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Emily B Caudill
REGULATIONS COMPILER

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Public Health

3 Division of Public Health Protection and Safety

4 (New Administrative Regulation)

5 902 KAR 10:127. Kentucky public beach requirements.

6 RELATES TO: KRS 211.015, 211.090, 211.210, 211.220, 211.990(2)

7 STATUTORY AUTHORITY: KRS 194A.050, 211.180

8 NECESSITY, FUNCTION AND CONFORMITY: KRS 194A.050(1) authorizes the secretary

9 of the Cabinet for Health and Family Services to promulgate administrative regulations

10 necessary to protect, develop, and maintain the health, personal dignity, integrity, and

11 sufficiency of Kentucky citizens and to operate programs and fulfill the responsibilities vested

12 in the cabinet. KRS 211.180 authorizes the cabinet to adopt administrative regulations relating

13 to public facilities and their operation and maintenance in a safe and sanitary manner to

14 protect public health and prevent health hazards. This administrative regulation establishes

15 uniform requirements for public swimming and bathing beaches.

16 Section 1. Definitions. (1) "Approved" means that which is acceptable to the cabinet.

17 (2) "Bather" means a person using a public beach.

18 (3) "Cabinet" is defined by KRS 211.015(a).

19 (4) "Facility" means a public beach as defined in subsection (6) of this section.

20 (5) "Facility operator" means a person or employee of that person who is responsible for the

21 proper operation and maintenance of the facility.

1 (6) "Public beach" means a natural body of water that is modified or improved for the
2 purpose of swimming or bathing.

3 (7) "Readily accessible" means direct access without the necessity of removing any panel,
4 door, or similar obstruction.

5 (8) "State Plumbing Code" means the requirements established in 815 KAR Chapter 20.

6 (9) "Turbidity" means the state or quality of being clouded or opaque with suspended matter.

7 Section 2. Submission of Plans and Specifications for Approval. (1) A person shall not
8 construct, alter, or reconstruct a public beach until approval of detailed plans and
9 specifications, with supporting design data as required in this administrative regulation, is
10 granted in writing by the state or local agency having jurisdiction.

11 (2) The original plans and five (5) copies shall be submitted to the local health department
12 with payment pursuant to Section (3) of this administrative regulation.

13 (3) The front page of the plans submitted for review and approval shall contain the:

14 (a) Name of the public beach;

15 (b) Location by city and county;

16 (c) Name and contact information for the facility owner;

17 (d) Name of the installer; and

18 (e) Name of the engineer, architect, or person preparing the plans.

19 (4) Plans shall be submitted by an engineer or architect licensed in the state of Kentucky
20 and bear the individual's official seal.

21 (5) The plans shall be:

22 (a) Drawn to scale;

23 (b) Accompanied by proper specifications to permit a comprehensive review of the plans;

24 and

1 (c) Include:

2 1. A site plan of the general area with a sectional view of the facility complex with all
3 necessary dimensions;

4 2. A diagram showing all appurtenances in sufficient detail, as well as pertinent elevation
5 data, water depths and slope of the beach below the water line;

6 3. Indication of the placement of sand or gravel for the beach area; and

7 4. The fees required by Section 3 of this administrative regulation.

8 (6) One (1) set of approved plans shall be kept at the job site and available for inspection.

9 (7) Prior to the issuance of plan and construction approval, the cabinet shall conduct a
10 sanitary survey of the proposed beach. This survey shall include an evaluation of the physical,
11 chemical, and bacteriological characteristics of the public beach area and the watershed.

12 (8) Upon completion of construction, a notarized statement certifying the facility was
13 constructed in accordance with the approved plans and this administrative regulation shall be
14 submitted to the cabinet.

15 (9) The facility shall not be used before receiving a final inspection and written approval from
16 the cabinet.

17 (10) Unless construction is begun within one (1) year from the date of approval, the approval
18 shall expire. Extension of approval may be considered upon written request to the cabinet.

19 (11) No change in location, construction, design, materials, or equipment shall be made to
20 approved plans or the facility without the written approval of the cabinet.

