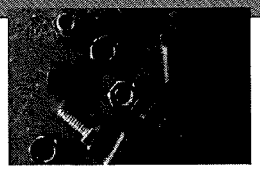
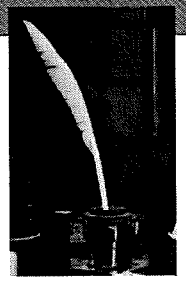
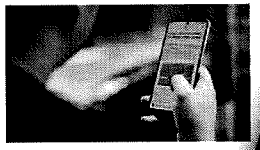
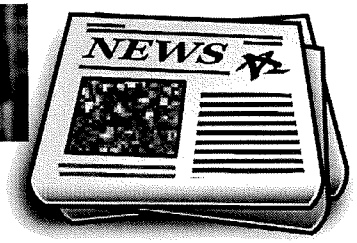
Drafting and Formatting Regulations

Legislative Research Commission
Continuing Legal Education
June 2024

Regs in the News

This Just In....Regs Rule ! This Just In....Regs Rule ! This Just In....Regs Rule ! BREAKING...

https://clipart-library.com/microsoft-cliparts-newspapers.html

Regs in the News: Medical Marijuana

Kentucky Governor Backs Longer List of Conditions Eligible for Treatment Under Medical Marijuana Law

AP

Kentucky Gov. Andy Beshear says access to medical marijuana in the state should expand to include more health conditions

By Associated Press | Jan. 4, 2024, at 8:57 p.m.

To that end, Beshear announced that his administration has filed its first batch of regulations governing the medical cannabis program. They provide a framework for how medical cannabis businesses — cultivators, processors, producers and dispensaries – would operate and offer guidance on how products will be packaged, labeled, transported, advertised and tested, he said.

Lawmakers will review those regulations and others. Additional rules on how Kentuckians can apply for a medical cannabis business license will be issued in coming weeks and months, Beshear said.

Regs in the News: Delta-8

Committee discusses regulations for Delta-8 in Kentucky

WKYT

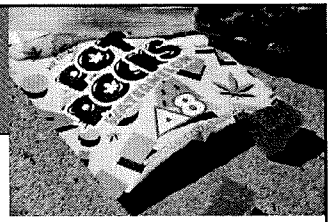
By Kelsey Souto
Published: Nov. 13, 2023 at 5:51 PM EST

For months, the Administrative Regulation Review Subcommittee has been trying to lay some ground rules. They recently enacted an emergency rule which is currently in-place.

"Manufacturers are selling it, retailers are producing it, it's out there existing and Kentucky really took the lead to take this step to actually regulate the products and make sure they're safe for consumers," said Katelyn Meckes, Director of Operations with U.S. Hemp Roundtable.

* Please note that ARRS reviewed this emergency reg. It did not "enact" it.

Regs in the News: Delta-8



The committee has been working closely with industry leaders and business owners about the requirements.

"It's really important," said Meckes. "The reality is anyone can create this product at home and a consumer won't necessarily know what's in it. This will create definitions, set forth requirements for processing, manufacturing, retail sale. It is a giant task, but it is super helpful for this industry."

Regs in the News: Sports Betting

Sports betting starts in less than 60 days in Kentucky

LEXINGTON, Ky. (WFIE) - Monday, Gov. Andy Beshear joined the Kentucky Horse Racing Commission and lawmakers to announce that Kentucklans can make their first-ever sports bets in Kentucky in less than 60 days.

The Kentucky Horse Racing Commission unanimously approved emergency administrative regulations that will govern sports wagering.

The Governor then immediately signed the regulations at the Red Mile, a gaming and racing venue that is eligible to apply to be a sports betting location.

Retail locations are set to open Thursday, Sept. 7, 2023, just in time for the NFL kick-off, tailgating and the college football season, followed by mobile applications Thursday, Sept. 28, 2023.

By Monica Watkins and Mitchell Carter
Published Jul. 10, 2023 at 10:51 AM EDT

14 NEWS

Regs in the News: Chronic Wasting Disease (CWD)

No regulation changes for current deer season after Ballard County deer tests positive for CWD

By DYLAN PAYNE | The Sun
DPAYNE@PADUCAHSUN.COM Dec 13, 2023

THE TIMES LEADER

While the introduction of CWD in the commonwealth is a serious concern, Jenkins said it should not be a reason that people stop deer hunting.

