance, liability, and
17 operational and reporting requirements.

18 (19) "Program year" means the period from July 1 to June 30.

19 (20) "Soil and Water Conservation Commission" or "commission" means the commission
20 established by KRS 146.090.

21 (21) "Surface water":

22 (a) Means those waters having well-defined banks and beds, either constantly or
23 intermittently flowing; lakes and impounded waters, marshes, and wetlands; and any subterranean

1 waters flowing in well-defined channels and having a demonstrable hydrologic connection with the
2 surface; and

3 (b) Does not mean effluent ditches and lagoons used for waste treatment that are situated on
4 property owned, leased, or under valid easement by a permitted discharger.

5 (22) "Surplus equipment" means heavy or specialized equipment no longer needed or has
6 become unsuitable for use by the district.

7 (23) "Water priority protection region" means an area specifically delineated where water
8 pollution from agricultural or silvicultural production has been scientifically documented.

9 (24) "Watershed" means all the area from which all drainage passes a given point
10 downstream.

416 KAR 1:001 approved for filing.

12/22/2023
Date


Rebecca W. Goodman, Secretary
Energy and Environment Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on March 26, 2024 at 5:00 p.m. (Eastern Time) in Training Room C of the Energy and Environment Cabinet at 300 Sower Blvd, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency 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 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 March 31, 2024. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

416 KAR 1:001

Contact Person: Dawn Baase
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(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation defines terms used in 416 KAR Chapter 1 for administering Soil and Water Conservation Commission programs.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to define terms to administer and implement the Soil and Water Conservation Commission cost-share and equipment loan programs.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 146.110 through 146.115 authorize the Soil and Water Conservation Commission to promulgate administrative regulations governing the administration of the Kentucky Soil Erosion and Water Quality Cost-share Fund. KRS 262.660 authorizes the Soil and Water Conservation Commission to promulgate administrative regulations to administer the equipment loan fund as expressed in KRS 262.610 through 262.650. This administrative regulation defines terms in 416 KAR Chapter 1 for the administration of Soil and Water Conservation Commission programs.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in governing the statutes and Soil and Water Conservation Commission cost-share and equipment loan programs by defining the terms necessary to administer such 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: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

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

121 conservation districts in the Commonwealth.

(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 entities identified do not have any actions or requirements due to this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The entities identified will not have costs due to this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The entities identified will not have benefits accrued due to 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 associated with implementing this administrative regulation.

(b) On a continuing basis: There will be no costs associated with the implementation of this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding for implementation of the amendments to this administrative regulation will be with a combination of general and restricted 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: This administrative regulation will not require 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 administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) No, tiering is not applied to this administrative regulation as it only contains definitions for 416 KAR Chapter 1.

FISCAL NOTE

416 KAR 1:001

Contact Person: Dawn Baase
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Email: Dawn.Baase@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 Soil and Water Conservation Commission, Division of Conservation, and county conservation districts.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 146.110-146.115, 262.090, 262.610, and 262.660.

(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. This administrative regulation will not affect the expenditures and revenues of a state or local government agency.

(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 does not generate additional revenue for state or local government.

(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 does not generate additional revenue for state or local government in subsequent years.

(c) How much will it cost to administer this program for the first year? This administrative regulation will be administered using the cabinet's current budget.

(d) How much will it cost to administer this program for subsequent years? The program associated with this administrative regulation will be administered using the cabinet's normal budget in subsequent years.

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

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no further explanation.

(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.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? This administrative regulation will not provide cost savings.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? This administrative regulation will not provide cost savings in subsequent years.

(c) How much will it cost the regulated entities for the first year? This administrative regulation will not cost regulated entities.

(d) How much will it cost the regulated entities for subsequent years? This administrative regulation will not cost regulated entities in subsequent years.

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

Cost Savings (+/-): There is no known cost savings.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no further explanation.

(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 administrative regulation will not have a negative or adverse economic impact.