21 Section 3. Plan Review and Construction Inspection Fees. (1) A fee shall be required for all
22 plan reviews and construction inspections by the cabinet or the local health department.

23 (2) The fee for plan review shall be calculated as follows:

24 (a) Public beach plan review, the fee shall be \$346.50; and

1 (b) Include eighty two and one half (82.50) dollars for interactive water features or inflatable
2 water features.

3 (3) The fee for public beach construction inspection shall be calculated as follows:

4 (a) Pre-construction survey or pre-renovation evaluation, the fee shall be \$231.

5 (b) Rough-in construction inspection, the fee shall be \$115.50.

6 (c) Final construction inspection, the fee shall be \$173.25.

7 Section 4. Permit and Inspection Fees. (1) An annual permit fee of \$110 for all public
8 beaches shall be:

9 (a) Paid no later than May 1 each year; and

10 (b) Paid to the Kentucky Department for Public Health by check or money order made
11 payable to the Kentucky State Treasurer.

12 (2) Permits shall be nontransferable from one (1) person to another.

13 (3) Fees for Inspections.

14 (a) For all public beaches, the annual inspection fee shall be:

15 1. Assessed according to the linear footage of beach front;

16 2. Calculated as established in this paragraph:

17 a. 149 or less linear feet, the fee shall be ninety-nine (99) dollars;

18 b. 150 to 200 linear feet, the fee shall be \$192.50; and

19 c. 201 and above, the fee shall be \$192.50 plus fifty-five (55) dollars for each additional fifty
20 (50) linear feet; and

21 (b) Include eighty-two and one half (82.50) dollars for interactive or inflatable water features.

22 (4) A late payment fee of fifty-five (55) dollars shall be assessed on all annual permits not
23 received by May 1 each year.

24 (5) The inspection fee required by this section shall be:

1 (a) Paid to the local health department having jurisdiction by check or money order made
2 payable to the Kentucky State Treasurer;

3 (b) Deposited in the environmental fee account; and

4 (c) Sent to the Department for Public Health for deposit with the Kentucky State Treasury.

5 Section 5. Water Quality and Sanitary Requirements for Public Beaches. (1) Physical
6 quality. The following characteristics shall not be present in the beach area or watershed:

7 (a) Sludge deposits, solid refuse, floating waste solids, oils, grease, and scum; or

8 (b) Hazardous substances being discharged into public beach water or watershed.

9 (2) Bacteriological quality. The bacteriological quality of water at public beaches shall
10 comply with the following criteria:

11 (a) It shall meet the requirements of 401 KAR 10:031. Satisfactory bacteriological results
12 shall be obtained before approval for construction is considered; and

13 (b) There shall not be any sanitary or combined sewer discharges or other raw or partially
14 treated sewage discharges to the public beach area or immediate watershed.

15 (3) Chemical quality. There shall not be any discharges of chemical substances, other than
16 disinfecting agents, capable of creating toxic reactions, or irritations to the skin or mucous
17 membranes of a bather.

18 Section 6. Water Supplies at Public Beaches. (1) Potable water from an approved municipal
19 water system or water district shall be supplied to all public beaches. If these supplies are not
20 available, a potable water supply meeting the approval of the Energy and Environment Cabinet
21 shall be provided.

22 (2) The water supply shall be capable of providing sufficient quantities of water under
23 pressure to all water-using fixtures and equipment at the facility.

1 Section 7. Sewage and Wastewater Disposal. (1) All sewage and waste water shall be
2 disposed of into a public sewer system if available.

3 (2) If a public sewer system is not available, disposal shall be made into a private sewage
4 disposal system designed, constructed, and operated pursuant to the requirements of the
5 cabinet in 902 KAR 10:085 and the Energy and Environment Cabinet in KAR Title 401;

6 (3) If a public sewer system subsequently becomes available, connections shall be made to
7 it and the use of the facility's private sewage disposal system shall be discontinued.

8 Section 8. Refuse Disposal. (1) All refuse at a public swimming and bathing beach shall be
9 disposed of in a manner approved by the Energy and Environment Cabinet in KAR Title 401.

10 (2) An adequate number of refuse containers with tight fitting lids shall be provided at readily
11 accessible locations at all public beaches.

