

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the January

January 13, 2020

Call to Order and Roll Call

The January meeting of the Administrative Regulation Review Subcommittee was held on Monday, January 13, 2020, at 1:00 PM, in Room 149 of the Capitol Annex. Representative David Hale, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Stephen West, Co-Chair; Representative David Hale, Co-Chair; Senators Julie Raque Adams, and Alice Forgy Kerr; Representatives Deanna Frazier, Mary Lou Marzian, and Tommy Turner.

Guests: Beau Barnes, Teachers' Retirement; Jeremy Branham, Gary Morris, Cathy Thompson, Department of Revenue; Jane Alexander, Brock MacKay, Board of Landscape Architects; Kimberly Field, Clint Quarles, Michael Williams, Department of Agriculture; Jeff Baird, Michael Mullins, Courtney Skaggs, Department of Natural Resources; Todd Allen, Department of Education; John Melvin, DJ Wasson, Department of Insurance; Stephanie Brammer-Barnes, Office Inspector General; Julie Brooks, Krista Hamilton, Ron Horseman, Department for Public Health; Laura Begin, Melanie Taylor, Department for Community Based Services.

LRC Staff: Sarah Amburgey, Stacy Auterson, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Klaber.

The Administrative Regulation Review Subcommittee met on Monday, January 13, 2020, and submits this report:

Administrative Regulations Reviewed by the Subcommittee:

FINANCE AND ADMINISTRATION CABINET: Kentucky Teachers' Retirement System: General Rules

102 KAR 1:035. Employment by retired members; calculation of the daily wage threshold and average daily rate. Beau Barnes, deputy executive secretary and general counsel, represented the system.

In response to questions by Co-Chair West, Mr. Barnes stated that these administrative regulations were being amended for cleanup purposes and to make minor clarifications. There were no substantive changes to calculations.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

102 KAR 1:036. Part-time service for university, college and community college members.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

102 KAR 1:037. Administrative staff memberships.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

102 KAR 1:100. Insurance.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

102 KAR 1:135. Interest credited to accounts.

In response to a question by Representative Frazier, Mr. Barnes stated that the reference to KRS 161.580, pertaining to voiding individual accounts, might relate to accounts that became inactive after a period of three (3) years without contributions.

A motion was made and seconded to approve the following amendments: to amend the TITLE; the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs; and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Revenue: General Administration

103 KAR 1:120. Employee access to federal tax information (FTI). Jeremy Branham, tax policy and research consultant, and Gary Morris, executive advisor, represented the department.

A motion was made and seconded to approve the following amendments: to amend the TITLE and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Ad Valorem Tax; State Assessment

103 KAR 8:170. Pollution control facilities exception.

A motion was made and seconded to approve the following amendments: to amend Sections 3 and 4 to make technical changes. Without objection, and with agreement of the agency, the amendments were approved.

Income Tax; Withholding

103 KAR 18:150. Employer's withholding reporting requirements.

Sales and Use Tax; Administration and Accounting

103 KAR 31:020. Records.

103 KAR 31:080. Coupons or redemption certificates.

In response to a question by Representative Frazier, Mr. Branham stated that this administrative regulation added a definition for the term, "cash discount."

A motion was made and seconded to approve the following amendments: to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 31:090. Tax-paid purchases resold.

In response to a question by Representative Frazier, Mr. Branham stated that this administrative regulation was not expected to have a cost impact, except perhaps for a form change.

103 KAR 31:200. Energy efficiency projects.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

Selective Excise Tax; Alcoholic Beverages

103 KAR 40:010. Maintaining records.

A motion was made and seconded to approve the following amendments: to amend the TITLE and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Selective Excise Tax; Cigarettes

103 KAR 41:040. Cigarette vending machine operators.

A motion was made and seconded to approve the following amendment: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendment was approved.

