

13A.190 Emergency administrative regulations.

- (1) An emergency administrative regulation is an administrative regulation that:
 - (a) An administrative body can clearly demonstrate, through documentary evidence submitted with the filing of the emergency administrative regulation, must be placed into effect immediately in order to:
 1. Meet an imminent threat to public health, safety, welfare, or the environment;
 2. Prevent an imminent loss of federal or state funds;
 3. Meet an imminent deadline for the promulgation of an administrative regulation that is established by state statute or federal law; or
 4. Comply with an executive order issued under KRS Chapter 39A; 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.

For the purposes of this section, "imminent" means within two hundred seventy (270) days of the filing of the emergency administrative regulation.

- (2) An agency's finding of an emergency pursuant to this section shall not be based on the agency's failure to timely process and file administrative regulations through the ordinary administrative regulation process.
- (3) An emergency administrative regulation:
 - (a) Shall become effective and shall be considered as adopted upon filing;
 - (b) Shall be published in the Administrative Register in accordance with the publication deadline established in KRS 13A.050(3);
 - (c) Shall be subject to the public comment provisions established in KRS 13A.270 and 13A.280;
 - (d)
 1. May be reviewed at a subsequent meeting of a legislative committee after the filing of the emergency administrative regulation; and
 2. May, by a vote of the majority of the legislative committee's membership as established by KRS 13A.020(4) and 13A.290(9), be found to be deficient, and the deficiency shall be reported to the Governor pursuant to KRS 13A.330(2); and
 - (e) May be amended:
 1. By the promulgating administrative body after receiving public comments as established in KRS 13A.280. The amended after comments version shall:
 - a. Become effective upon filing; and
 - b. Not require a statement of emergency; or
 2. At a legislative committee meeting as established in KRS 13A.320. The amendment shall be approved as established by KRS 13A.020(4) and KRS 13A.290(9). The amended version shall become effective upon adjournment of the meeting following the procedures established in KRS 13A.331.

- (4) (a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire two hundred seventy (270) 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 for an ordinary administrative regulation as provided by KRS 13A.280(2)(b), an emergency administrative regulation shall remain in effect for two hundred seventy (270) 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.
 - (c) Filing an emergency amended after comments administrative regulation shall not affect the expiration of an emergency regulation as established in paragraphs (a) and (b) of this subsection.
- (5) Except as established in subsection (6) 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 two hundred seventy (270) days after it has been initially filed.
- (6) 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 two hundred seventy (270) days 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 (7) of this section.
- (7) 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 (6) of this section.
- (8) (a) An administrative body shall attach the:
1. Statement of emergency required by subsection (7) of this section to the front of the original and each copy of a proposed emergency administrative regulation;
 2. Public hearing and public comment period information required by KRS 13A.270(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; and

3. Documentary evidence submitted justifying the finding of an emergency in accordance with subsection (1) of this section to the back of the emergency 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.

Larger volumes of documentary evidence shall be filed in a separate binder or on a CD-ROM or DVD disc.

- (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.
- (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) If an emergency administrative regulation will be replaced by an ordinary administrative regulation, the ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that it will replace.
 - (12) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn:
 - (a) The emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn; and
 - (b) The administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.
 - (13) (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.
- (14) The administrative regulations compiler shall notify all legislative committees of the number, title, and subject matter of all emergency administrative regulations and shall forward any additional information filed about the emergency administrative regulation requested by a legislative committee.

Effective: February 2, 2021

History: Amended 2021 Ky. Acts ch. 7, sec. 4, effective February 2, 2021. -- Amended 2019 Ky. Acts ch. 192, sec. 4, effective June 27, 2019. -- 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.