

GENERAL GOVERNMENT
Department of Agriculture
Office of the Consumer and Environmental Protection
(Amendment)

302 KAR 16:030. Determination of administrative or safety violations which cannot be corrected immediately; section stop order.

RELATES TO: KRS 247.232, 247.234, 247.236

STATUTORY AUTHORITY: KRS 247.234, 247.236

NECESSITY, FUNCTION, AND CONFORMITY: KRS 247.234 authorizes the Commissioner of the Department of Agriculture to provide for inspections for amusement rides or attractions. This administrative regulation establishes procedures to determine violations which cannot be immediately corrected.

Section 1. Definition. "Immediately correctable violation" means a violation which can be corrected on the day of ~~an~~~~the initial~~ inspection.

Section 2. The department's inspector shall determine the nature and severity of violations and shall determine if the violations are not immediately correctable based on the manufacturer's standards, KRS 247.232 through 247.236, and 302 KAR 16:010 through 302 KAR 16:140.

Section 3. A violation issued for operation of an amusement ride or amusement attraction without a valid permit ~~may~~~~business identification number shall~~ be considered a violation which is not immediately correctable.

Section 4. A safety inspector may order closed a unit or ~~section~~~~portion~~ of a ride which fails to comply with safety or operational guidelines, if closure of that section of the ride does not affect the remaining units or sections~~portion~~ of the ride, by placing upon that unit or ~~section~~~~portion~~ of the ride a section stop order. The owner shall notify the department when the unit or ~~section~~~~portion~~ of the ride has been repaired to provide the department with~~obtain~~ information in support of a~~for~~ section stop order removal.

RYAN QUARLES, Commissioner of Agriculture

APPROVED BY AGENCY: June 14, 2023

FILED WITH LRC: June 14, 2023 at 3:55 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 22, 2023 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 August 31, 2023. 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

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This regulation identifies instances when a device may continue to operate and when it may not.

(b) The necessity of this administrative regulation:

This filing makes clear the circumstances that a device may continue to be used and what the procedure is when it cannot.

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

The statutes charge the KDA with determination of circumstances requiring a stop operation order.

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

This filing makes clear for all entities when a ride or device may operate.

(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 filing updates references from business identification number to a permit, and makes other changes to clarify terms and frequency references.

(b) The necessity of the amendment to this administrative regulation:

This filing is needed to clarify the regulation.

(c) How the amendment conforms to the content of the authorizing statutes:

This filing amends the current filing to conform to recent statutory changes.

(d) How the amendment will assist in the effective administration of the statutes:

This filing will make the regulation clearer and easier to understand.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

The KDA has 532 active companies and 4232 active devices currently regulated.

(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:

The permit holder will need to follow the clarified steps to resume operation of a device.

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

No changes in costs are expected with this filing.

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

The permit holder will be able to lawfully operate.

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

(a) Initially:

The KDA estimates \$530,000 total annually.

(b) On a continuing basis:

The KDA estimates at least \$530,000 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 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 fees are established in this filing.

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

This filing does not establish fees.

(9) TIERING: Is tiering applied?

No, all entities are treated the same.

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?

The KDA.

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

KRS 247.232-.236

(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 expects to receive \$110,000 annually at current participation levels.

(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 expects to receive \$110,000 annually at current participation levels.

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

The cost to administer this regulation is approximately \$530,000.

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

The cost to administer for subsequent years is estimated to be at least \$530,000.

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.