"I don't want there to be fear or panic or the thought of 'I'm never deer hunting again,' " Jenkins said. "We want them to be concerned enough that they adhere to the regulations and restrictions we put into place. I don't want them to freak out or panic or be nonchalant about it."

Jenkins said that there are no plans to change regulations for the current season, which ends in December, but that the department is looking into new regulations for 2024 that could help prevent the spread in Kentucky.

The challenge is implementing regulations that do not stifle hunters.

"We want to do is ensure that we put in restrictions and regulations that are not overly burdensome, but also effective," Jenkins said.

Regs in the News: Horse Racing Commission

Bob Baffert, Churchill Downs Escape Kentucky Derby Wager Lawsuit

Churchill Downs Inc. and horse trainer Bob Baffert aren't liable to bettors who say they lost money when Medina Spirit was named winner of the 2021 Kentucky Derby before later getting disqualified, a federal appeals court said.

The claims failed because the Kentucky administrative regulations governing these wagers say that the first official order of finish is final, the US Court of Appeals for the Sixth Circuit said in an opinion by Judge R. Guy Cole Jr.

"Under that order, the plaintiffs lost their bets. For this reason, the complaint fails to state a claim upon which relief can be granted," the court said, affirming the trial court's ruling.

Peter Hayes
Reporter

May 3, 2024, 10:38 AM EDT

Bloomberg Law

Regs in the News: Lethal Injection

Kentucky judge declines, for now, to lift ban on executions

AP

BY DYLAN LOVAN
Updated 1:09 PM EDT, May 2, 2024

LOUISVILLE, Ky. (AP) — A Kentucky judge has declined to remove a court injunction that has blocked executions in the state for more than a decade.

Franklin County Circuit Judge Phillip Shepherd, whose order blocked Kentucky's lethal injections in 2010, wrote in a ruling Wednesday he would hold off on deciding on the ban, saying there have been changes to lethal injection regulations since then. He said there may also be constitutional questions about the new regulations that have to be settled.

Regs in the News: Lethal Injection

Coleman's office argued in a hearing in Shepherd's court last week that recent changes made by the state to capital punishment regulations brings them into compliance with the concerns raised by the 2010 injunction. The new regulation updates the methods by which inmates are found ineligible for execution due to intellectual disabilities. A motion filed by Coleman's office in March said other concerns raised in the injunction, including the drugs used in lethal injection, were previously resolved.

"There is no longer any basis for the injunction, and the court should lift it," Coleman's motion said.

Coleman said he would quickly appeal Shepherd's ruling.

Administrative Regulation Review Subcommittee

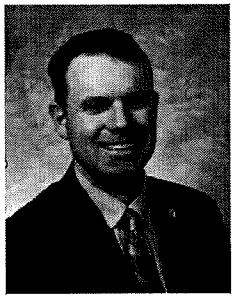
ARRS
- 8 members
- Second Tues. (Usually)

LRC
- Refers regs to subject matter committee

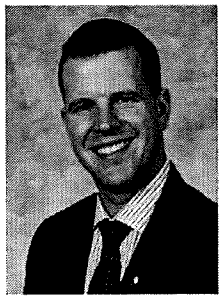
2nd Review
- 90 days from referral
- Optional

Members

Senator Stephen West Representative Derek Lewis

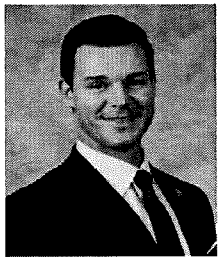


CO-CHAIRS



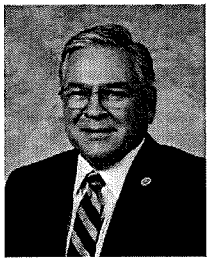
Senate Members

Julie Raque Adams | Damon Thayer | David Yates



House Members

Randy Bridges | Deanna Frazier Gordon | Daniel Grossberg



What is an Administrative Regulation?

KRS 13A.010(2)

.....each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body.

Types of Administrative Regs

ORDINARY

- Most common type filed
- Goes into effect after 13A review process

EMERGENCY

- Temporary in nature
- Goes into effect immediately upon filing

Types of Administrative Regs

ORDINARY

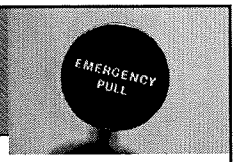
- New
- Amendment
- Amended After Comments (AAC)
- Repealer

EMERGENCY

- Emerg. New
- Emerg. Amendment
- Emerg. AAC
- Emerg. Repealer

Statement of Emergency

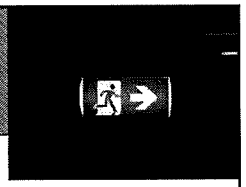
KRS 13A.190



- Imminent threat to public health, safety, or welfare, or the environment
- Prevent imminent loss of federal or state funds
- Meet an imminent deadline for promulgation required by state or federal law
- Comply with an Executive Order issued under KRS 39A

Emergency Drafting

KRS 13A.190(7) and (8)



- Drafting rules for Emergency regs the same as for Ordinary regs
- Emergency regs do have additional requirements
  - Statement of Emergency
  - Documentation supporting justification for Emergency reg

Statement of Emergency

KRS 13A.190(7)

- Nature of Emergency
- Reasons why ordinary is not sufficient
- Whether E will be replaced by an ordinary
- If replaced, whether the E is identical to the ordinary
- If not replaced by ordinary, reasons why
- If applicable, KRS 13A.190(6)

Regulations

Getting Started

- If a New Reg
  - Get a new reg # from the Compiler
- If an Amended Reg
  - Get the official, current regulation from LRC's web page

7-Year Expiration: 6/8/2030

Last Updated: 6/20/2023

Download | View Markup

Download PDF (.pdf)

Download Word (.docx)

Formatting
KRS 13A.220

2-inch Top Margin

1 TOURISM, ARTS AND HERITAGE CABINET ← Agency Name

2 Board of Beach Tourism

3 (Amendment) ← Reg Type

4 308 KAR 10:120. Public Beach Safety Requirements. ← Number & Title

Intro Paragraphs
KRS 13A.220

4 308 KAR 10:120. Public Beach Safety Requirements.

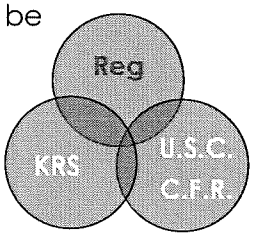
5 RELATES TO: KRS 148.340, 148.360, 148.3912, 54 U.S.C. 100508(a)3

6 STATUTORY AUTHORITY: KRS 148.330

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 148.330 authorizes the

RELATES TO
KRS 13A.220(4)(e)

- List all statutes, and other enactments, that relate to the regulation or will be affected by the regulation
- This may include:
  - Branch Budget Bills
  - Executive Orders



RELATES TO

4 308 KAR 10:120. Public Beach Safety Requirements.

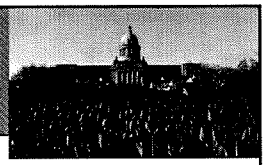
5 RELATES TO: KRS 148.340, 148.360, 148.3912, 54 U.S.C. 100508(a)3

6 STATUTORY AUTHORITY: KRS 148.330

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 148.330 authorizes the

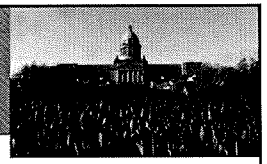
STATUTORY AUTHORITY

KRS 13A.220(4)(e)



- List specific statutes, and other enactments, authorizing or requiring the agency to promulgate the regulation
- Extremely important
  - All the excellent drafting in the world doesn't matter without statutory authority

STATUTORY AUTHORITY



4 308 KAR 10:120. Public Beach Safety Requirements.

5 RELATES TO: KRS 148.340, 148.360, 148.3912, 54 U.S.C. 100508(a)3

6 STATUTORY AUTHORITY: KRS 148.330

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 148.330 authorizes the

NECESSITY, FUNCTION, AND CONFORMITY

KRS 13A.220(4)(f)

- Brief statement of the necessity for promulgating the regulation, a summary of functions to be implemented, and, if applicable, the statement required by KRS 13A.245(2)(b)

NECESSITY, FUNCTION, AND CONFORMITY

- **TRANSLATION:**
  - Cite and state the statutes that authorize or require the promulgation

EXAMPLE:

KRS 148.330 (authorizes or requires) the Board of Beach Tourism to promulgate administrative regulations establishing requirements for the use of beaches by the public.

NECESSITY, FUNCTION, AND CONFORMITY

- **TRANSLATION:**
  - **NEXT** – What does the regulation do?

EXAMPLE:

This regulation establishes beach safety requirements, including standards for beach closure decisions.

NECESSITY, FUNCTION, AND CONFORMITY

- **If more stringent or differs from federal law:**
  - Third statement
  - How it is more stringent or different
  - Reasons why

EXAMPLE:

This regulation differs from 54 U.S.C 100508(a)3 in that it does not require beaches to be closed on President's Day.

