TOURISM, ARTS AND HERITAGE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 6:001. Definitions for 301 KAR Chapter 6.

RELATES TO: KRS Chapter 235, 33 C.F.R. 175.15
STATUTORY AUTHORITY: KRS 235.280
NECESSITY, FUNCTION, AND CONFORMITY: KRS 235.280 requires the department to promulgate administrative regulations. This administrative regulation establishes definitions for terms used in 301 KAR Chapter 6. 46 U.S.C. Chapter 131 requires the state to comply specific elements of applicable federal laws and regulations which specify requirements for States RBS Program. 33 C.F.R. 175.13 defines wearable and throwable PFDs.

Section 1. Definitions.

(1) "Adequate ventilation" means ventilation that met Boating Industry Association and U.S. Coast Guard requirements at the time the vessel was manufactured.

(2) "Airborne device" means a kite, parachute, or similar device that holds a person aloft while towed behind a moving vessel.

(3) "Class A" means vessels less than sixteen (16) feet in length.

(4) "Class 1" means vessels sixteen (16) feet or over and less than twenty-six (26) feet in length.

(5) "Class 2" means vessels twenty-six (26) feet or over and less than forty (40) feet in length.

(6) "Class 3" means vessels forty (40) feet or more in length.

(7) "Crossing" means a situation in which a vessel approaches another from an angle of 112.5 degrees or less from either side of the bow.

(8) "Documented by the federal government" means a vessel that has been registered with, and issued official registration documents by, the United States Coast Guard.

(9) "Idle speed" means the slowest possible speed at which maneuverability can be maintained.

(10) "International diving flag" means a red flag with a white stripe running diagonally from an upper corner to the opposite lower corner.

(11) "Length":

(a) Means the longest dimension of a boat measured along the centerline from the bow to the stern; and

(b) Does not mean the length including outboard motors, swim platforms, or similar attachments.

(12) "Manually propelled racing vessel" means a racing shell, rowing scull, racing canoe, or racing kayak recognized by national or international racing associations for use in competitive racing, and not carrying or having been designed to carry equipment, except that which is solely for competitive racing.

(13) "Overtaking" means a situation in which a faster vessel approaches a slower vessel from an angle of more than 112.5 degrees from either side of the bow of the slower vessel.

(14) "Passing" means a situation in which vessels approach and pass each other from head on or nearly so.

(15) "Personal Floatation Device or PFD" means any lifesaving device classified and approved by the regulations of the commandant of the U.S. Coast Guard. ~~["Type I" means a personal flotation device:]~~

~~[(a)] [Designed to turn an unconscious person in the water from a face-downward position to a vertical or slightly backward position; and]~~

~~[(b)] [Having more than twenty (20) pounds of buoyancy.]~~

~~[(16)] ["Type II" means a personal flotation device:]~~

~~[(a)] [Designed to turn an unconscious person in the water from a face-downward position to a vertical or slightly backward position; and]~~

~~[(b)] [Having at least fifteen and one-half (15.5) pounds of buoyancy.]~~

~~[(17)] ["Type III" means a personal flotation device:]~~

~~[(a)] [Designed to keep a conscious person in a vertical or slightly backward position; and]~~

~~[(b)] [Having at least fifteen and one-half (15.5) pounds of buoyancy.]~~

(16) ~~[(18)]~~ "Throwable personal flotation device" means a PFD designed to be thrown to someone in the water".~~[Type IV" means a personal flotation device]~~:

~~[(a)] [Designed to be thrown to a person in the water and not worn; and]~~

~~[(b)] [Having at least sixteen and one-half (16.5) pounds of buoyancy]~~.

~~[(19)] ["Type V" means a special use personal flotation device intended and approved by the U.S. Coast Guard for specific activities.]~~

(17) ~~[(20)]~~ "Water skis" means rigid or inflatable skis, kneeboards, tubes, wakeboards, or similar devices.

(18) ~~[(21)]~~ "Water skiing" means:

(a) The act of riding in or upon water skis while being towed behind a moving vessel or propelled by a boat's wake or while riding on or in a boat's wake directly behind a vessel that is underway; or

(b) Barefoot skiing.

(19) "Wearable personal flotation device" means a PFD designed to be worn or otherwise attached to the body.

RICH STORM, Commissioner

APPROVED BY AGENCY: April 13, 2023

FILED WITH LRC: April 14, 2023 at 10:45 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on June 29, 2023, at 9:00 a.m., at KDFWR Administration Building, 1 Sportsman’s Lane, Frankfort, Kentucky 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 June 30, 2023. 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: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman’s Lane, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Jenny Gilbert

(1) Provide a brief summary of:

(a) What this administrative regulation does:
No answer provided.

(b) The necessity of this administrative regulation:
No answer provided.

(c) How this administrative regulation conforms to the content of the authorizing statutes:
No answer provided.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:
It provides valuable details as to how terms will be interpreted in other regulations under 301 KAR Chapter 6.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:
No answer provided.

(b) The necessity of the amendment to this administrative regulation:
The amendment is necessary to enhance safety for persons engaged in recreation upon the waters of the Commonwealth.

(c) How the amendment conforms to the content of the authorizing statutes:
It addresses the fair, reasonable, equitable, and safe use of the waters of the Commonwealth consistent with the dictates of KRS 235.280.

(d) How the amendment will assist in the effective administration of the statutes:
It will specifically define the approved types of PFDs for recreational boating purposes.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:
All individuals utilizing the waters of the Commonwealth.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:
Individuals boating on the waters of the Commonwealth will have to comply with the PFD requirements within 301 KAR Chapter 6

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):
No additional costs will be incurred.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The amendments will increase safety of those participating in recreational boating activities upon the waters of the Commonwealth.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

There should be no additional initial costs to implement this amendment.

(b) On a continuing basis:

There should be no additional continuing costs to implement this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The Fish and Game fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase in fees or funding will be necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This regulation does not establish any fees directly or indirectly.

(9) TIERING: Is tiering applied?

Tiering is not applied as the definitions of the terms will be equally applicable to all individuals.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Kentucky Department of Fish and Wildlife Resources, Division of Law Enforcement.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 235.280

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This regulation will not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This regulation will not generate revenue.

(c) How much will it cost to administer this program for the first year?

There will be no additional costs to administer the amendments for the first year.

(d) How much will it cost to administer this program for subsequent years?

There will be no additional costs to administer the amendments for subsequent years.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

n/a

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

n/a

(c) How much will it cost the regulated entities for the first year?

n/a

(d) How much will it cost the regulated entities for subsequent years?

n/a

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

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars ($500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This regulation will not have a major economic impact.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.
Title 46 U. S. C. Chapter 131, 33 C.F.R. 175.13

(2) State compliance standards.
KRS 235

(3) Minimum or uniform standards contained in the federal mandate.
§ 175.13 Definitions. As used in this subpart: Personal flotation device or PFD means a device that is approved by the Commandant under 46 C.F.R. part 160. Throwable PFD means a PFD that is intended to be thrown to a person in the water. Wearable PFD means a PFD that is intended to be worn or otherwise attached to the body.

(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 will have the same requirements as those required by the federal government.

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