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*Emily B Caudill*  
REGULATIONS COMPILER

STATEMENT OF EMERGENCY  
902 KAR 2:212E

This emergency administrative regulation is being promulgated to establish actions that the Department for Public Health may take in response to a declared national or state emergency. These actions include enhancing prevention of the spread of the infectious disease COVID-19 by wearing a face covering in public, subject to certain exceptions. This emergency administrative regulation is needed pursuant to KRS 13A.190(1)(a)1. and 4. to meet an imminent threat to public health, safety and welfare, and to protect human health. This emergency administrative regulation will not be replaced by an ordinary administrative regulation as these measures are in direct response to the declared state public health emergency.

This emergency administrative regulation differs from the previously filed emergency administrative regulation on this same subject, 902 KAR 2:211E. Section 2(2) amends the groups of individuals who are required to wear face coverings, and the penalties for non-compliance have been removed.

  
\_\_\_\_\_  
Andy Beshear, Governor

DocuSigned by:  
*Eric Friedlander*  
\_\_\_\_\_  
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Eric C. Friedlander, Secretary  
Cabinet for Health and Family Services

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Public Health

3 Division of Epidemiology

4 (New Emergency Administrative Regulation)

5 902 KAR 2:212E. Covering the face in response to declared national or state public  
6 health emergency.

7 RELATES TO: KRS 211.180(1), 214.010, 214.645, 333.130

8 STATUTORY AUTHORITY: KRS 12.270(2), 39A.180, 194A.010, 194A.025,  
9 194A.050(1), 211.025, 211.180(1), 214.020

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 214.020 requires the Cabinet  
11 for Health and Family Services to take action, promulgate, adopt, and enforce rules and  
12 regulations it deems efficient in preventing the introduction or spread of infectious or  
13 contagious disease within this state. KRS 211.025 requires the cabinet to perform  
14 actions reasonable necessary to protect and improve the health of the people. KRS  
15 211.180(1) requires the cabinet to enforce administrative regulations to control  
16 communicable diseases. This administrative regulation establishes requirements for  
17 face covering in response to a declared national or state public health emergency.

18 Section 1. Definition.

19 "Face covering" means a material that covers the nose and mouth and that:

20 (1)(a) Is secured to the head with ties, straps, or loops over the ears; or

21 (b) Is wrapped around the lower face;

1 (2) May be made of a variety of materials, including cotton, silk, or linen;

2 (3) Shall have two (2) or more layers; and

3 (4) Shall be factory-made, homemade, or improvised from household items such as a  
4 scarf, bandana, or t-shirt.

5 Section 2. Scope of Covering the Face in Response to Declared National or State  
6 Public Health Emergency. (1) The provisions of this administrative regulation shall apply  
7 to members of the public in Kentucky.

8 (2) Each person in Kentucky shall cover their nose and mouth with a face covering if  
9 the person is:

10 (a) Riding on public transportation or paratransit, including planes, buses, and trains,  
11 traveling into, within, or out of the United States and in U.S. transportation hubs,  
12 including airports and stations;

13 (b) In a healthcare setting; or

14 (c) In a long-term care setting.

15 Section 3. Effective Date. (1) In accordance with KRS 13A.190, this administrative  
16 regulation shall remain in effect until:

17 (a) Expiration of the time period established by KRS 13A.190; or

18 (b) Withdrawn in accordance with KRS 13A.190(12).

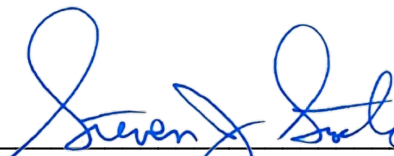
19 (2) The Cabinet for Health and Family Services shall regularly consult with the  
20 Governor's Office, the Centers for Disease Control and Prevention, and other public  
21 health authorities to determine if this administrative regulation shall be withdrawn prior  
22 to its expiration under KRS 13A.190.

23 Section 4. Reference. Guidance on how to make a face covering at home is available

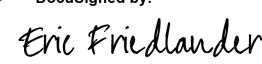
- 1 at: [https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth-](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth-face-covering.html)
- 2 [face-covering.html](https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth-face-covering.html).

902 KAR 2:212E

REVIEWED:

  
6/11/2021  
\_\_\_\_\_  
Dr. Steven J. Stack, MD, MBA                      Date  
Commissioner, Department for Public Health

APPROVED:

DocuSigned by:  
  
6/14/2021  
\_\_\_\_\_  
Eric C. Friedlander                      Date  
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 August 23, 2021, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by August 16, 2021, 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 virtually 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 August 31, 2021. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. 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.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-6746; Fax: 502-564-7091; CHFSregs@ky.gov.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 902 KAR 2:212E

Agency Contact: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov or Krista Quarles, (502) 564-6746, CHFSregs@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires the wearing of face coverings at specific locations in the commonwealth of Kentucky to prevent the spread of COVID-19 during the declared national or state public health emergency.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure the health and safety of the citizens of the commonwealth during the current national or state public health emergency.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050, 194A.010, KRS 194A.025, KRS 211.025 and KRS 214.020 authorize the Cabinet for Health and Family Services to take action to protect the health and welfare of the citizens of the commonwealth and to adopt administrative regulations and to take other action to prevent the spread of disease in the commonwealth.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will reduce the spread of COVID-19 in specialized locations and will protect the health and welfare of the citizens of the commonwealth during the declared national and state public health emergency.

(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 is a statewide administrative regulation that could potentially affect certain specific populations and specialized locations throughout 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 questions (3) will have to take to comply with this administrative regulation or amendment: Citizens of the

commonwealth will be required to wear face coverings in certain places and venues to prevent the spread of COVID-19.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the identities identified in question (3): The costs of this administrative regulation are unknown at this time.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance with this administrative regulation, the health and welfare of the specific populations of the commonwealth will be protected during the current declared national and state public health emergency. Compliance with this administrative regulation will prevent the spread of COVID-19.

(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 initially.

(b) On a continuing basis: There will be no ongoing costs for implementation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding will be necessary.

(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: An increase in fees or funding is not needed to implement this administrative regulation.

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

(9) TIERING: Is tiering applied? (Explain why or why not.) Tiering is applied in this administrative regulation as Section 2(2) of this administrative regulation outlines specialized locations where wearing a face mask is still required.



## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Administrative Regulation: 902 KAR 2:212E

Agency Contact: Julie Brooks, (502) 564-3970, julied.brooks@ky.gov or Krista Quarles, (502) 564-6746, CHFSregs@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? This administrative regulation will impact the Cabinet for Health and Family Services, specific populations of the commonwealth, and specific targeted Kentucky businesses, organizations, and governments.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 12.270(2), 39A.180, 194A.010, 194A.025, 194A.050(1), 211.025, 211.180(1), 211.190(1), 214.020

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 does not generate revenue.

(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 revenue.

(c) How much will it cost to administer this program for the first year? This administrative regulation will have no impact on costs.

(d) How much will it cost to administer this program for subsequent years? This administrative regulation will have no impact on costs.

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: