GENERAL GOVERNMENT
Department of Agriculture
Office of the Consumer and Environmental Protection
(New Administrative Regulation)

302 KAR 28:011. Repeal of 302 KAR 28:010, 302 KAR 28:020, 302 KAR 28:030, 302 KAR 28:040, 302 KAR 28:050, and 302 KAR 28:060.

RELATES TO: KRS Chapter 217B, 217B.120, 40 C.F.R. 156, 170, 7 U.S.C. 136

STATUTORY AUTHORITY: KRS 217B.050, 217B.060, 217B.193, 217B.585, 217B.990

NECESSITY, FUNCTION, AND CONFORMITY: KRS 217B.050, KRS 217B.060, and KRS 217.B193 collectively authorizes the Kentucky Department of Agriculture to determine the rules and administrative regulations for ornamental and interior plantscape posting as well as the certification for pesticide licenses in Kentucky. The administrative regulation repeals 302 KAR 28:010, 302 KAR 28:020, 302 KAR 28:030, 302 KAR 28:040, 302 KAR 28:050, and 302 KAR 28:060 because these regulations have migrated to 302 KAR Chapter 26.

Section 1. The following administrative regulations hereby repealed:

(1) 302 KAR 28:010. Definitions for 302 KAR Chapter 28;
(2) 302 KAR 28:020. General provisions;
(3) 302 KAR 28:030. Ornamental and interior plantscape posting;
(4) 302 KAR 28:040. Pesticide licenses for prison inmates;
(5) 302 KAR 28:050. Pesticide certification and licensing; and
(6) 302 KAR 28:060. Fine schedule for violation of KRS 217B.120.

RYAN F. QUARLES, Commissioner of Agriculture

APPROVED BY AGENCY: July 13, 2022

FILED WITH LRC: July 13, 2022 at 12:30 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 21, 2022 at 11:00 a.m., at the Kentucky Department of Agriculture, 111 Corporate Drive, Frankfort, Kentucky 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 September 30, 2022. 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

Contact Person:Clint Quarles, Staff Attorney

(1) Provide a brief summary of:

(a) What this administrative regulation does:
This regulation repeals ornamental and interior plantscape posting regulations as well as pesticide certification regulations.

(b) The necessity of this administrative regulation:
This regulation repeals unneeded pesticide license regulations. Other filings prior in time created our current program.

(c) How this administrative regulation conforms to the content of the authorizing statutes:
KRS 217 commands the KDA to establish administrative regulations for pesticide handling, storage and licensing. That command is now being met with another filings.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:
This administrative regulation will assist in effective administration by making rules clear for pesticide licenses in Kentucky.

(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 not an amendment.

(b) The necessity of the amendment to this administrative regulation:
This is not an amendment.

(c) How the amendment conforms to the content of the authorizing statutes:
This is not an amendment.

(d) How the amendment will assist in the effective administration of the statutes:
This is not an amendment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:
Approximately 19,750 entities that are licensed or registered by the KDA as well as persons not registered.

(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:
Entities will be required to follow the instructions in the remaining applicable regulations.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):
Fees are not included in this repealer.

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

Administrative ease on behalf of the KDA and clear guidance for entities.

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

(a) Initially:

The KDA estimates $2,180,000 total annually.

(b) On a continuing basis:

The KDA estimates at least $2,180,000 total annually.

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

A combination of fees, fines, federal grants, and the 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:

No costs are associated with this filing.

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

NO costs are associated with this filing.

(9) TIERING: Is tiering applied?

No. All regulated entities have the same requirements.

FISCAL NOTE

(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?

Kentucky Department of Agriculture shall be affected by this administrative regulation.

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

KRS 363.900-908

(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?

No income will be generated by this repealer.

(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?

No income will be generated by this repealer.

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

Program costs are approximately $700,000.

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

The KDA expects this spending trendline to continue for the egg program as a whole.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):None

Expenditures (+/-):None

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?

Cost savings for regulated entities will be minimal or non-existent. This repeal has been preceded with new filings.

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

Cost savings for regulated entities will be minimal or non-existent. This repeal has been preceded with new filings.

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

Cost increases for regulated entities will be minimal or non-existent. This repeal has been preceded with new filings.

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

The KDA expects costs in subsequent years to be flat, not changing nor increased.

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)] The KDA expects no economic impact from this repealer.