

### **13A.222 Drafting rules.**

- (1) In a new administrative regulation, there shall be no underlining or bracketing.
- (2) In an amendment to an administrative regulation, the new words shall precede the deleted words. Exceptions may be permitted by the regulations compiler. The administrative body shall:
  - (a) Underline all new words; and
  - (b) Place the deleted words in brackets and strike through these words.
- (3)
  - (a) An administrative regulation shall not be amended by reference to a section only. An amendment shall contain the full text of the administrative regulation being amended.
  - (b) A section of an administrative regulation shall not be reserved for future use.
- (4) In drafting administrative regulations, the administrative body shall comply with the following:
  - (a) The administrative body shall use plain and unambiguous words that are easily understood by laymen. The administrative body shall avoid ambiguous, indefinite, or superfluous words and phrases;
  - (b) A duty, obligation, or prohibition shall be expressed by "shall" or "shall not." "Should," "could," or "must" shall not be used. The future tense shall not be expressed by the word "shall." A discretionary power shall be expressed by "may;"
  - (c) The words "said," "aforesaid," "hereinabove," "hereinafter," "beforementioned," "whatsoever," or similar words of reference or emphasis shall not be used. Where an article may be used, the administrative body shall not use the word "such." It shall not use the expression "and/or" and shall not separate alternatives with a slash. It shall not use contractions. When a number of items are all mandatory, the word "and" shall be used. When all of a number of items are not mandatory, the word "or" shall be used;
  - (d) Certain words are defined in the Kentucky Revised Statutes. Where applicable, these definitions shall be used. Definitions appearing in the Kentucky Revised Statutes shall not be duplicated in a proposed administrative regulation. A reference shall be made to the chapters and sections of the Kentucky Revised Statutes in which the definitions appear;
  - (e) If definitions are used, they shall be placed in alphabetical order in the first section of an administrative regulation or in a separate administrative regulation. The section or administrative regulation shall be titled "Definitions." If definitions are placed in the first section of an administrative regulation, the definitions shall govern only the terms in that administrative regulation. If definitions are placed in a separate administrative regulation, that administrative regulation shall be the first administrative regulation of the specific chapter of the Kentucky Administrative Regulations Service to which the definitions apply. The title of the administrative regulation shall also contain the number of the chapter of the Kentucky Administrative Regulations Service to which the definitions apply. In the text of an administrative

regulation, the word defined in the definitions section, rather than the definition, shall be used. Definitions shall be used only:

1. When a word is used in a sense other than its dictionary meaning, or is used in the sense of one of several dictionary meanings;
  2. To avoid repetition of a phrase; or
  3. To limit or extend the provisions of an administrative regulation;
- (f) If a word has the same meaning as a phrase, the word shall be used;
- (g) The present tense and the indicative mood shall be used. Conditions precedent shall be stated in the perfect tense if their happening is required to be completed;
- (h) The same arrangement and form of expression shall be used throughout an administrative regulation, unless the meaning requires variations;
- (i) "If" or "except" shall be used rather than "provided that" or "provided, however." "If" shall be used to express conditions, rather than the words "when" or "where;"
- (j) A word importing the masculine gender may extend to females. A word importing the singular number may extend to several persons or things;
- (k) Any reference in an administrative regulation to "medical doctor," "M.D.," or "physician" shall be deemed to include a doctor of osteopathy or D.O., unless either of those terms is specifically excluded.
- (l) An administrative body shall use the phrases specified in this subsection:

Do Not Use:	Use:
And/or	"and" for a conjunctive "or" for a disjunctive
Any and all	either word
As provided in this administrative regulation	----
At the time	when
And the same hereby is	is
Either directly or indirectly	----
Except where otherwise provided	State specific exemption.
Final and conclusive	final
Full force and effect	force or effect
In the event that; In case	if
Is authorized; Is empowered	may
Is defined and shall be construed to mean	means
Is hereby required to	shall

It shall be lawful	may
Latin words	Do not use unless medical or scientific terminology.
Null and void and of no effect	void
Order and direct	either word
Provision of law	law
Until such time as	until
Whenever	if

- (m) 1. Unless the authority for an administrative regulation is an appropriation provision that is not codified in the Kentucky Revised Statutes, the specific chapter and section number of the Kentucky Revised Statutes authorizing the promulgation of an administrative regulation shall be cited.
2. a. If an act has not been codified in the Kentucky Revised Statutes at the time an administrative regulation is promulgated, or if the authority is any branch budget bill, the citation shall be as follows: "(year) Ky. Acts ch. (chapter number), sec. (section number)." When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation in writing. Upon receipt of the written notice, the regulations compiler shall correct the citation.
- b. For acts of extraordinary sessions, the citation shall be as follows: "(year) (Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section number)." If there is more than one (1) extraordinary session of the General Assembly in the year, the citation shall specify the specific extraordinary session, as follows: "(year) (2d Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section number)."
3. When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation of the Kentucky Revised Statutes in writing. Upon receipt of the written notice, the regulations compiler shall correct the citation.
4. If the statutory authority is an appropriation act, the citation shall be as follows: "(year) Ky. Acts ch. (chapter number), Part (part and subpart numbers)."
5. If the authority is an executive order, the citation shall be as follows: "EO (year executive order issued)-(number of executive order)."
- (n) If the statutory authority is a federal law, the citation shall be the:
1. United States Code (U.S.C.), if it has been codified; or
  2. Public Law (Pub. L.) and official session laws, if it has not been codified.

- (o)
  - 1. If the statutory authority is a federal regulation codified in the Code of Federal Regulations, the citation shall include the title, part, and section number, as follows: "(title number) C.F.R. (part and section number)."
  - 2.
    - a. If the statutory authority is a federal regulation that has not been codified in the Code of Federal Regulations, the citation shall be to the Federal Register, as follows: "(volume number) Fed. Reg. (page number) (effective date of the federal regulation) (section of Code of Federal Regulations in which it will be codified)."
    - b. When the federal regulation is codified, the citation shall be amended to read as provided by subparagraph 1. of this paragraph.
  - 3.
    - a. If the statutory authority is a federal regulation that has been amended, and the amendment is not reflected in the current issue date of the volume of the Code of Federal Regulations in which the federal regulation is codified, the citation shall be to the Federal Register as follows: "(federal regulation that has been amended), (volume number) Fed. Reg. (page number) (effective date of the amendment)."
    - b. When the amendment is codified in the appropriate volume of the Code of Federal Regulations, the citation shall be amended to read as provided by subparagraph 1. of this paragraph.
- (p) Citations of items in the "RELATES TO" paragraph of an administrative regulation shall comply with paragraphs (m), (n), and (o) of this subsection.
- (q) An administrative regulation may cite the popular name of a federal or state law if the popular name is accompanied by the citation required by this paragraph.

**Effective:** June 8, 2011

**History:** Amended 2011 Ky. Acts ch. 73, sec. 1, effective June 8, 2011. -- Amended 2005 Ky. Acts ch. 100, sec. 7, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 406, sec. 10, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 180, sec. 9, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 387, sec. 14, effective July 15, 1994; and ch. 410, sec. 13, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 516, sec. 23, effective July 13, 1990. -- Created 1988 Ky. Acts ch. 425, secs. 1 and 2, effective July 15, 1988.