NECESSITY, FUNCTION, AND CONFORMITY

6 STATUTORY AUTHORITY: KRS 148.330

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 148.330 authorizes the

8 Kentucky Board of Beach Tourism to promulgate administrative regulations establishing

9 requirements for the use of beaches by the public. This regulation establishes beach

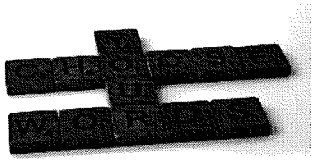
10 safety requirements, including standards for beach closure decisions. This regulation

11 differs from 54 U.S.C. 100508(a)3 in that it does not require beaches to be closed on

12 President's Day.

Definitions
KRS 13A.222(4)(d) and (e)

- First section of regulation **or**
  First regulation in chapter
- No requirements in definitions
  - (No "shall"/"may")
- Only terms used in regulation or material incorporated by reference



Definitions
KRS 13A.222(4)(d)

- Do not repeat statutory definitions

  EXAMPLES:

  "Board" means the Board of Beach Tourism.

  "Board" is defined by KRS 148.340(4).
- Other definition requirements in KRS 13A.222(4)

Numbering Provisions
KRS 13A.220(5)

Section 1.

(1) Subsection

(a) Paragraph

1. Subparagraph

a. Clause

(i) Subclause

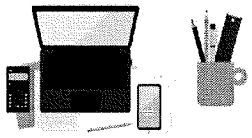
(ii) Subclause

Drafting Changes
KRS 13A.222

- New Regulation
  - No underlining or bracketing
- Amended Regulation
  - Insert or [~~delete~~] whole words

    Correct: shark attack[~~attacks~~]

    Incorrect: shark attack[s]



Please Note:
New language is always placed before deleted language.

Amended After Comments
KRS 13A.280

- **BOLD and underline** new language
- **BOLD** bracket and strike-through **[~~deleted language~~]**
- New language **is before[~~deleted~~]**

Other Drafting Rules
KRS 13A.222(4)(b)

- Plain words understood by laymen
- Avoid ambiguous, indefinite, or superfluous

REQUIRED	ALLOWED	PROHIBITED
Shall	May	Shall not

Other Drafting Rules
KRS 13A.222(4)(c)

- Do not use "such" where an article may be used

  EXAMPLE: If applying for a Beach Concert Permit for the first time, the[~~such~~] application shall require notarization.
- Do not use the following:
  - And/or (or other alternatives with a slash)
  - Contractions

Other Drafting Rules
KRS 13A.222(4)(c)

- Items in a list
  - If all mandatory = and
  - If all not mandatory = or

EXAMPLES:

A police officer on beach duty shall possess a:

(a) Bullhorn;
(b) Two-way radio; **and**
(c) Mobile phone.

(a) Bullhorn;
(b) Two-way radio; **or**
(c) Mobile phone.

Other Drafting Rules

Clarity is the goal

The Great Debate – Oxford Commas

EXAMPLES:

***No* Oxford Comma –**

- *My heroes are my parents, Superman and Wonder Woman.*

Oxford Comma –

- *My heroes are my parents, Superman, and Wonder Woman.*

Other Drafting Rules
KRS 13A.222(4)

- Use "if" to express conditions
- Singular words extend to plural
- Use gender neutral language

  Examples: "the applicant", "the licensee"
- KRS 13A.222(4) – other drafting rules

Other Drafting Rules

- List of prohibited words and phrases & substitute language
- Numbers & symbols
- Decimals & percentages
- Money
- Citations

Items in a Series

Example:

(1) Each application for lifeguard shall include: Colon

(a) A photograph of the applicant; Semicolon

(b) An application fee of twenty-five (25) dollars;

and

(c) A copy of the applicant's swim rescue certification.

Series Within a Series

Section 4. Shark reporting.

(1) A licensed boat operator with a shark reporting certification:

(a) May search for and identify a:

1. Great White Shark;
2. Tiger Shark; ***or***
3. Bull Shark; ***and***

(b) Shall contact the Department of Fish with the type and last-known location of an identified shark.

Incorporation By Reference
KRS 13A.224 to 13A.2261

Section 10. Incorporation by Reference.

(1) "Permit Application for Beach Concerts", October 9, 2022, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Beach Tourism, 500 Mero St, Frankfort, KY 40601, Monday through Friday, 8 a.m. to 4:30 p.m., or at https://tah.ky.gov.Pages/Home.aspx.

