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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 002:010

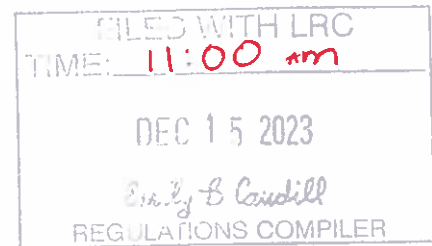
DATE: December 15, 2023

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 **MARCH 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 March 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 Marketing

4 (New Administrative Regulation)

5 302 KAR 45:020. Ginseng Growers Pilot Program

6 RELATES TO: KRS 246.030, 246.650, 246.660, 246.990(9), 260.020, 260.030, 363.610, 50

7 C.F.R. Part 23

8 STATUTORY AUTHORITY: KRS 246.660, 260.020

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 246.660 requires the Department of
10 Agriculture to administer a program for ginseng in Kentucky. This administrative regulation
11 establishes a ginseng growing program.

12 Section 1. Registration

13 All persons wishing to sell, trade, or otherwise offer for transfer live ginseng plants or seeds in
14 the Commonwealth of Kentucky shall first register with the KDA. A registrant shall submit a
15 fully executed form "Ginseng Grower Registration". The KDA shall issue a grower ID number
16 to registrants once the form is reviewed. The KDA may deny registration to persons with an
17 infraction in the ginseng dealer program in the four (4) years prior to registration. A registration
18 is valid for the remainder of the calendar year it was submitted in.

19 Section 2. Site inspection and ginseng placement.

1 Prior to sale or transfer of live plants or seed, the registrant shall have a physical inspection of
2 the growing location in Kentucky. The KDA may inspect the site at any time after registration.
3 Plants or seeds shall be located at least 300 feet from known wild ginseng populations.

4 Section 3. Records required

5 A registrant shall maintain records, for at least ten (10) years, of the following:

- 6 1. Seed source and number of seeds or seed weight amounts, and a written receipts or invoices
7 for all materials.
- 8 2. Live plant source and planting numbers.
- 9 3. A map of planting locations.
- 10 4. Records of all sales of all ginseng material including live plants, seeds, and root material.

11 Section 4. Sales of Ginseng

12 All sales of live plants and seeds shall be from a registered grower. All harvest and sales of roots
13 shall be in accordance with 302 KAR 45:010. Sales or purchases from any person not registered
14 as a grower shall be subject to the penalties of 302 KAR 45:010, including underage plant
15 possession. All sales of roots shall be declared as other than wild for certification.

16 Section 5. Material Incorporated By Reference

17 (1) The following material is incorporated by reference:

18 (a) "Ginseng Grower Registration" (November 2023).

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

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

Ryan Quarles

Date: *12-14-2023*

Dr. Ryan Quarles
Commissioner of Agriculture

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on February 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 February 29, 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 45:020

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 246.660

(b) The necessity of this administrative regulation:

This regulation satisfies the statutory requirements of KRS 246.660

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

This regulation satisfies the statutory requirements of KRS 246.660 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 pilot program requirements.

(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 ginseng grower.

(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 fill out the form to do so.

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

The time required to fill out the form, and record keeping requirements for sales.

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

(3):

A requester may lawfully grow and sell living ginseng in Kentucky.

(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 and ginseng program income.

(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 fee is established.

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

No fee is established.

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

No, all entities are treated the same.

FISCAL NOTE

302 KAR 45:020

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 246.660

(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 does not anticipate any revenues due to this filing.

(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 does not anticipate any revenue during the pilot program stage.

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

The cost to administer this regulation based on possible participation and distance to drive for an initial inspection.

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

The cost to administer this regulation based on possible participation and distance to drive for an initial inspection. Registration does not require an inspection until a non-root sale takes place so estimates of costs are impossible.

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 45:020

(a) The "Pilot Ginseng Grower Program Application", (2023) is a 9-page document containing documentation required to register with the KDA.

