

**CHAPTER 100****(SB 123)**

AN ACT relating to administrative regulations.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 1. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;
- (2) "Administrative regulation" means 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. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:
  - (a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public;
  - (b) Declaratory rulings;
  - (c) Intradepartmental memoranda not in conflict with KRS 13A.130;
  - (d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or
  - (e) Rules, regulations, and policies of the governing boards of institutions that make up the postsecondary education system defined in KRS 164.001 pertaining to students attending or applicants to the institutions, to faculty and staff of the respective institutions, or to the control and maintenance of land and buildings occupied by the respective institutions;
- (3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;
- (4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;
- (5) "Commission" means the Legislative Research Commission;
- (6) "Economic impact" means a financial impact on:
  - (a) Commercial enterprises;
  - (b) Retail businesses;
  - (c) Service businesses;
  - (d) Small businesses;
  - (e) Industry;
  - (f) Government;
  - (g) Consumers of a product or service; or
  - (h) Taxpayers;
- (7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290, 13A.330, and 13A.331;
- (8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

- (9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;
- (10) "Filed" or "promulgated" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;
- (11) "Government" means and includes a city, county, urban-county, charter county, consolidated local government, special district, or a quasi-governmental body authorized by the Kentucky Revised Statutes or a local ordinance;
- ~~(12) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;~~
- ~~(13)~~ "Proposed administrative regulation" means an administrative regulation that an administrative body proposes to promulgate;
- ~~(13)~~~~(14)~~ "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;
- ~~(14)~~~~(15)~~ "Small business" means a business entity, including its affiliates, that:
- (a) Is independently owned and operated; and
  - (b)
    1. Employs fewer than one hundred fifty (150) full-time employees or their equivalent; or
    2. Has gross annual sales of less than six million dollars (\$6,000,000).
- ~~(15)~~~~(16)~~ "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;
- ~~(16)~~~~(17)~~ "Subcommittee" means the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, an interim joint committee, or a House and Senate standing committee; and
- ~~(17)~~~~(18)~~ "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 2. KRS 13A.040 is amended to read as follows:

The director of the Legislative Research Commission shall appoint an administrative regulations compiler who shall:

- (1) Receive administrative regulations, and other documents required to be filed by the provisions of this chapter, tendered for filing;
- (2) Stamp administrative regulations tendered for filing with the time and date of receipt;
- (3) Provide administrative and support services to the subcommittee;
- (4) Maintain a file of administrative regulations and other documents required to be filed by this chapter, for public inspection, with suitable indexes;
- (5) Maintain a file of ineffective administrative regulations;
- (6) Maintain a file of material incorporated by reference, including superseded or ineffective material incorporated by reference;
- (7) Prepare the Kentucky Administrative Regulations Service;
- (8) Upon request, certify copies of administrative regulations and other documents that have been filed with the regulations compiler;
- (9) Correct errors that do not change the substance of an administrative regulation, including, but not limited to, typographical errors, errors in format, and grammatical errors;
- (10) *Change items in an administrative regulation in response to a specific written request submitted by the administrative body if the regulations compiler determines that the requested changes do not affect the substance of the administrative regulation. The changes may include the address of the administrative body, citations to statutes or other administrative regulations if a format change within that statute or administrative*

*regulation has changed the numbering or lettering of parts, or other changes in accordance with KRS 13A.312;*

- (11) Refuse to accept for filing administrative regulations, and other documents required to be filed by this chapter, that do not conform to the drafting, format, or filing requirements established by the provisions of KRS Chapter 13A, and notify the administrative body in writing of the reasons for refusing to accept an administrative regulation for filing; and
- (12)~~(11)~~ Perform other duties required by the Commission or by a subcommittee.

Section 3. KRS 13A.050 is amended to read as follows:

- (1) The Legislative Research Commission shall compile, publish, and distribute the administrative regulations filed by administrative bodies. This compilation shall be known as the Kentucky Administrative Regulations Service and shall constitute the official state publication of administrative regulations.
- (2) (a) There is hereby created a publication known as "The Administrative Register" to be printed and published on a monthly basis by the Legislative Research Commission for the purpose of giving notice of administrative regulations filed in accordance with this chapter.
- (b) Every administrative regulation forwarded to the Legislative Research Commission shall have its complete text printed in the Administrative Register along with the accompanying statements required by KRS 13A.190, 13A.210, 13A.2251(1), 13A.240, 13A.245, 13A.250, and 13A.270.
- (c) Within five (5) workdays of the publication of an administrative regulation in the Administrative Register, an administrative body shall:
1. Review the text and accompanying statements of the administrative regulation; and
  2. Notify the regulations compiler in writing *or by e-mail* of errors.
- (3) The Administrative Register shall be published the first day of each month and shall include all administrative regulations received by the Legislative Research Commission by 12 noon, eastern time, on the fifteenth day of the preceding month. When the fifteenth day falls on a Saturday, Sunday, or holiday the deadline is the workday which immediately precedes the Saturday, Sunday, or holiday.
- (4) The compiler shall cause to be prepared a certificate to the effect that the text of the administrative regulations as printed in this service is correct. One (1) copy of the Kentucky Administrative Regulations Service with the original certificate therein shall be maintained in the Office of the Secretary of State. All other copies shall contain a printed copy of the certificate and shall constitute prima facie evidence of the law in all courts and proceedings.
- (5) The Commission shall prescribe reasonable fees for subscription to the Kentucky Administrative Regulations Service and the Administrative Register. All fees paid to the Commission for these publications shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this section.
- (6) Copies of regulatory impact analysis shall be made available to any interested party upon request to the Legislative Research Commission. The Commission may prescribe reasonable fees for duplication services and all fees paid to the Commission for duplication services shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this subsection.

Section 4. KRS 13A.150 is amended to read as follows:

- (1) When any section of this chapter requires that an action be taken at a specified date with regard to filing of items to the Commission *and the section does not specify a time deadline*, they shall be filed on or before 12 noon, eastern time, on the specified date.
- (2) When any section of this chapter requires that an action be taken at a specified date and the specified date falls on a Saturday, Sunday, or holiday, the action shall be taken 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*.
- (3) *When any section of this chapter requires that a meeting be held on or before a specified date and the specified date falls on a Saturday, Sunday, or holiday, the meeting shall be held on or before close of business on the working day immediately following the Saturday, Sunday, or holiday.*

Section 5. KRS 13A.190 is amended to read as follows:

- (1) An emergency administrative regulation is one that:
  - (a) Must be placed into effect immediately in order to:
    1. Meet an imminent threat to public health, safety, or welfare;
    2. Prevent a loss of federal or state funds;
    3. Meet a deadline for the promulgation of an administrative regulation that is established by state law, or federal law or regulation; or
    4. Protect human health and the environment; and
  - (b)
    1. Is temporary in nature and will expire as provided in this section; or
    2. Is temporary in nature and will be replaced by an ordinary administrative regulation as provided in this section.
- (2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next Administrative Register.
- (3)
  - (a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire one hundred *eighty (180)*~~*seventy (170)*~~ days after the date of *filing*~~*publication*~~ or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.
  - (b) If an administrative body extends the time for filing a statement of consideration as provided by KRS 13A.280(2)(b), an emergency administrative regulation shall remain in effect for one hundred *eighty (180)*~~*seventy (170)*~~ days after the date of *filing*~~*publication*~~ plus the number of days extended under the provisions of KRS 13A.280(2)(b) *or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.*
- (4) An emergency administrative regulation shall not be filed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously filed emergency administrative regulation shall be promulgated.
- (5) When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency.
- (6) Each emergency administrative regulation shall contain a statement of:
  - (a) The nature of the emergency;
  - (b) The reasons why an ordinary administrative regulation is not sufficient;
  - (c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;
  - (d) *If the emergency administrative regulation will be replaced by an ordinary administrative regulation, the following statement: "The ordinary administrative regulation [is or is not] identical to this emergency administrative regulation.";*
  - (e) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor; and
  - ~~(f)~~*(e)* If applicable, the explanation required by subsection (5) of this section.
- (7) An administrative body shall attach the:
  - (a) Statement of emergency required by subsection (6) of this section to the front of the original and each copy of a proposed emergency administrative regulation; and
  - (b) Regulatory impact analysis, tiering statement, federal mandate comparison, fiscal note, summary of material incorporated by reference if applicable, and other forms or documents required by the provisions of this chapter to the back of the emergency administrative regulation.

- (8) (a) If an emergency administrative regulation will not be replaced by an ordinary administrative regulation, the administrative body shall schedule a public hearing and public comment period pursuant to KRS 13A.270(1). The public hearing and public comment period information required by KRS 13A.270(2) shall be attached to the back of the emergency administrative regulation.
- (b) If an emergency administrative regulation will be replaced by an ordinary administrative regulation:
1. The ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced; and
  2. A public hearing and public comment period shall not be required for the emergency administrative regulation.
- (9) The statement of emergency shall have a two (2) inch top margin. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."
- (10) Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the Commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.
- (11) (a) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.
- (b) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.
- (12) (a) If an emergency administrative regulation, that was intended to be replaced by an ordinary administrative regulation, is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.
- (b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.
- (c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.
- (13) A subcommittee may review an emergency administrative regulation and may recommend to the Governor that the regulation be withdrawn.

Section 6. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

- (1) An administrative body shall file with the regulations compiler:
- (a) The original and five (5) copies of an administrative regulation; and
  - (b) At the same time the original and five (5) copies are filed, an electronic version, if available, of the administrative regulation and required attachments on a diskette or by e-mail in an electronic format approved by the regulations compiler.
- (2) The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.
- (3) An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (4) of this section.
- (4) The format of an administrative regulation shall be as follows:
- (a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches and shall be double-spaced through the last line of the body of the administrative regulation. The first page shall have a two (2) inch top margin. The administrative regulation shall be

typed in a twelve (12) point font approved by the regulations compiler. The lines on each page shall be numbered, *with each page starting with line number one (1)*. Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. Page numbers shall be centered in the bottom margin of each page. Copies of the administrative regulation may be mechanically reproduced;

- (b) The regulations compiler shall place a stamp indicating the date and time of receipt of the administrative regulation in the two (2) inch margin on the first page;
  - (c) The cabinet, department, and division of the administrative body shall be listed on separate double-spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed on the next double-spaced line by "(New Administrative Regulation)," "(Amendment)," "(Amended After Comments)," "(Repealer)," "(New Emergency Administrative Regulation)," "(Emergency Amendment)," or "(Emergency Repealer)," whichever is applicable;
  - (d) The notation shall be followed by the number and title of the administrative regulation on the next double-spaced line. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;
  - (e) On the next double-spaced line following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261~~1~~~~13A.2264, 13A.2267~~; and
  - (f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b).
- (5) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an Arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an Arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an Arabic number followed by a period (e.g., 1., 2., etc.). Clauses shall be designated by lower case letters of the alphabet followed by a period (e.g., a., b., c., etc.). Subclauses shall be designated by lower case Roman numerals in parentheses (e.g., (i), (ii), (iii), etc.).
- (6) After the complete text of an administrative regulation, on the following page, the administrative body shall include the following information:
- (a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred;
  - (b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;
  - (c) Information relating to public hearings as required by KRS 13A.160 and 13A.270 and the public comment period required by KRS 13A.270; and
  - (d) The name, position, address, telephone number, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:
    1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;

2. Negotiate changes in language with a subcommittee in order to resolve such issues; and
  3. Answer questions relating to the administrative regulation.
- (7) The format for signatures required by paragraphs (a) and (b) of subsection (6) of this section shall be as follows:
- (a) The signature shall be placed on a signature line; and
  - (b) The name and title of the person signing shall be typed immediately beneath the signature line.

Section 7. KRS 13A.222 is amended to read as follows:

- (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~~<sup>such</sup> 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)~~ 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~~<sup>such</sup> 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. a. 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)."
  - b. If appropriate, the citation of an appropriation act shall include a citation to the appropriate part of the budget memorandum.
  5. If the authority is an executive order, the citation shall be as follows: "EO (year executive order issued)-(number of executive order)."
- ~~(n)~~~~(m)~~ 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)~~~~(n)~~
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)~~~~(o)~~ Citations of items in the "RELATES TO" paragraph of an administrative regulation shall comply with paragraphs ~~(1)~~, ~~(m)~~, ~~and~~ ~~(n)~~, and ~~(o)~~ of this subsection.
- ~~(q)~~~~(p)~~ 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.
- Section 8. KRS 13A.2245 is amended to read as follows:
- (1) An administrative body may incorporate by reference a code or uniform standard if a federal or state statute:
    - (a) Requires an administrative body to implement, or a regulated entity to comply with, the provisions of that code or uniform standard; and

- (b) Does not set forth the code or uniform standard, or a comprehensive scheme of regulation.
- (2) If a code or uniform standard is *changed*~~[adopted with changes]~~ by the administrative body, the administrative body shall:
- (a) *Clearly state the provisions in the body of the administrative regulation that are different than those included in the code or uniform standard; and*
  - (b) File with the regulations compiler a:
    - 1.~~(a)~~ Copy of the code or uniform standard;
    - 2.~~(b)~~ Summary listing the pages upon which changes have been made; and
    - 3.~~(c)~~ Detailed summary of the changes and their effect.

The summaries shall be attached to the back of the proposed administrative regulation.

- (3) If a federal regulation requires an administrative body to adopt, develop, or implement material of a scientific or technical nature that does not lend itself to the format requirements of KRS Chapter 13A, the administrative body may incorporate *the*~~[such]~~ material by reference in an administrative regulation as provided by KRS 13A.2251 and 13A.2255.

Section 9. KRS 13A.2251 is amended to read as follows:

- (1) An administrative body shall incorporate material by reference in the last section of an administrative regulation. This section shall include:
- (a) The title~~[and edition]~~ of the material incorporated by reference placed in quotation marks, *followed by the edition date of the material*;
  - (b) Information on how the material may be obtained; and
  - (c) A statement that the material is available for public inspection and copying, subject to copyright law, at the main, regional, or branch offices of the administrative body, and the address and office hours of each. *Following the required statement, the administrative body may include optional information that states the administrative body's Web site address or telephone number or that provides contact information for other sources that may have the material available to the public.*
- (2) The section incorporating material by reference shall be titled "Incorporation by Reference".
- (a) If only one (1) item is incorporated by reference, the first subsection of the section incorporating material by reference shall contain the following statement: "(name and edition date of material incorporated) is incorporated by reference."
  - (b) If more than one (1) item is incorporated by reference, the first subsection of the section incorporating material by reference shall contain the following statement: "The following material is incorporated by reference: (a) (name and edition date of first item incorporated); and (b) (name and edition date of second item incorporated)."
  - (c) The second subsection of the section incorporating material by reference shall include the following statement: "This material may be inspected, copied, or obtained, subject to applicable copyright law, at (name of *administrative body*~~[agency]~~, full address), Monday through Friday, 8:00 a.m. to 4:30 p.m."
- (3) A summary of the incorporated material, in detail sufficient to identify the subject matter to which it pertains, shall be attached to an administrative regulation that incorporates material by reference. This summary shall include:
- (a) Relevant programs, statutes, funds, rights, duties, and procedures affected by the material and the manner in which they are affected;
  - (b) A citation of the specific state or federal statutes or regulations authorizing or requiring the procedure or policy found in the material incorporated by reference; and
  - (c) The total number of pages incorporated by reference.
- (4) (a) One (1) copy of the material incorporated by reference shall be filed with the regulations compiler when the administrative regulation is filed.

- (b) Material incorporated by reference shall be placed in a binder, *attached to the back of the administrative regulation, or filed on a CD-ROM or DVD.*
1. *If the material is placed in a binder, the administrative body shall indicate*~~[write, stamp, or type]~~, on the front binder cover and on the first page of the material incorporated by reference, the:
    - a. Number of the administrative regulation to which *the* material incorporated by reference pertains;
    - b. ~~[, the ]~~Date on which it is filed;~~[, ]~~ and
    - c. ~~[, the ]~~Citation of each item that is included in the binder.
  2. *The material incorporated by reference may be attached to the back of the administrative regulation if it is:*
    - a. *No more than four (4) pages in length; and*
    - b. *Typewritten on white paper, size eight and one-half (8 1/2) by eleven (11) inches, and single-sided.*
  3. *The material incorporated by reference may be filed on a CD-ROM or DVD disc if the material is saved in Adobe Portable Document Format (PDF). The administrative body shall indicate on the disc and the disc's storage case the:*
    - a. *Number of the administrative regulation to which the material incorporated by reference pertains;*
    - b. *Date on which it is filed; and*
    - c. *Citation of each item that is included on the disc.*
- (c) If the same material is incorporated by reference in more than one (1) administrative regulation, an administrative body may file one (1) copy of the material in a binder *or on a CD-ROM or DVD disc.* The numbers of the administrative regulations in which the material is incorporated by reference shall be *indicated with the other information as required by paragraph (b) of this subsection*~~[written, stamped, or typed on the:~~
1. ~~Front binder cover; and~~
  2. ~~First page of the material incorporated by reference].~~

Section 10. KRS 13A.2255 is amended to read as follows:

When an administrative regulation amends material that had been previously incorporated by reference, the amendment shall be accomplished by submission of:

- (1) An entire new document in which the amendments have been made but are not reflected in the manner specified in KRS 13A.222(2); *and*
- (2) A~~[ summary listing the pages upon which changes have been made, and a ]~~ detailed summary of the changes and their effect. This summary shall be attached to the administrative regulation~~[, and~~
- ~~(3) The page or pages of the document in which changes have been made, with the changes accomplished in the manner specified in KRS 13A.222(2)].~~

Section 11. KRS 13A.2261 is amended to read as follows:

Federal statutes *and regulations* shall not be incorporated by reference. If applicable, they shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" references in a proposed administrative regulation.