12 (3) Refuse containers in women's restrooms shall be kept covered.

13 (4) Bulk refuse storage areas shall be designed and maintained to prevent rodent
14 harborage.

15 (5) Bulk refuse containers shall be:

16 (a) Of approved design and construction;

17 (b) Kept closed; and

18 (c) Placed upon an impervious surface within a suitable enclosure to prevent access by
19 animals.

20 Section 8. Facility Design and Construction. (1) Attendant structures, such as bathhouses,
21 dressing rooms, or restrooms, shall meet the design, materials, fixture, and construction
22 requirements of 815 KAR 7:120 and 815 KAR Chapter 20.

1 (2)(a) The wading and swimming areas at beaches where the water is less than five (5) feet
2 deep shall be separated from swimming and diving areas by lines securely anchored and
3 buoyed.

4 (b) Safe limits of swimming shall be marked by buoys, poles, or other markers located not
5 over 100 feet apart and visible to bathers from a distance of at least 100 feet.

6 (c) Lettering on markers shall be maintained in good repair.

7 (d) Within these limits of safe swimming there shall not be any boating, underwater
8 obstructions, or other hazards that may be dangerous or cause injury to swimmers.

9 (e) Signs shall be provided on the beach describing these markers and stating that they
10 indicate the limits of safe bathing.

11 (f) The bottom of the swimming area shall consist of sand or gravel and be of a uniform
12 slope.

13 (3) The water surrounding any floats or inflatable features where diving is permitted shall be
14 at least nine (9) and one-half (1/2) feet deep.

15 Section 9. General Facility Operation and Maintenance. (1) All facilities shall be maintained
16 in good repair and free of debris.

17 (2) Bather preparation facilities. Each beach facility shall provide one (1) or more central
18 bath house containing the necessary toilet and other plumbing fixtures as designated below.

19 (a) Toilet facilities shall be provided for females at a ratio of 3 for 500 linear feet of beach.

20 (b) Toilet facilities shall be provided for males at a ratio of 1 for 500 linear feet of beach.

21 (c) Urinal facilities shall be provided for males at a ratio of 2 for 500 linear feet of beach.

22 (d) Lavatories shall be provided for each sex accommodated at a ratio of 2 for 500 linear
23 feet of beach.

1 (e) For each additional 500 linear feet of beach one (1) additional toilet and lavatory shall be
2 provided for female and male restrooms and one (1) additional urinal for male restrooms.

3 (3) A bath house shall be conveniently located within 500 feet of the beach area to be
4 served.

5 (4) All plumbing installation shall meet the State Plumbing Code, 815 KAR Chapter 20.

6 (5) A room containing sanitary facilities shall have:

7 (a) Every opening to the outer air effectively screened and a self-closing entry door;

8 (b) Natural or artificial lighting;

9 (c) Hot and cold or tempered water under pressure furnished at every lavatory and sink;

10 and

11 (d) Cold water furnished to every toilet and urinal.

12 (6) Floors, walls, ceilings, attached or freestanding fixtures, and equipment shall be easily
13 cleanable and in good repair. Floors shall be maintained in a nonslip condition.

14 (7) An adequate supplies of toilet tissue, soap, and disposable hand drying towels or
15 suitable hand drying devices shall be provided and maintained.

16 (8) Refuse containers shall be placed in all restrooms.

17 (9) Diving boards or platforms, ladders, hand rails, docks, and other similar equipment, shall
18 be maintained in good repair, be securely anchored, and have a nonslip surface.

19 (10) Maintenance of bathing beaches.

20 (a) Beach areas shall be maintained free of litter and water borne debris. Beverage
21 containers of glass or metal containers with detachable pull tabs shall be prohibited.

22 (b) A layer of sand or gravel of sufficient depth to prevent the creation of mud holes or slicks
23 and to reduce shallow water turbidity shall be maintained on all beach areas and shall extend
24 beneath the water of all wading and swimming areas.

1 (c) Wading, swimming, and diving areas shall be examined by the facility operator on a
2 routine basis and immediately after high water conditions for floating or sunken debris,
3 obstructions at diving areas, and high-water turbidity, which may present safety hazards to
4 bathers.

