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MEMORANDUM

TO: Clint Quarles, Staff Attorney, Department of Agriculture

FROM: Emily Caudill, Regulations Compiler

RE: Proposed Amendment or New Regulation – 302 KAR 016:150.

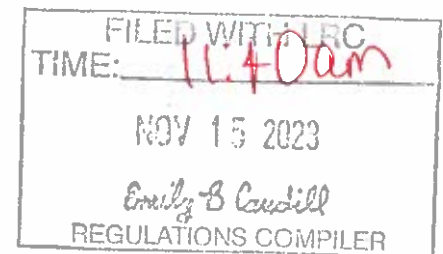
DATE: November 15, 2023

A copy of the administrative regulation listed above is enclosed for your files. This regulation is **tentatively** scheduled for review by the Administrative Regulation Review Subcommittee at its **February 2024** meeting. We will notify you of the date and time of this meeting once it has been scheduled.

Pursuant to KRS 13A.280, **if** comments are received during the public comment period, a Statement of Consideration or a one-month extension request for this regulation is due **by noon on February 15, 2024**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to the public hearing and public comment period and Statements of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

Enclosures



1 GENERAL GOVERNMENT

2 Department of Agriculture

3 Office of the Commissioner

4 (New Administrative Regulation)

5 302 KAR 16:150 Qualification and registration of persons designated to perform amusement
6 safety inspections.

7 RELATES TO: KRS 247.234

8 STATUTORY AUTHORITY: KRS 247.234

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 247.234 (3)(e) requires the Department
10 of Agriculture to promulgate administrative regulations for designating persons qualified by
11 education or experience, who are capable of determining amusement safety in accordance with
12 administrative regulations promulgated under KRS 247.232 to 247.236, as amusement safety
13 inspectors. The Department of Agriculture shall establish an annual registration fee for persons
14 designated as amusement safety inspectors.

15 Section 1. Education or experience requirements for persons designated as amusement safety
16 inspectors.

17 (1) Persons employed by the department shall possess the following education or experience to
18 be designated as amusement safety inspectors:

19 (a) NAARSO Certificate Level I;

20 (b) AIMS International Level I Certification, Associate Ride Inspector; or

1 (c) No education or experience, if the department employee is in training or the inspection
2 performed is supervised by a department employee holding a level of education or experience
3 listed in parts (a) or (b) of this subsection.

4 (2) Persons working under a contract with the department to provide amusement inspection
5 services to the department shall possess the following education or experience to be designated
6 as amusement safety inspectors:

7 (a) NAARSO Certificate Level I; or

8 (b) AIMS International Level I Certification, Associate Ride Inspector.

9 (3) Regardless of their level of education or experience, persons other than those employed by
10 the department or providing amusement inspection services to the department under contract
11 shall not be designated by the department as amusement safety inspectors for any purpose
12 contained in KRS 247.232 to 247.236 and any administrative regulation pertaining to those
13 sections.

14 Section 2. Any person who is designated as an amusement safety inspector, not employed by the
15 KDA, shall register with the department and pay an annual registration fee in the following
16 manner:

17 (1) Persons designated as amusement safety inspectors shall:

18 (a) Provide proof of education and experience required to be designated as an amusement safety
19 inspector;

20 (b) Provide proof of current insurance coverage during the designation period as follows:

21 1. Current and general liability coverage in an amount of not less than \$1,000,000 per occurrence
22 and \$2,000,000 general aggregate; and

1 2. Current professional liability coverage, including errors and omissions, in an amount of not
2 less than \$1,000,000; and


3 (c) Pay a registration fee of \$100.

4 Section 3. Incorporation by Reference.

5 (1) The following material is incorporated by reference: "Amusement Safety Inspector
6 Registration Form ", 11/23.

7 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
8 the Department of Agriculture, Division of Regulation and Inspection, 107 Corporate Drive,
9 Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

10 (3) This material may also be obtained at www.kyagr.com.


Dr. Ryan Quarles
Commissioner of Agriculture

Date: 11-14-23

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on January 23, 2024 at 11:00 a.m., at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, KY 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 January 31, 2024. 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: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, email clint.quarles@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

302 KAR 16:150

Contact Person: Clint Quarles

Phone: 502-782-0284

Email: clint.quarles@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This regulation satisfies the statutory requirements of KRS 247.234 regarding pre-opening inspections by KDA contractors.