Section 10. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Permit Application for Beach Concerts", October 9, 2022; and

(b) "Campground Reservation Form", June 2019.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Board of Beach Tourism, 500 Mero St, Frankfort, KY 40601, Monday through Friday, 8 a.m. to 4:30 p.m., or at https://tah.ky.gov.Pages/Home.aspx.

KRS 13A.220(6) and (7)

Signature Page

REVIEWED:

David Hasselhoff 10/4/2023

David Hasselhoff, JD, Certified Lifeguard — Date
General Counsel, Board of Beach Tourism

APPROVED:

Jason Mamoa 10/4/2023

Jason Mamoa — Date
Chair, Board of Beach Tourism

Public Hearing Page
KRS 13A.270(2)

Include Written Comment Deadline

Date
Time
Place

Contact

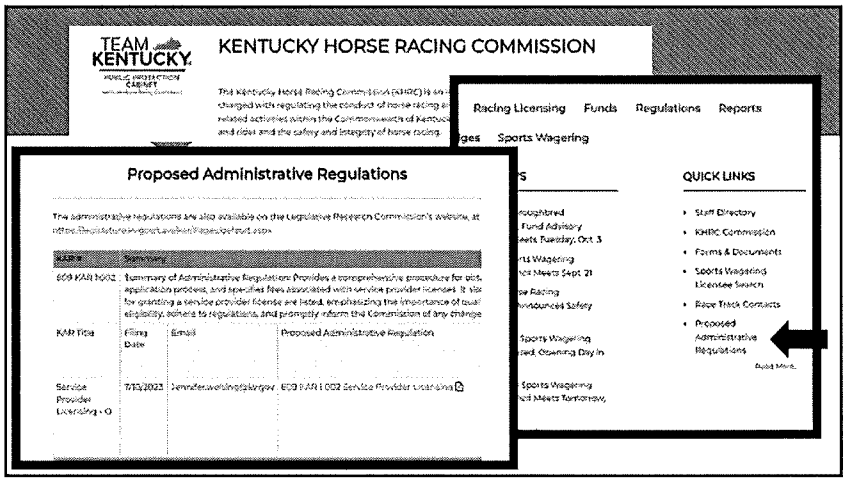
PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall, if requested, be held on November 27, 2024, at 9:00 a.m., at the Board of Beach Tourism, 500 Mero St, Frankfort, KY 40601. 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 was received by that date, the hearing may be cancelled. 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 November 30, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: David Hasselhoff, General Counsel, Board of Beach Tourism, 500 Mero St, Frankfort, KY 40601; Phone: 502-867-5309; fax: 502-867-5310; David.hasselhoff@ky.gov.

Agency Web Site Information
KRS 13A.220(8)

- Agency shall prominently display information about a filed regulation on web site, including:
  - Summary pursuant to KRS 13A.220(8)(b); and
  - Public comment information



Regulatory Impact Analysis
KRS 13A.240

- Reg #, contact info (if applicable, alternate contact)
- See RIA form on web site
  - Brief summary of regulation
  - If amended, brief summary of amendment
  - Type and number of stakeholders affected by regulation
  - How the stakeholders will be affected
  - Costs, funding sources, fee creation or increases, tiering

KRS 13A.240

Regulatory Impact Analysis (RIA)

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 308 KAR 10:2120
Agency Contact: David Hasselhoff
Phone Number: (502) 867-5309
Email: David.hasselhoff@ky.gov

Contact Person: Jack Sparrow
Phone Number: (502) 867-5308
Email: BOBTregs@ky.gov

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes requirements for the closure of public beaches.
(b) The necessity of this administrative regulation: There has been an increase in bodily injuries of swimmers, surfers, and boaters off the coast of Kentucky's recent annexation, Amity Island. Some of these incidents may involve marine wildlife. Local governments of Kentucky-annexed beach towns have requested clarity on the requirements for closing beaches to better assist in managing these types of occurrences without undue harm to local business.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 12.020 establishes the Board of Beach Tourism within the Tourism, Arts and Heritage Cabinet. KRS 148.330(21) authorizes the board to promulgate administrative regulations relating to beach safety.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative clarifies for local governments the process for closing a beach due to safety concerns.