5 Section 10. Personnel. (1) Operator. A facility operator shall be responsible for the operation
6 and maintenance of the facility. The operator shall be available at all times when the facility is
7 open for use.

8 (2) Lifeguards.

9 (a) Lifeguards shall be provided at all bathing beaches that allow bathers seventeen (17)
10 years of age or younger without a responsible adult at a rate of one (1) per 100 linear feet of
11 beach front or major fraction more than half thereof. Public beaches that do not provide
12 lifeguards shall post the following warnings: "No lifeguard on duty. Swim at your own risk. No
13 person seventeen (17) years of age or younger may swim without a responsible adult
14 present."

15 (b) A public beach that has an inflatable water attraction shall have a minimum of one (1)
16 lifeguard per attraction, with additional lifeguards provided to ensure all areas surrounding the
17 attraction are clearly visible at all times.

18 (3) Lifeguards shall comply with the following:

19 (a) Lifeguards shall have a current lifesaving certificate. Current training as a lifesaver or
20 water safety instructor by the American Red Cross or equivalent shall satisfy this requirement.
21 The certificate of competency shall be prominently posted;

22 (b) Lifeguards shall be dressed in swimming attire; and

23 (c) Lifeguards assigned to the supervision of the facility shall not be subject to duties that
24 would:

- 1 1. Distract their attention from proper observation of persons in the facility area; or
- 2 2. Prevent immediate assistance to persons in distress in the water.

3 Section 11. Safety Equipment. (1) One (1) unit of life saving equipment consisting of the
4 following shall be provided per facility:

5 (a) A U.S. Coast Guard approved ring buoy no more than twenty (20) inches in diameter
6 with a three-sixteenths (3/16) inch rope attached;

7 (b) A shepherd's hook securely attached to a one (1) piece pole not less than twelve (12)
8 feet in length;

9 (c) One (1) backboard with head immobilizer and at least three (3) straps, for back and neck
10 injuries;

11 (d) One (1) lifeboat outfitted to meet state water safety administrative regulations;

12 (e) A torpedo shaped buoy; and

13 (f) A minimum of one (1) standard twenty-four (24) unit first aid kit or its equivalent that is
14 kept filled and ready for use.

15 (2) Lifesaving equipment shall be mounted in a conspicuous place at the most centrally
16 located readily accessible location. Its function shall be plainly marked, and this equipment
17 shall be kept in good repair and ready condition. Bathers or other persons shall not be
18 permitted to tamper with, use for any purpose other than its intended use, or remove this
19 equipment from its established location.

20 (3) Telephones.

21 (a) All facilities shall have a non-pay landline or Voice over Internet Protocol (VoIP)
22 telephone, continuously connected to a power source and operational at all times, capable of
23 direct dialing 911 without going through a switchboard, and located in a conspicuous, readily

1 accessible location. A cordless telephone shall be prohibited. Instructions for dialing shall be
2 posted if necessary.

3 (b) A two (2) way radio communication system to a manned telephone system may be
4 substituted at an isolated beach facility.

5 (c) All facilities utilizing VoIP telephones shall only use fixed VoIP services. Non-fixed VoIP
6 services shall be prohibited.

7 (d) The address of the facility and the telephone number of the police department, fire
8 department, emergency medical service, or a hospital shall be posted in a conspicuous place
9 near the telephone.

10 (4) All drownings, near drownings, and injuries requiring hospitalization shall be immediately
11 reported by next business day to the local health department and the Department for Public
12 Health on form DFS-354, Kentucky Public Swimming and Bathing Facilities Drowning and
13 Injury Report, incorporated by reference in 902 KAR 10:125.

14 Section 12. Spectator and Bather Administrative Regulations. (1) Management of each
15 facility shall adopt rules for controlling of food, drink, and smoking in the facility and
16 surrounding areas.

17 (2) Rules governing the use of the facility and instructions to bathers shall be displayed on
18 placards at the entrance to dressing rooms and enforced by the facility operator. Posting of
19 rules and other instructions shall provide that:

20 (a) Admission to the facility shall be refused to a person:

21 1. Having any contagious disease or infectious conditions, such as colds, fever, ringworm,
22 foot infections, skin lesions, carbuncles, boils, inflamed eyes, ear discharges, or any other
23 condition that has the appearance of being infectious;

1 2. Having excessive sunburn, abrasions that have not healed, corn plasters, bunion pads,
2 adhesive tape, rubber bandages, or other bandages of any kind; and

3 3. Under the influence of alcohol, illegal substances, or exhibiting erratic behavior;

4 (b) Food, drink, gum, tobacco, or vapor producing products shall not be allowed, other than
5 in specially designated and controlled sections of the facility area;

6 (c) Glass, soap, or other material that creates hazardous conditions shall not be permitted in
7 the beach area or in the water;

8 (d) Beverage containers of glass or metal containers with detachable pull tabs shall not be
9 permitted in the beach area or in the water;

10 (e) Diving in areas other than designated diving areas shall not be permitted; and

11 (f) Caution shall be exercised in the use of diving boards, floating platforms and inflatable
12 attractions.

13 Section 13. Facility Inspection. (1) Inspections.

14 (a) All owners or operators, prior to opening to the public, shall certify to the cabinet in
15 writing, that the facility is in compliance with the requirements of this administrative regulation,
16 except in instances where the cabinet has made an inspection prior to its opening. The cabinet
17 shall make at least two (2) full facility inspections during the operating season. The cabinet
18 may require one (1) of the full facility inspections to be performed prior to a facility's opening.

19 (b) The facility owner or operator shall be responsible for notifying the cabinet of the
20 proposed opening date.

21 (2) New facilities shall receive final construction approval inspections by the cabinet, and
22 other affected state and local regulatory agencies, prior to placing the facility in operation. It
23 shall be the owner or operator's responsibility to notify the cabinet and other involved agencies
24 of construction completion and call for inspection.

1 (3) The cabinet may make as many additional inspections and reinspections as necessary
2 for the enforcement of this administrative regulation.

3 (4) When an agent of the cabinet makes an inspection of a public swimming and bathing
4 facility, the findings shall be recorded on the DFS-350, Public Beaches Inspection Report, and
5 a copy provided to the facility owner or operator. The inspection report shall:

6 (a) Set forth any violation observed;

7 (b) Establish a specific and reasonable period of time for the correction of the violation
8 observed; and

9 (c) State that failure to comply with any notice issued pursuant to the provisions of this
10 administrative regulation may result in closure of the facility.

11 Section 14. Water Sampling and Testing. (1) Beaches shall comply with the requirements of
12 Section 5 of this administrative regulation prior to opening for the season and during the
13 operating season.

14 (2) Beaches shall be monitored once each month or anytime immediately after periods of
15 heavy rainfall. Monitoring inspections for beaches shall include general sanitation,
16 bacteriological water sampling, and safety checks as necessary. Results shall be made
17 available to the cabinet upon inspection.

18 (3) Additional samples may be requested to ensure compliance with this administrative
19 regulation.

20 Section 15. Conditions requiring Closure of a Facility and Enforcement Provisions. (1) The
21 cabinet shall immediately order the closure of a facility and prohibit any person from using the
22 facility by written notice to the facility owner or operator if:

23 (a) There is an immediate danger to health or safety;

1 (b) The water does not conform to the bacteriological standards contained in this
2 administrative regulation;

3 (c) An environmental survey of the area shows evidence of sewage, other pollutants, or
4 toxic materials being discharged to waters tributary to a beach;

5 (d) The owner, operator, an employee, or representative of the owner interferes with duly
6 authorized agents of the cabinet who bear proper identification, in the performance of their
7 duties;

8 (e) If serious or repeated violations of any of the requirements of the administrative
9 regulations are found.

10 (2) The notice shall state the reasons prompting the closing of the facility, and a copy of the
11 notice shall be posted conspicuously at the facility by the owner or operator.

12 (3) Any owner or operator affected by an order may request an administrative conference in
13 accordance with 902 KAR 1:400.

14 (4) If the conditions rendering closure are abated or further analyses prove to not render
15 closure, the cabinet may authorize reopening the facility.

16 (5) If a source of sewage, pollution, or toxic material discovered as a result of an
17 environmental survey is eliminated, the cabinet may authorize the reopening of a beach.

18 (6) In all other instances of a violation of the provisions of this administrative regulation, or
19 for the nonpayment of fees, the cabinet shall serve upon the owner or operator a written notice
20 specifying the violation in question and afford a reasonable opportunity to correct the violation.
21 An owner or operator who fails to comply with any written notice issued under the provisions of
22 this administrative regulation shall be notified in writing that the facility shall be closed at the
23 end of ten (10) days following service of the notice, unless a written request for a conference

1 pursuant to 902 KAR 1:400 is filed with the cabinet by the owner or operator within the ten (10)
2 day period.

3 (7) All administrative hearings shall be conducted in accordance with KRS Chapter 13B.

4 (8) Any person whose facility has been closed may, at any time, make application for a
5 reinspection for the purpose of reopening the facility. Within ten (10) days following receipt of a
6 written request, including a statement signed by the applicant that in his or her opinion the
7 conditions causing closure of the facility have been corrected, the cabinet shall make a
8 reinspection. If the facility is found to be in compliance with the requirements of this
9 administrative regulation, the facility shall be reopened.

10 (9)(a) For serious or repeated violations of any of the requirements of this administrative
11 regulation, or for interference with the agents of the cabinet in the performance of their duties,
12 the facility may be permanently closed after an opportunity for a conference has been provided
13 in accordance with 902 KAR 1:400.

14 (b) Prior to the action, the cabinet shall notify the owner or operator, in writing, stating the
15 reasons for which the facility is subject to closure and advising that the facility shall be
16 permanently closed at the end of ten (10) days following service of the notice unless a request
17 for a conference is filed with the cabinet by the owner or operator, within the ten (10) day
18 period.

19 Section 16. Existing Facilities and Equipment. Existing facilities and equipment being used
20 prior to the effective date of this administrative regulation that do not fully meet the design,
21 construction, and materials requirements of this administrative regulation, may continue to be
22 used if the facilities and equipment:

23 (1) Are in good repair;

24 (2) Are capable of being maintained in a sanitary condition;

1 (3) Meet facility water quality standards; and

2 (4) Create no health or safety hazard.

3 Section 17. Effect on Local Administrative Regulations. Compliance with this administrative
4 regulation shall not relieve any person from compliance with any other state or local laws
5 dealing with beach operation and maintenance matters or zoning requirements that may also
6 be applicable.

7 Section 18. Variances for Construction Requirements. (1) All facilities shall be constructed
8 or remodeled in compliance with the provisions of this administrative regulation, except that an
9 applicant may request a variance if the cabinet determines that the variance would not affect
10 seriously the safe and healthful operation of the facility.

11 (2) Before granting a variance, the cabinet shall require proof from the applicant
12 documenting that the requested variance will comply with the basic intent of these
13 administrative regulations and that no safety or health hazard would be created if the variance
14 is granted.

15 Section 19. Incorporated by Reference. (1) The "DFS-350 Public Beach Inspection Report",
16 3/2024, is incorporated by reference:

17 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law,
18 at the Division of Public Health Protection and Safety, Department for Public Health, 275 East
19 Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. and
20 online at <https://chfs.ky.gov/agencies/dph/dphps/emb/Pages/pools.aspx>.

902 KAR 10:127

REVIEWED:

DocuSigned by:
Steven Stack 7/2/2024
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Steven J. Stack, MD, MBA Date
Commissioner, Department for Public Health

APPROVED:

DocuSigned by:
Eric Friedlander 7/2/2024
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Eric C. Friedlander Date
Secretary, Cabinet for Health and Family Services

PUBLIC HEARING AND PUBLIC COMMENT PERIOD:

A public hearing on this administrative regulation shall, if requested, be held on September 23, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by September 16, 2024, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. 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 this proposed administrative regulation until September 30, 2024. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, KY 40621; Phone: 502-564-7476; Fax: 502-564-7091; CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 902 KAR 10:127