Section 12. KRS 13A.230 is amended to read as follows:

- (1) The administrative body shall attach the following forms to the back of the original and each copy of an administrative regulation:
  - (a) Regulatory impact analysis as required by KRS 13A.240;
  - (b) Tiering statement as required by KRS 13A.210;

- (c) Fiscal note as required by KRS 13A.250, if the administrative regulation relates to any aspect of local government or any service provided thereby;
  - (d) Federal mandate comparison, if applicable, as required by KRS 13A.245; and
  - (e) The summaries provided for in KRS ~~13A.2245~~~~[13A.2261, 13A.2264, and 13A.2267]~~, if applicable.
- (2) The forms required by subsection (1) of this section shall be obtained from the regulations compiler.

Section 13. KRS 13A.240 is amended to read as follows:

- (1) Every administrative body shall prepare and submit to the Legislative Research Commission an original and five (5) duplicate copies of a regulatory impact analysis for every administrative regulation when it is filed with the Commission. The regulatory impact analysis shall include~~[, but not be limited to,]~~ the following information:
- (a) A brief narrative summary of:
    1. What the administrative regulation does;
    2. The necessity of the administrative regulation;
    3. How the administrative regulation conforms to the content of the authorizing statutes; and
    4. How the administrative regulation currently assists or will assist in the effective administration of the statutes;
  - (b) If this is an amendment to an existing administrative regulation, a brief narrative summary of:
    1. How the amendment will change the existing administrative regulation;
    2. The necessity of the amendment to the administrative regulation;
    3. How the amendment conforms to the content of the authorizing statutes; and
    4. How the amendment to the administrative regulation will assist in the effective administration of the statutes;
  - (c) The type and number of individuals, businesses, organizations, or state and local governments affected by the administrative regulation;
  - (d) An assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment to an existing administrative regulation;
  - (e) An estimate of how much it will cost to implement this administrative regulation, both initially and on a continuing basis;
  - (f) The source of the funding to be used for the implementation and enforcement of the administrative regulation;
  - (g) An assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment to an existing administrative regulation;~~[and]~~
  - (h) A statement as to whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees; *and*
  - (i) *The tiering statement required by KRS 13A.210.*
- (2) The Legislative Research Commission shall review all regulatory impact analyses submitted by all administrative bodies, and prepare a written analysis thereof and of the administrative regulation. The Legislative Research Commission may require any administrative body to submit background data upon which the information required by subsection (1) is based, and an explanation of how the data was gathered.

Section 14. KRS 13A.255 is amended to read as follows:

- (1) Within five (5) working days of the filing of an ordinary administrative regulation that proposes to establish or increase fees, except those fees exempted by KRS 13A.100(3), an administrative body shall mail a notice containing the information required by subsection (2) of this section, to each state association, organization, or other body representing a person or entity affected by the administrative regulation.

- (2) The notice shall include the following information:
- (a) The name of the administrative body that filed the proposed administrative regulation;
  - (b) A statement that the administrative body has promulgated an administrative regulation that establishes or increases fees;
  - (c) A summary of the administrative regulation that includes:
    - 1. The amount of each fee being established;
    - 2. The amount of any increases to any fees previously established; and
    - 3. The necessity for the establishment or increase in the fees;
  - (d) A statement that a person or entity may contact the administrative body for additional information;
  - (e) The time, date, and place of the scheduled public hearing; ~~and~~
  - (f) *The deadline for submitting written comments as established in subsection (1)(c) of Section 15 of this Act; and*
  - (g) The name, address, and telephone number of the contact person for the administrative body.

Section 15. KRS 13A.270 is amended to read as follows:

- (1) (a) In addition to the public comment period required by paragraph (c) of this subsection, following publication in the Administrative Register of the text of an administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection (7) of this section, hold a hearing, open to the public, on the administrative regulation.
- (b) The public hearing shall not be held before the twenty-first day or later than the last workday of the month in which the administrative regulation is published in the Administrative Register.
- (c) The administrative body shall accept written comments regarding the administrative regulation *until the end of the calendar month in which the administrative regulation was published* ~~for a period of thirty (30) days following the publication of the administrative regulation~~ in the Administrative Register. If the ~~last~~ *last* ~~thirtieth~~ *thirtieth* day of the ~~calendar month~~ *comment period* falls on a Saturday, Sunday, or holiday, the *administrative body shall consider all comments received prior to the close of business of the first* ~~last day of the comment period shall be the~~ workday following the Saturday, Sunday, or holiday.
- (2) Each administrative regulation shall state:
- (a) The place, time, and date of the scheduled public hearing;
  - (b) The manner in which interested persons shall submit their:
    - 1. Notification of attending the public hearing; and
    - 2. Written comments;
  - (c) That notification of attending the public hearing shall be transmitted to the administrative body no later than five (5) workdays prior to the date of the scheduled public hearing;
  - (d) The deadline for submitting written comments regarding the administrative regulation in accordance with paragraph (c) of subsection (1) of this section; and
  - (e) The name, position, address, and telephone and facsimile numbers of the person to whom a notification and written comments shall be transmitted.
- (3) (a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified that the administrative body has filed an administrative regulation. This registration shall be valid for a period of four (4) years from the date the form is filed with the administrative body, or until the person submits a written request to be removed from the notification list, whichever occurs first. *The form shall include a space for the person to provide an e-mail address in order to receive the information electronically. The collected e-mail addresses shall be used solely for the purposes of this subsection and shall not be sold, transferred, or otherwise made available to third parties.*
- (b) A copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), shall be ~~e-mailed~~ *mailed*:

