

### **13A.190 Emergency administrative regulations.**

- (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 statute or federal law; 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 Administrative Register in accordance with the publication deadline established in KRS 13A.050(3).
- (3)
  - (a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire one hundred eighty (180) days after the date of filing 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) days after the date of filing 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) Except as established in subsection (5) of this section, an emergency administrative regulation with the same number or title or governing the same subject matter 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 the previously filed emergency administrative regulation shall be promulgated.
- (5) If an emergency administrative regulation with the same number or title or governing the same subject matter as 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 required by subsection (6) of this section.
- (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) If applicable, the explanation required by subsection (5) of this section.
- (7) (a) An administrative body shall attach the:
- 1. 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
  - 2. 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.
- (b) An administrative body shall file with the regulations compiler:
- 1. The original and five (5) copies of the emergency administrative regulation; and
  - 2. At the same time as, or prior to, filing the paper version, an electronic version of the emergency administrative regulation and the attachments required by paragraph (a) of this subsection saved as a single document for each emergency administrative regulation in an electronic format approved by the regulations compiler.
- (c) The original and four (4) copies of each emergency administrative regulation shall be stapled in the top left corner. The fifth copy of each emergency administrative regulation shall not be stapled. The original and the five (5) copies of each emergency administrative regulation shall be grouped together.
- (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 administrative regulation be withdrawn.

**Effective:** July 15, 2016

**History:** Amended 2016 Ky. Acts ch. 82, sec. 12, effective July 15, 2016. -- Amended 2005 Ky. Acts ch. 100, sec. 5, effective June 20, 2005. -- Amended 2003 Ky. Acts ch. 89, sec. 8, effective June 24, 2003. -- Amended 2000 Ky. Acts ch. 406, sec. 7, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 180, sec. 7, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 410, sec. 10, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 516, sec. 20, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 71, sec. 1, effective July 15, 1988; and ch. 425, sec. 6, effective July 15, 1988. -- Created 1984 Ky. Acts ch. 417, sec. 19, effective April 13, 1984.