(b) The necessity of this administrative regulation:

This regulation satisfies the statutory requirements of KRS 247.234 by establishing rules for KDA contractors.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This regulation satisfies the statutory requirements of KRS 247.234 by establishing rules for KDA contractors.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This filing makes clear for all entities the KDA rules for KDA contractors.

(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:

The KDA and two current KDA contractors, and others that may be interested in registering.

(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:

A person requesting registration will need to follow the steps in the filing to obtain a designation as an amusement ride inspector.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

100 Dollars for registration per the statute.

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

A requester obtain a designation as an amusement ride inspector.

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

(a) Initially: The KDA estimates less than a work day of costs by office staff. Cost for contractor inspectors was: FY2022 \$27,669.80, FY2023 \$32,055.60.

(b) On a continuing basis: The KDA cannot estimate as it is contingent on requests, but does not anticipate a dramatic increase in review workload.

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

KDA general fund and inspection fees paid by amusement companies.

(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:

The fee is proscribed by statute and the KDA does not anticipate any need for an increase.

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

A fee is established directly by statute and created in this filing.

(9) TIERING: Is tiering applied? (Explain why or why not)

No, all entities are treated the same.

FISCAL NOTE

302 KAR 16:150

Contact Person: Clint Quarles

Phone: 502-782-0284

Email: clint.quarles@ky.gov

(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 KDA.

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

KRS 247.234

(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?

The KDA cannot estimate revenue as it is based on possible future requests, but would guess less than \$1,000 in the near term.

(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?

The KDA cannot estimate revenue as it is based on possible future requests.

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

The KDA estimates less than a work day of costs by office staff. Cost for contractor inspectors was: FY2022 \$27,669.80, FY2023 \$32,055.60.

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

The KDA cannot estimate as it is contingent on requests, but does not anticipate a dramatic increase in review workload.

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?

No cost savings are anticipated for this filing.

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

No cost savings are anticipated for this filing.

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

No changes in costs are anticipated.

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

No changes in costs are anticipated.

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)]*

Fees will not exceed the major economic impact threshold.

Summary of Material Incorporated by Reference
302 KAR 16:150

(a) The "Amusement Safety Inspector Registration Form ", (2023) is a 1 page document containing documentation required to request records from the KDA.



Dr. Ryan Quarles
Commissioner of Agriculture

Date: 11-13-23

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on January 23, 2024 at 11:00 a.m., at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, KY 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 January 31, 2024. 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: Clint Quarles, Staff Attorney, Kentucky Department of Agriculture, 107 Corporate Drive, Frankfort Kentucky 40601, phone (502) 330-6360, email clint.quarles@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

302 KAR 2:010

Contact Person: Clint Quarles

Phone: 502-782-0284

Email: clint.quarles@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This regulation satisfies the statutory requirements of KRS 61.876.

(b) The necessity of this administrative regulation:

This regulation satisfies the statutory requirements of KRS 61.876.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This regulation satisfies the statutory requirements of KRS 61.876 by providing the required information required.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This filing makes clear for all entities the KDA open records process.

(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:

The KDA and any potential requester of information.

(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:

A person requesting inspection or copies of records will need to follow the steps in the filing to obtain the information requested.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

Ten cents a page for copies for the requester. KDA costs would vary based on workload.

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

(3):

A requester may obtain information in a timely manner.

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

(a) Initially: The KDA cannot estimate as it is contingent on requests.

(b) On a continuing basis: The KDA cannot estimate as it is contingent on requests.

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

KDA general 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:

A fee is established per page for copies made by the KDA.

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

A fee is established directly.

(9) TIERING: Is tiering applied? (Explain why or why not)

No, all entities are treated the same.

FISCAL NOTE

302 KAR 2:010

Contact Person: Clint Quarles

Phone: 502-782-0284

Email: clint.quarles@ky.gov

(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 KDA.

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

KRS 61.876

(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?

The KDA cannot estimate revenue as it is based on possible future requests.

(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?

The KDA cannot estimate revenue as it is based on possible future requests.

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

The cost to administer this regulation is minimal based on historic request levels.

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

The cost to administer this regulation is minimal based on historic request levels.

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?

No cost savings are anticipated for this filing.

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

No cost savings are anticipated for this filing.

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

No changes in costs are anticipated.

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

No changes in costs are anticipated.

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)]*

Fees will not exceed the major economic impact threshold.

Summary of Material Incorporated by Reference
302 KAR 2:010

(a) The "Request to Inspect Public Records OAG-01", (2021) is a 1 page document containing documentation required to request records from the KDA.