1. To every person who has:
    - a. Filed this form with the administrative body; *and*
    - b. *Provided an e-mail address to the administrative body;*
  2. Within five (5) working days after the date the administrative regulation is filed with the Commission; *and*
  3. With a *request*~~cover letter~~ from the administrative body~~requesting~~ that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation.
- (c) *Within five (5) working days after the date the administrative regulation is filed with the Commission, the administrative body shall mail the following information to every person who has filed the form with the administrative body but did not provide an e-mail address:*
1. *A cover letter from the administrative body requesting that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation;*
  2. *A copy of the regulatory impact analysis required by Section 13 of this Act completed in detail sufficient to put the individual on notice as to the specific contents of the administrative regulation, including all proposed amendments to the administrative regulation; and*
  3. *A statement that a copy of the administrative regulation may be obtained from the Commission's Web site, which can be accessed on-line through public libraries or any computer with Internet access. The Commission's Web site address shall be included in the statement.*
- (4) (a) If small business may be impacted by an administrative regulation, the administrative body shall e-mail a copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), to the executive director of the Commission on Small Business Advocacy within one (1) working day after the date the administrative regulation is filed with the Commission.
  - (b) The e-mail shall include a request from the administrative body that the Commission on Small Business Advocacy review the administrative regulation in accordance with KRS 11.202(1)(e) and submit its report or comments in accordance with the deadline established in subsection (1)(c) of this section. A copy of the report shall be filed with the regulations compiler.
  - (5) (a) If a government may be impacted by an administrative regulation, the administrative body shall send, by e-mail if the government has an e-mail address, a copy of the administrative regulation as filed and all attachments required by KRS 13A.230(1) to each government in the state within one (1) working day after the date the administrative regulation is filed with the Commission. If the government does not have an e-mail address, the material shall not be sent.
  - (b) The e-mail shall include a request from the administrative body that the government review the administrative regulation in the same manner as would the Commission on Small Business Advocacy under KRS 11.202(1)(e), and submit its report or comments in accordance with the deadline established in subsection (1)(c) of this section. A copy of the report or comments shall be filed with the regulations compiler.
  - (6) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) workdays before the scheduled date of the hearing.
  - (7) The administrative body shall immediately notify the regulations compiler by telephone and by letter if:
    - (a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) workdays before the scheduled hearing, and it chooses to cancel the public hearing; *and*
    - (b) No written comments have been received by the close of the last day of the public comment period.
  - (8) (a) 1. Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing shall be held.

2. *If the public hearing is held but no comments are received during the hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing was held and that no comments were received.*
- (b) Upon receipt of written comments, the administrative body shall notify the regulations compiler by telephone and by letter that written comments have been received.
- (9) *If the notifications required by subsections (7) and (8) of this section are not received by the regulations compiler by close of business on the second workday of the calendar month, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.*
- (10) *The notifications required by subsections (7) and (8) of this section shall be made by telephone and by letter. The letter may be sent by e-mail if the administrative body uses an electronic signature and letterhead for the e-mailed document.*
- (11) Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by subsection (6) of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.
- ~~(12)(10)~~ Nothing in this section shall be construed as requiring a separate hearing on each administrative regulation. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

Section 16. KRS 13A.280 is amended to read as follows:

- (1) Following the last day of the comment period, the administrative body shall give consideration to all comments received at the public hearing and during the comment period, including any report filed by the Commission on Small Business Advocacy in accordance with KRS 11.202(1)(e) and 13A.270(4), or by a government in accordance with KRS 11.202(1)(e) and 13A.270(5).
- (2) (a) Except as provided in paragraph (b) of this subsection, the administrative body shall file with the commission on or before 12 noon, eastern time, on the fifteenth day *of the calendar month* following the *month of publication* ~~last day of the comment period~~ the statement of consideration relating to the administrative regulation.
- (b) If the administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration ~~for up to thirty (30) days~~ by notifying the *regulations compiler* ~~Commission~~ in writing on or before 12 noon, eastern time, ~~on~~ *of* the fifteenth day *of the calendar month* following the *month of publication* ~~last day of the comment period~~. The administrative body shall file the statement of consideration with the Commission on or before 12 noon, eastern time, no later than the *fifteenth day of the second calendar month* ~~forty fifth day~~ following the *month of publication* ~~last day of the comment period~~.
- (3) (a) If the administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the items specified in paragraph (b) of this subsection to the regulations compiler by 12 noon, eastern time, on the applicable deadline specified in subsection (2) of this section.
- (b) 1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from comments received at the public hearing and during the comment period;
2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and
3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.

