

13A.270 Public hearing and comments -- Notice -- Communication by e-mail regarding administrative regulations -- When notification of regulations compiler required.

- (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 in the Administrative Register. If the last day of the calendar month falls on a Saturday, Sunday, or holiday, the administrative body shall consider all comments received prior to the close of business of the first 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) A person who wishes to be notified that an administrative body has filed an administrative regulation shall:
1. Contact the administrative body by telephone or written letter to request that the administrative body send the information required by paragraph (c) or (d) of this subsection to the person; or
 2. Complete an electronic registration form located on a centralized state government Web site developed and maintained by the Commonwealth Office of Technology.
- (b) A registration submitted pursuant to paragraph (a) of this subsection shall:
1. Indicate whether the person wishes to receive notification regarding:

- a. All administrative regulations promulgated by an administrative body; or
 - b. Each administrative regulation that relates to a specified subject area. The subject areas shall be provided by the administrative bodies and shall be listed on the centralized state government Web site in alphabetical order;
 2. Include a request for the person to provide an e-mail address in order to receive regulatory information electronically;
 3. Be valid for a period of four (4) years from the date the registration is submitted, or until the person submits a written request to be removed from the notification list, whichever occurs first; and
 4. Be transmitted to the promulgating administrative body, if the registration was made through the centralized state government Web site. 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, other than the promulgating administrative body.
- (c) A copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1), shall be e-mailed:
1. To every person who has:
 - a. Registered pursuant to paragraph (a) of this subsection; and
 - b. Provided an e-mail address as part of the registration request;
 2. Within five (5) working days after the date the administrative regulation is filed with the Commission; and
 3. With a request from the administrative body that affected individuals, businesses, or other entities submit written comments that identify the anticipated effects of the proposed administrative regulation.
- (d) 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 registered pursuant to paragraph (a) of this subsection 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 KRS 13A.240 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 chief executive officer 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) 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.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 166, sec. 3, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 100, sec. 15, effective June 20, 2005. -- Amended 2004 Ky. Acts ch. 165, sec. 5, effective July 13, 2004. -- Amended 2003 Ky. Acts ch. 89, sec. 13, effective June 24, 2003. -- Amended 1996 Ky. Acts ch. 180, sec. 11, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 410, sec. 19, effective July 15, 1994. -- Amended 1988 Ky. Acts ch. 425, sec. 9, effective July 15, 1988. -- Created 1984 Ky. Acts ch. 417, sec. 27, effective April 13, 1984.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.

Legislative Research Commission Note (7/13/2004). In subsection (1)(a) of this statute, a reference to "subsection (5) of this section" has been changed to read "subsection (7) of this section." When the statute was amended in 2004 Ky. Acts ch. 165, sec. 5, the subsections were renumbered, but the reference to subsection (5) was not changed to conform. The Reviser of Statutes has made the conforming change under the authority of KRS 7.136.