Federal Mandate Analysis Comparison
KRS 13A.010(7) and 13A.245

- Definition: Federal law/order that requires ***or allows*** regulatory activity
- <u>If federal mandate</u> – compare proposed compliance standards with federal standards
- <u>If stricter requirements</u> – written statement justifying imposition of stricter standards, requirements, or responsibilities

KRS 13A.245

Federal Mandate Analysis Comparison

FEDERAL MANDATE ANALYSIS COMPARISON

Administrative Regulation: 308 KAR 10:120
Agency Contact: David Hasselhoff
Phone Number: (502) 867-5309
Email: david.hasselhoff@ky.gov

Contact Person: Jack Sparrow
Phone Number: (502) 867-5308
Email: BOBTregs@ky.gov

(1) Federal statute or regulation constituting the federal mandate.

54 U.S.C. 100508

(2) State compliance standards.

KRS 148.330

(3) Minimum or uniform standards contained in the federal mandate.

54 U.S.C. 100508(a)2, (a)3, (b)2, (c)4

Federal Mandate Analysis Comparison
KRS 13A.245

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

This administrative regulation does not impose stricter requirements or additional responsibilities or requirements. This administrative regulation does impose different responsibilities or requirements than those required by the federal mandate, in that it does not require beaches to be closed on President's Day.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

This administrative regulation does not require beaches to be closed on President's Day so as to avoid negative local economic consequences from shutting down a high-level tourist attraction for a day.

Fiscal Note (Revised to Fiscal Impact Statement)
KRS 13A.250

- Two-part cost analysis
  - First part – projected costs or cost savings to:
    - State government
    - Local governments (including cities, counties, fire departments, and school districts)
  - Second part – projected costs or cost savings to regulated entities affected by regulation

Fiscal Impact Statement
KRS 13A.250

- Note: **UPDATED** form as of March 15, 2024 – HB 264 (23 R.S.)
  - Must provide narrative to explain the fiscal impact of the administrative regulation
  - Must provide the methodology and resources used to determine fiscal and major economic impacts

KRS 13A.250

Fiscal Impact Statement

FISCAL IMPACT STATEMENT

Administrative Regulation: 308 KAR 10:120
Contact Person: David Hasselhoff
Phone: (502) 867-5309
Email: David.hasselhoff@kygov

Contact Person: Jack Sparrow
Phone: (502)867-5308
Email: BOBTregs@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.
KRS 148.330, 54 U.S.C. 100508

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:
Department of Tourism, Arts and Heritage
The Board of Beach Tourism

(a) Estimate the following for the first year:
Expenditures: $40,000 for additional beach patrol officer
Revenues: NONE
Cost Savings: NONE

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

Major Economic Impact
KRS 13A.250(3)(f)

- Major economic impact

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.

Summary of Material Incorporated by Reference KRS 13A.2251(3)

- Relevant programs, statutes, funds, rights, duties, and procedures, affected by the material and the manner in which they are affected
- A citation of specific state or federal statutes or regulations authorizing or requiring the procedure or policy found in the material incorporated by reference
- The total number of pages incorporated by reference

KRS 13A.2251

Summary of Material Incorporated By Reference

STATE OF KENTUCKY
TOURISM, ARTS AND HERITAGE CABINET
BOARD OF BEACH TOURISM

308 KAR 10:120
Public Beach Safety Requirements
Summary of Material Incorporated by Reference

1. The "Permit Application for Beach Concerts", October 9, 2023, is an application that is used to obtain approval to present a concert on a public beach. This form is being amended to require a fee of $50 for a safety inspection of concert equipment and structures prior to the concert's start. This form contains two (2) pages.

2. The "Order of Beach Closure" form, September 2023, is used by law enforcement to notify the local governmental body and its citizens that a beach is being closed to the public, the reasons for the closure, and the expected duration of the closure. This form is being revised to allow notification texts about a beach closure to be sent via the public information app for mobile devices. The previous form had not been updated since June 1975 when mobile technology was not yet available. This form contains one (1) page.

These forms are authorized by KRS Chapter 148.330.

The total number of pages incorporated by reference for this administrative regulation amendment is three (3).