- (4) (a) If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration with the regulations compiler by 12 noon, eastern time, on the deadline established in subsection (2) of this section.
- (b) If *comments are received either at the public hearing or during the public comment period*~~the statement of consideration is not received by the regulations compiler at least fifteen (15) working days prior to a meeting of the Administrative Regulation Review Subcommittee~~, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee *following the month in which the statement of consideration is due*.
- (5) The format for the statement of consideration shall be as follows:
- (a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;
- (b) The first page of the statement of consideration shall have a two (2) inch top margin;
- (c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and comment period and the name of the promulgating administrative body. The heading shall be centered. This shall be followed by the words "Not Amended After Comments" or "Amended After Comments," whichever is applicable;
- (d) If a hearing has been held or written comments received, the heading is to be followed by:
1. A statement setting out the date, time and place of the hearing, *if the hearing was held*;
  2. A list of those persons who attended the hearing or who submitted comments and the organization, agency, or other entity represented, if applicable; and
  3. The name and title of the representative of the promulgating administrative body;
- (e) Following the general information, the promulgating administrative body shall summarize the comments received at the public hearing and during the comment period and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:
1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and
  2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;
- (f) Following the summary and comments, the promulgating administrative body shall:
1. Summarize the statement and the action taken by the administrative body as a result of comments received at the public hearing and during the comment period; and
  2. If amended after the comment period, list the changes made to the administrative regulation in the format prescribed by KRS 13A.320(2)(c) and (d); *and*
- ~~(g) If the promulgating administrative body amends the administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement; and~~
- ~~(h)~~ If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.
- (6) If the administrative regulation is amended pursuant to subsection (3) of this section, the full text of the administrative regulation shall be published in the Administrative Register. The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.



- (7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.

Section 17. KRS 13A.290 is amended to read as follows:

- (1) Except as provided by KRS 158.6471 and 158.6472, *the Administrative Regulation Review Subcommittee shall meet monthly to review administrative regulations prior to close of business on the fifteenth day of the calendar month. The agenda shall:*
- (a) *Include each administrative regulation that was published in the prior month's Administrative Register not including the administrative regulations published in the "As Amended" section;*
  - (b) *Include each administrative regulation for which a statement of consideration was received on or before 12 noon, eastern time, on the fifteenth day of the prior calendar month;*
  - (c) *Include each administrative regulation that was deferred from the prior month's meeting of the subcommittee; and*
  - (d) *Not include an administrative regulation that is deferred, withdrawn, expired, or automatically taken off the agenda under the provisions of this chapter*~~*within forty five (45) days after publication of an administrative regulation in "The Administrative Register," or within sixty (60) days of the receipt of a statement of consideration, the Administrative Regulation Review Subcommittee shall meet to review the administrative regulation.*~~
- (2) The meetings shall be open to the public.
- (3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.
- (4) A representative of the administrative body promulgating the administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.
- (5) Following the meeting and before the next regularly scheduled meeting of the Commission, the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy thereof shall be sent to the promulgating *administrative body*~~*agency*~~. The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.
- (6) (a) After review by the Administrative Regulation Review Subcommittee, the Commission shall, at its next regularly scheduled meeting, assign the administrative regulation to:
1. A subcommittee of appropriate jurisdiction over the subject matter of the administrative regulation; or
  2. During a session of the General Assembly, the House of Representatives and Senate standing committees of appropriate jurisdiction over the subject matter of the administrative regulation.
- (b) Upon notification of the assignment by the Commission, the legislative subcommittee to which the administrative regulation is assigned shall notify the regulations compiler:
1. Of the date, time, and place of the meeting at which it will consider the administrative regulation; or
  2. That it will not meet to consider the administrative regulation.
- (7) Within thirty (30) days of the assignment, the subcommittee may hold a public meeting during which the *administrative* regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

- (8) Except as provided in subsection (9) of this section, a subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee.
- (9) During a session of the General Assembly, standing committees of the Senate and House of Representatives shall agree in order to amend an administrative regulation or to find an administrative regulation deficient pursuant to KRS 13A.030(2) and (3) by:
- (a) Meeting separately; or
  - (b) Meeting jointly. If the standing committees meet jointly, it shall require a majority vote of Senate members voting and a majority of House members voting in order to take action on the administrative regulation.
- (10) (a) Upon adjournment of the meeting at which a legislative subcommittee has considered an administrative regulation pursuant to subsection (7) of this section, the subcommittee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.
- (b) Following the meeting and before the next regularly scheduled meeting of the Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy thereof shall be sent to the promulgating *administrative body*~~[agency]~~. The subcommittee's findings shall be published in the Administrative Register.

Section 18. KRS 13A.300 is amended to read as follows:

- (1) The administrative body which has promulgated an administrative regulation may request~~[at a meeting of a subcommittee]~~ that consideration of the administrative regulation be deferred by the subcommittee.
- (a) *A request for deferral shall be automatically granted if:*
    1. *The administrative body submits a written letter to the regulations compiler; and*
    2. *The letter is received prior to the subcommittee meeting.*
  - (b) *A request for deferral may be granted at the discretion of the subcommittee if the request is made by the administrative body orally at a meeting of the subcommittee*~~[Upon receipt of the request, the subcommittee may defer consideration of the administrative regulation].~~
- (2) A subcommittee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation.
- (3) *Except as provided in subsection (4) of this section, an administrative regulation that has been deferred shall be placed on the agenda of the next scheduled meeting of the subcommittee that is reviewing the administrative regulation. The subcommittee shall consider the administrative regulation as if it had met all other requirements of filing. Repromulgation shall not be required in those*~~[such]~~ *cases.*
- (4) *An administrative regulation that has not gone into effect within one (1) year of the date of publication shall expire as provided in Section 20 of this Act.*

Section 19. KRS 13A.310 is amended to read as follows:

- (1) An administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.
- (2) An administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.
- (3) (a) An administrative regulation shall be repealed only by the promulgation of an administrative regulation that:
1. Is titled "Repeal of (state number of administrative regulation to be repealed)";
  2. Contains the reasons for repeal in the "NECESSITY, FUNCTION, AND CONFORMITY" paragraph;
  3. Includes in the body of the administrative regulation, a citation to the number and title of the administrative regulation or regulations being repealed; and