Agency Contact: Julie Brooks

Phone Number: (502) 229-3377

Email: julied.brooks@ky.gov

Contact Person: Krista Quarles

Phone Number: (502) 564-7476

Email: CHFSregs@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the uniform standards for Kentucky public swimming and bathing beaches.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure all public swimming and bathing beaches operate in a safe and sanitary manner to reduce the incidence of recreational water related illnesses and outbreaks and protect the environment.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 194A.050(1) authorizes the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of Kentucky citizens and to operate programs and fulfill the responsibilities vested in the cabinet. KRS 211.180 authorizes the cabinet to adopt administrative regulations relating to public facilities, public and semipublic recreational areas, and their operation and maintenance in a safe and sanitary manner to protect public health and prevent health hazards.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will ensure public swimming and bathing beaches are designed and operated in a safe and sanitary manner, ensure the water quality standard of these facilities to control for contamination, and ensure sufficient safety and rescue equipment is available.

(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: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: There are currently thirty-four (34) permitted public bathing beaches.

(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: Current permitted bathing beaches will need to be aware of the required safety equipment requirements and ensure all equipment is fully operational.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no increased cost for compliance with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Bathing beaches will operate in a safe and sanitary manner.

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

(a) Initially: This is an ongoing program, there are no additional cost.

(b) On a continuing basis: This is an ongoing program, the costs associated with this administrative regulation will be absorbed by current program funding.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This program is funded by a mix of state general fund dollars and fees collected for plan review and inspection activities.

(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: An increase in fees or funding is not needed to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The fees established in this administrative regulation are not new fees. The existing permit and inspection fees are in 902 KAR 10:121. That administrative regulation will be repealed and the fees for the permit and inspection of bathing beaches added to this new administrative regulation. The current fees will be increased by ten (10) percent.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied as the requirements for public swimming and bathing beaches are applied equally to all facilities.

FISCAL IMPACT STATEMENT

Administrative Regulation: 902 KAR 10:127: Kentucky public beach requirements.

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(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 194A.050 and 211.180.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: The Kentucky Department for Public Health, Division of Public Health Protection and Safety is the promulgating agency. This administrative regulation also affects state parks that operate bathing beaches.

(a) Estimate the following for the first year:

Expenditures: The cost to the Department for Public Health associated with administering the permitting and inspection program is \$2,376,885. Expenditures for Kentucky state parks include the annual permit fee of \$110 and the required inspection fee which ranges between ninety-nine (99) dollars and \$247.50.

Revenues: The potential revenue for the Department for Public Health is \$10,120. This is a combined total for both state and local health departments. The department is unable to determine the revenue for the impacted Kentucky state parks.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures for the Department for Public Health may be impacted by changes in salary, fringe benefits and travel cost for state and local health department employees. These changes cannot be determined at this time. The revenues received will not change in subsequent years without an amendment to this administrative regulation.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This administrative regulation affects local health departments who inspect the permitted bathing beaches.

(a) Estimate the following for the first year:

Expenditures: The costs associated with administering the permitting and inspection program is \$2,376,885.

Revenues: The potential revenue for this administrative regulation is \$10,120. This is a combined total for both state and local health departments.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures may be impacted by changes in salary, fringe benefits and travel cost for state and

local health department employees. These changes cannot be determined at this time. The revenues received will not change in subsequent years without an amendment to this administrative regulation.

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities include communities that have a bathing beach.

(a) Estimate the following for the first year:

Expenditures: Expenditures include the annual permit fee of \$110 and the required inspection fee which ranges between ninety-nine (99) dollars and \$247.50

Revenues: The department is unable to determine the potential revenue for the impacted communities that have a bathing beach.

Cost Savings: This administrative regulation does not result in cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? Expenditures will not change in subsequent years without an amendment to this administrative regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: This administrative regulation does not add any additional requirements to the regulated entities. The current permit and inspection fees are listed in 902 KAR 10:121. However, that administrative regulation will be repealed. The proposed fee for the annual permit and required inspection will increase by ten (10) percent of the current fee.