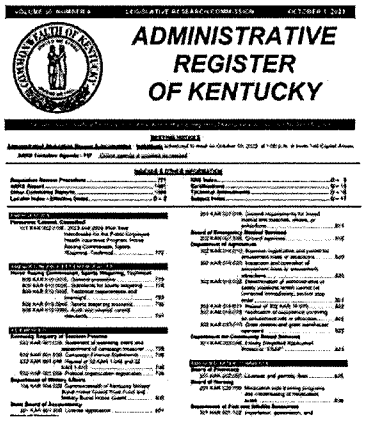
Filing Regulations
KRS 13A.150 and 13A.220

- File regulations with the Compiler – Annex Rm 83
- Five (5) copies and electronic copy
  - **DEADLINE:** *15th of the month, **BY NOON**

  * If the 15th falls on a Saturday, Sunday, or holiday, the deadline for filing shall be on or before 12 noon, eastern time, on the working day immediately preceding the Saturday, Sunday, or holiday unless the statute specifies a different deadline

Administrative Register

- Published by the Regulations Compiler
  - Administrative Register (1st of the month)
  - Web site (All issues since July 1975)



Amended After Comments
KRS 13A.280

- **BOLD and underline** new language
- **BOLD, bracket, and strike-through [~~deleted language~~]**
- New language **is before[~~deleted~~]**

Amended After Comments

1 Section 2. Public beach safety.
2 (1) Law enforcement shall patrol a public beach two (2) times per day to ensure safety
3 of the public.
4 (2) If there is a verified shark attack on a person, law enforcement shall[~~may~~] provide
5 extra patrols, in addition to the patrol required by subsection (1) of this section, to
6 monitor for shark activity[~~threats~~].
7 (3) The local government council may contract with citizen boat-owners to assist
8 in tracking rogue sharks.

Statement of Consideration
KRS 13A.280

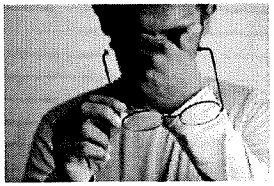
- After end of public comment period – give consideration to all comments
- **DEADLINE**
  - 15th of month following comment period **BY NOON**
  - If significant number of comments – request extension of one month (Ordinary Only)

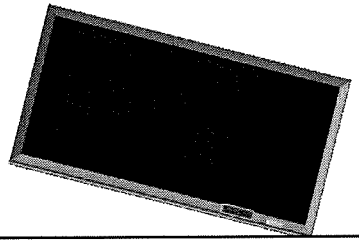
Statement of Consideration
KRS 13A.280

- If comments received – automatically deferred from the next ARRS meeting.
- If the regulation is amended after comments, the agency will file the SOC and the AAC together.

Statement of Consideration
KRS 13A.315

- **IMPORTANT** – If the SOC is not filed by the deadline, the entire proposed regulation ***EXPIRES*** and will have to be refiled from the beginning.





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KRS 13A.280

Statement of Consideration (SOC)

STATEMENT OF CONSIDERATION RELATING TO 308 KAR 10:120
Tourism, Arts and Heritage Cabinet
Board of Beach Tourism
Amended After Comments

(1) The public hearing on 308 KAR 10:120, scheduled for December 21, 2023, at 9 a.m. was canceled. However, written comments were received during the public comment period.

(2) The following people submitted written comments:

NAME AND TITLE	AGENCY/ORGANIZATION/ENTITY/OTHER
Martin Brody	Amity Island Police Department Chief of Police
Matt Hooper	Oceanographic Institute Marine Biologist
Quint	Boat Captain (Orca)
Larry Vaughn	Amity Island Mayor
David Hasselhoff	Board of Beach Tourism

(3) The following people from the promulgating administrative body responded to the written comments:

NAME AND TITLE	
David Hasselhoff	Board of Beach Tourism General Counsel

KRS 13A.280

SOC: Comments and Responses

Summary of Comments and Responses

(1) Subject Matter: Beach Closure

(a) Comment: Larry Vaughn, Amity Island Mayor. The provision authorizing the chief of police to close the beach whenever there is a shark encounter is too onerous and will negatively impact the town's economy. Additionally, "shark encounter" is not defined.

(b) Response: The board disagrees that giving the chief of police beach closure authority is onerous. The police chief is charged with the safety of the citizens. The board agrees to define "shark encounter." This regulation will be amended as a result of this comment.

(2) Subject Matter: Island Council Review

(a) Comment: Martin Brody, Chief of Amity Police Department. The requirement that the police chief submit to a vote of the town council within twenty-four (24) hours of beach closure after a shark encounter will interfere with the ability of police to keep beachgoers safe.

(b) Response: The board disagrees with this comment. The town council provides the checks and balances needed in local government to ensure reasonable decisions that take multiple factors into account, including the economic considerations of various stakeholders. This regulation will not be amended as a result of this comment.