4. Meets the filing and formatting requirements of KRS 13A.220.
- (b) On the effective date of an administrative regulation that repeals an administrative regulation, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation from the Kentucky Administrative Regulations Service.
- (c) An administrative body may repeal more than one (1) administrative regulation in an administrative regulation promulgated pursuant to paragraph (a) of this subsection if the administrative regulations being repealed are contained in the same chapter of the Kentucky Administrative Regulations Service.
- (4) (a) An ordinary administrative regulation may be withdrawn by the promulgating *administrative body*~~[agency]~~ at any time prior to its adoption.
- (b) An ordinary administrative regulation that has been found deficient may be withdrawn by the promulgating *administrative body*~~[agency]~~ at any time prior to receipt by the regulations compiler of the determination of the Governor made pursuant to KRS 13A.330 or 13A.331 *or may be withdrawn by the Governor.*
- (c) If an ordinary administrative regulation is withdrawn, the administrative body *or the Governor* shall inform the regulations compiler of the reasons for withdrawal in writing.
- (5) Once an ordinary administrative regulation is withdrawn it shall not be reinstated, except by repromulgation as a totally new matter.

Section 20. KRS 13A.315 is amended to read as follows:

- (1) An administrative regulation shall *expire*~~[be withdrawn]~~ and shall not be reviewed by a legislative subcommittee if:
- (a) It has not been reviewed or approved by the official or administrative body with authority to review or approve;
- (b) An item is not filed on or before a deadline specified by this chapter;~~[or]~~
- (c) The administrative body has failed to comply with the provisions of this chapter governing the filing of administrative regulations, *the public hearing and public comment period*~~[hearings]~~, ~~or~~~~[and]~~ the statement of consideration; *or*
- (d) *The administrative regulation is deferred more than twelve (12) months.*
- (2) An administrative regulation which has not complied with all the provisions of this chapter and any *administrative* regulations promulgated under this chapter shall be considered procedurally defective and void.
- (3) (a) An administrative regulation that has been found deficient by a subcommittee shall be withdrawn immediately~~[by the promulgating administrative body]~~ if, pursuant to KRS 13A.330 or 13A.331, the Governor has determined that it shall be withdrawn.
- (b) The *Governor*~~[promulgating administrative body]~~ shall notify the regulations compiler in writing and by telephone that *he or she has determined that the*~~[it is withdrawing an]~~ administrative regulation *found deficient shall be withdrawn*~~[governed by the provisions of this subsection].~~
- (c) The written withdrawal of an administrative regulation governed by the provisions of this subsection shall be made in a letter to the regulations compiler in the following format: "Pursuant to KRS 13A.330(2)(b) or 13A.331(2)(b), *I have*~~[the Governor has]~~ determined that (administrative regulation number and title) shall be (withdrawn, or withdrawn and amended to conform to the finding of deficiency, as applicable). The *administrative regulation*,~~[(name of promulgating administrative body) withdraws]~~ (administrative regulation number and title), *is hereby withdrawn.*"
- (d) An administrative regulation governed by the provisions of this subsection shall be considered withdrawn upon receipt by the regulations compiler of the written withdrawal.

Section 21. KRS 13A.320 is amended to read as follows:

- (1) (a) An administrative body may amend an administrative regulation at a subcommittee meeting with the consent of the subcommittee. A subcommittee may amend an administrative regulation at a subcommittee meeting with the consent of the administrative body.

- (b) An administrative regulation shall not be amended at a public meeting of a subcommittee unless the amendment concerns an issue that was related to the administrative regulation filed with the Legislative Research Commission and was:
1. Considered at the public hearing; or
  2. Raised pursuant to a comment received by the administrative body at the public hearing or during the public comment period pursuant to KRS 13A.280(1); or
  3. Raised by the subcommittee.
- (c) Nothing in this chapter shall be construed to require its resubmission or refile or other action. The administrative regulation may be adopted as amended.
- (d) Subsequent to its adoption, the administrative regulation shall be published in the Administrative Register, unless all amendments to the administrative regulation that were made at a meeting of a subcommittee:
1. Relate only to the format and drafting requirements of KRS 13A.220(5) and 13A.222(4)(b), (c), (i), (j), and ~~(l)~~~~(k)~~; and
  2. Do not alter the intent, meaning, conditions, standards, or other requirements of the administrative regulation.
- (e) If the amendments to an administrative regulation made at a meeting of a subcommittee meet the requirements of paragraph (d) of this subsection, the regulations compiler shall publish a notice in the Administrative Register that the administrative regulation was amended at a subcommittee meeting only to comply with the format and drafting requirements of this chapter.
- (2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee, the following requirements shall be met:
- (a) Amendments offered by the administrative body ~~[to resolve issues raised by a subcommittee]~~ prior to a *subcommittee* ~~[its]~~ meeting shall be approved by the head of the administrative body.
- (b) Amendments ~~[initiated by the administrative body]~~ shall be contained in a letter to the subcommittee. The letter shall:
1. Identify the administrative body;
  2. State the number and title of the administrative regulation;
  3. Be dated;
  4. Be filed with the regulations compiler at least five (5) workdays prior to the meeting of the subcommittee *if the amendments are initiated by the administrative body*; and
  5. Comply with the format requirements in paragraphs (c) and (d) of this subsection.
- (c) On separate lines, the amendment shall be identified by the number of the:
1. Page;
  2. Section, subsection, paragraph, subparagraph, clause, or subclause, as appropriate; and
  3. Line.
- (d)
1. If a word or phrase, whether or not underlined, is to be deleted, the amendment shall identify the word or phrase to be deleted and state that it is to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase that is to be inserted in lieu thereof.
  2. If new language is to be inserted, the amendment shall state that it is to be inserted, and the new language shall be underlined.
  3. If the amendment consists of no more than four (4) words, the words shall be placed between quotation marks. If the amendment consists of more than four (4) words, the amendment shall be indented and not placed between quotation marks.