(b) Methodology and resources used to determine the fiscal impact: The estimated total revenue for the department was determined by multiplying the number of current permitted public beach facilities in each category by the proposed fee increase. Each public beach facility will be assessed an annual permit fee. That estimate was determined by multiplying the total number of permitted facilities by the proposed fee. The estimated inspection fee total and the permit fee total were added together to calculate the total revenue.

Proposed Fee Structure				
Beaches	Size of the beach front	Number of beaches	Proposed fee	Potential Revenue
	149 linear feet or less of beach front	10	\$99	\$990
	150 to 200 linear feet of beach front	10	\$192.50	\$1,925
	201 or more linear feet of beach front	14	\$192.50+\$55 for each additional 50 linear square feet	\$3,465 (at a minimum)
TOTAL		34		\$6,380
Annual Permit Fee				
For all beaches		34	\$110	\$3,740

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate) This administrative regulation will not have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion: The total anticipated revenue is significantly less than the \$500,000 or more threshold.

COMMONWEALTH OF KENTUCKY
CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR PUBLIC HEALTH

902 KAR 10:127.

Kentucky public beach requirements.

Summary of Material Incorporated by Reference

The "DFS-350 Public Beach Inspection Report", 3/2024 edition is the form used to record the beach inspection findings. This form was previously incorporated by reference in 902 KAR 10:120. This form has one (1) page.

The total number of pages incorporated by reference for this administrative regulation is one (1).

CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR PUBLIC HEALTH
PUBLIC BEACH INSPECTION REPORT



Kentucky Public Health

- Regular Follow-up
Complaint Other

Estab. No. San. Code County or District Health Department

Facility Name:

Owner:

Address:

Address:

Operator:

Phone:

Phone:

Beach Frontage (linear ft.):

WATER SUPPLY & WASTEWATER DISPOSAL

- *1. Water supply from approved source, adequate supply
*2. Approved sewage disposal system, satisfactory operation

REFUSE DISPOSAL

- *3. Approved disposal
4. Approved receptacles and bulk waste storage area, clean, good repair, adequate

FACILITY MAINTENANCE

- 5. Beach, Wading, Swimming Areas: maintained free of debris, litter, water borne debris; glass or metal detachable pull-tab containers prohibited
6. Sand or Gravel Beach, Wading and Swimming Areas: cover maintained, no mudholes or slicks created, uniform slope
*7. Wading, swimming, diving areas routinely examined for safety hazards; high water conditions, turbidity
*8. Shallow water areas separated from swimming/diving areas by anchored and buoyed lines, good repair, and properly located, conspicuous
*9. Safe Swimming limits marked, proper markers, proper location, good repair, conspicuous
*10. Diving facilities meet requirements, unobstructed water depth maintained
11. Diving boards, ladders, pontoons, platforms in good repair
*12. No raw or partially treated sewage discharge in beach area or immediate watershed, no chemical discharges

BATH HOUSES AND ATTENDANT STRUCTURES

- 13. Structures, Furnishings: clean, good repair
14. Toilet, Shower, Locker Facilities: clean, lighting, ventilation, good repair
15. Toilet tissue, hand-drying devices, soap provided

SAFETY

- *16. Lifeguard(s) on duty, if applicable; sign posted
17. Lifeguard Chairs, if applicable: adequate number, location, good repair
*18. First Aid Kit(s) and Lifesaving Equipment: adequate number, location, maintained
*19. Telephone, Emergency Phone Numbers: readily accessible, conspicuous, good repair
*20. Warning Signs, Facility Regulations: posted, enforced, conspicuous, good repair

GENERAL FACILITY OPERATION

- 21. Facility operator available

RATING

ORDER OF IMMEDIATE CLOSURE OF FACILITY

*CRITICAL ITEM

REMARKS:

Items marked are considered to be in violation of KRS 211.180 and Kentucky Public Beach Regulation (902 KAR 10:127) and must be corrected: by next routine inspection or within days. Failure to correct the violations as listed will result in further action as provided by KRS 211.990(2). An opportunity for an appeal from any notice or inspection findings will be provided if you file a written request for a hearing with the department within the period of time specified by the applicable regulation.

Received By:

Inspected By:

Date:

Local

Health Authority

State