KRS 13A.280

SOC: Summary of Action Taken

Summary of Statement of Consideration and
Action Taken by Promulgating Administrative Body

(1) Summary of Statement of Consideration

This Statement of Consideration addresses written comments submitted by the following groups and individuals:

Martin Brody	Amity Island Police Department Chief of Police
Matt Hooper	Oceanographic Institute Marine Biologist
Quint	Boat Captain (Orca)
Larry Vaughn	Amity Island Mayor
David Hasselhoff	Board of Beach Tourism

(2) The administrative regulation is being amended in response to the written comments received. The administrative regulation is amended as follows:

Page 2
Section 1(12)
Line 20
After "business.", insert the following:
(13) "Shark encounter" means an interaction between a human and a shark in the wild that:
(a) Results in bodily injury to the human; and
(b) Is significant enough to warrant medical attention.

The remaining subsections shall be renumbered to conform.

Filing Suggested Amendments

KRS 13A.320

- File with the compiler
  - 20 copies + original with cover letter
  - **Deadline:** 8:30 a.m. on Meeting Day

* **HOWEVER**

It makes life so much easier for staff if it is filed ***prior to meeting day***

Filing Agency Amendments

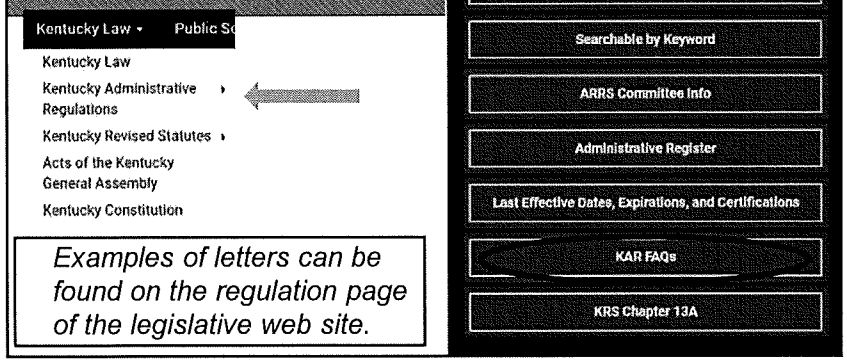
KRS 13A.320(2)

- File with the compiler
  - 20 copies + original with cover letter
  - **DEADLINE:** At least **three (3)** workdays **prior to** the ARRS meeting

Process and Timelines

- The timelines vary based upon whether:
  - Emergency or Ordinary Reg
  - Public comments received or not
  - Deferrals
  - If and when a subject matter committee exercises its option to review during 90-day review period

Letters Filed with Compiler



Examples of letters can be found on the regulation page of the legislative web site.

Letters Filed with Compiler

- Notification about hearing (held or not)
- Notification about comments (received or not)
- Requesting deferral
- Requesting an SOC extension for ordinary reg
- Submitting Suggested or Agency Amendments

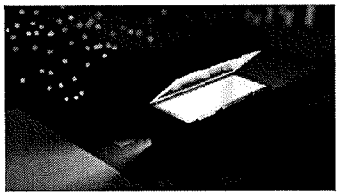
Letters Filed with Compiler

- Technical amendment request
- Withdrawal of regulation (In Review Process)
  - Effective regulation removal – File Repealer reg
- Recodification
- Certification letter

LRC Site KAR Page

FAQ's –

A Wealth of Information



General

Regulations Process

General Information

Promulgating Agency

Parts of an Administrative Regulation

Drafting Examples

Filing Information

Letter Examples

General Information for Agencies

FAQs - Letters

- Example letters available for routine regulation processes
- Ordinary and Emergency versions of example letters

Letter Examples

- How do I submit letters?

Ordinary Regulations

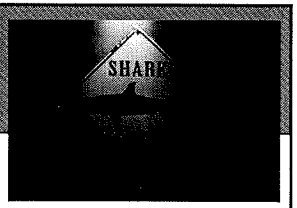
- Hearing Held
- Hearing Not Held
- Comments Received
- Comments Not Received
- SOC Extension
- Deferral
- Agency Amendment
- Suggested Amendment
- Technical Amendment
- Recodification
- Withdrawal

Emergency Regulations

- Hearing Held
- Hearing Not Held
- Comments Received
- Comments Not Received
- Deferral Request
- Agency Amendment
- Suggested Amendment
- Withdrawal

Questions? / Contact Information

LRC Main Line: 502-564-8100



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RegsCompiler@LRC.KY.GOV

REG REVIEW QUESTIONS:

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Stacy Auterson Carrie Nichols

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