4. If a section, subsection, paragraph, subparagraph, clause, or subclause is to be deleted in its entirety, the amendment shall identify it and state that it is deleted in its entirety, whether or not it contains underlined or bracketed language.
- (3) An administrative body shall submit twenty (20) copies of an amendment to an administrative regulation to the regulations compiler prior to the Administrative Regulation Review Subcommittee meeting at which the amendment will be considered.

Section 22. KRS 13A.330 is amended to read as follows:

The provisions of this section shall apply to administrative regulations that are assigned pursuant to KRS 13A.290(6)(a)1.

- (1) An administrative regulation that has not been found deficient by a legislative subcommittee shall be considered as adopted and shall become effective:
  - (a) Upon adjournment on the day a subcommittee meets to consider the administrative regulation pursuant to KRS 13A.290(7) if:
    1. The administrative regulation is on the agenda of the subcommittee meeting;
    2. A quorum of the subcommittee is present; and
    3. The subcommittee:
      - a. Considers the administrative regulation; or
      - b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; or
  - (b) If a subcommittee fails to meet within thirty (30) days of assignment of an administrative regulation as provided in KRS 13A.290(7), or does not place the administrative regulation on the agenda of a meeting held within thirty (30) days of the referral of the administrative regulation to it by the Commission, at the expiration of the thirty (30) day period.
- (2) If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit to the Governor:
  - (a) A copy of its finding of deficiency and other findings, recommendations, or comments it deems appropriate; and
  - (b) A request that the Governor determine whether the administrative regulation shall:
    1. Be withdrawn;
    2. Be withdrawn and amended to conform to the finding of deficiency; or
    3. Become effective pursuant to the provisions of this section notwithstanding the finding of deficiency.
- (3) If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit copies of its transmittal to the Governor to the regulations compiler.
- (4) The Governor shall transmit his determination to the Commission and the regulations compiler.
- (5) An administrative regulation that has been found deficient by a legislative subcommittee shall be considered as adopted and become effective after:
  - (a) 1. The subcommittee of appropriate jurisdiction to which an administrative regulation was assigned pursuant to KRS 13A.290(6) has:
    - a. Considered the administrative regulation;
    - b. Failed to consider the administrative regulation and failed to agree to defer its consideration of the administrative regulation; or
    - c. Failed to meet within thirty (30) days of such assignment; and

2. The regulations compiler has received the Governor's determination~~{}~~ that the administrative regulation shall become effective pursuant to the provisions of this section notwithstanding the finding of deficiency; or
- (b) The legislative subcommittee that found the administrative regulation deficient subsequently determines that the administrative regulation is not deficient, provided that this determination was made prior to receipt by the regulations compiler of the Governor's determination.

Section 23. KRS 13A.335 is amended to read as follows:

- (1) An administrative regulation found deficient by a subcommittee shall not *be considered deficient*~~{expire}~~ if:
  - (a) A subsequent amendment of that administrative regulation is filed with the Commission by the administrative body;
  - (b) The subcommittee that found the administrative regulation deficient approves a motion that the subsequent amendment corrects *the*~~{such}~~ deficiency; and
  - (c) Any subcommittee that reviews the administrative regulation under the provisions of KRS Chapter 13A finds that the administrative regulation is not deficient.
- (2) An administrative regulation found deficient by the Administrative Regulation Review Subcommittee shall not *be considered deficient*~~{expire}~~ if:
  - (a) The administrative regulation is amended to correct the deficiency at a meeting of the subcommittee to which it was assigned by the Commission;
  - (b) That subcommittee does not determine that the administrative regulation is deficient for any other reason; and
  - (c) The Administrative Regulation Review Subcommittee approves a motion that the deficiency has been corrected and that the administrative regulation should not *be considered deficient*~~{expire}~~.
- (3) An administrative regulation found deficient by a subcommittee shall not *be considered deficient*~~{expire}~~ if the subcommittee:
  - (a) Reconsiders the administrative regulation and its finding of deficiency; and
  - (b) Approves a motion that the administrative regulation is not deficient.
- (4) (a) If an existing administrative regulation has been amended and found deficient by a subcommittee, it shall not *be considered deficient*~~{expire}~~ if the:
  1. Administrative regulation was found deficient due to the amendment;
  2. Promulgating administrative body has withdrawn the proposed amendment of the existing administrative regulation; and
  3. Regulations compiler has not received the Governor's determination pursuant to KRS 13A.330 or 13A.331.
  - (b) If an administrative regulation has been found deficient by a subcommittee, the regulations compiler shall add the following notice to the administrative regulation: "This administrative regulation *was found deficient by the [name of subcommittee] on [date]*~~{shall expire on adjournment of the next regular session of the General Assembly}~~." This notice shall be the last section of the administrative regulation.
  - (c) If an administrative regulation has been found deficient by a subcommittee, subsequent amendments of that administrative regulation filed with the Commission shall contain the notice provided in paragraph (b) of this subsection.
  - (d) If an administrative regulation that has been found deficient by a subcommittee has *subsequently been amended and*~~{}~~ determined not to be deficient under the provisions of this section, the regulations compiler shall delete the notice required by paragraph (b) of this subsection.

Section 24. The following KRS sections are repealed:

13A.012 Inclusion of osteopaths within references to physicians in administrative regulations.

13A.2264 Incorporation by reference of federal regulation -- Prohibitions.

13A.2267 Certain federal regulations prohibited from incorporation -- Procedure for submission of federal regulations.

Section 25. Any administrative regulations that have been deferred twelve (12) or more months as of the effective date of this Act shall expire three months after the effective date of this Act if those administrative regulations continue to be deferred.

**Approved March 16, 2005.**