103 KAR 41:100. Segregation of cigarettes.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

103 KAR 41:110. Sample of cigarettes.

Selective Excise Tax; Motor Fuels

103 KAR 43:010. Accountable losses.

103 KAR 43:051. Repeal of 103 KAR 043:050.

BOARDS AND COMMISSIONS: Board of Landscape Architects

201 KAR 10:050. Fees. Jane Alexander, executive director, and Brock MacKay, president, represented the board.

In response to a question by Co-Chair West, Mr. MacKay stated that licensees expressed no concerns about fee increases.

201 KAR 10:080. Continuing education.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 1 through 5 and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A; and (2) to amend Section 4 to establish standards for self-directed courses. Without objection, and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT: Department of Agriculture: Office of Agricultural Marketing: Fairs and Shows

302 KAR 15:010. Administration; state aid to local fairs. Kimberly Field, program coordinator, Animal Forage Testing Program; Clint Quarles, staff attorney; and Michael Williams, director, Division of Environmental Services, represented the department.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 7, 9, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 15:020. Dairy cattle shows and sales.

In response to a question by Representative Frazier, Mr. Quarles stated that 302 KAR 15:020 and 15:030 would not require new staff because these administrative regulations were implemented with an existing staff person.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

302 KAR 15:030. Beef cattle shows and sales.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2, and 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Livestock

302 KAR 21:011. Repeal of 302 KAR 021:005.

Livestock, Poultry, and Fish

302 KAR 22:030. Livestock, poultry, and fish diseases to be reported.

In response to questions by Representative Turner, Mr. Quarles stated that these requirements were being consolidated from 302 KAR 21:011, which was being repealed. There were two (2) new international diseases added to the list of reportable diseases.

A motion was made and seconded to approve the following amendments: to amend the TITLE and Sections 1 through 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of Consumer and Environmental Protection: Pesticides

302 KAR 31:040. Storage and handling of pesticides and bulk fertilizer.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2, 4 through 6, and 9 through 11 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Office of Agricultural Marketing: Hay Grading

302 KAR 37:010. Forage Testing Program.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

ENERGY AND ENVIRONMENT CABINET: Department for Natural Resources: Division of Mine Reclamation and Enforcement: Surface Effects of Noncoal Mining

405 KAR 5:002. Definitions for 405 KAR Chapter 005. Jeff Baird, director; Michael Mullins, regulation coordinator; and Courtney Skaggs, acting director, represented the division.

In response to a question by Representative Marzian, Mr. Baird stated that changes to these administrative regulations were nonsubstantive, technical updates.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply

with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

405 KAR 5:032. Permit requirements.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 5, 6, 8, 12, 14 through 17, 19 through 21, 25 through 27, 29, and 30 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

General Provisions

405 KAR 7:040. General obligations of operators and permittees.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 4, 6, 7, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

405 KAR 7:050. Coal processing waste disposal sites.

A motion was made and seconded to approve the following amendments: to amend RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1 through 5 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Permits

405 KAR 8:010. General provisions for permits.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 10 through 14, 18, 20 through 22, 24, and 25 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

405 KAR 8:030. Surface coal mining permits.

A motion was made and seconded to approve the following amendments: to amend Sections 1 through 3, 13 through 16, 18, 20, 21, 23, 24, 30, 32, 34, 36, and 37 to comply

with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Bond and Insurance Requirements

405 KAR 10:050. Bond forfeiture.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2 and 3 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Performance Standards for Surface Mining Activities

405 KAR 16:100. Permanent and temporary impoundments.

A motion was made and seconded to approve the following amendments: to amend Sections 1 and 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

405 KAR 16:210. Post mining land use capability.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Performance Standards for Underground Mining Activities

405 KAR 18:100. Permanent and temporary impoundments.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

405 KAR 18:220. Post mining land use capability.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 2 and 4 to comply with the drafting requirements

of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Special Performance Standards

405 KAR 20:040. Prime farmland.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Sections 1, 2, 4, and 6 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Operation of Two (2) Acres or Less

405 KAR 26:011. Repeal of 405 KAR 026:001.

EDUCATION AND WORKFORCE DEVELOPMENT CABINET: Board of Education: Department of Education: Office of Instruction

704 KAR 3:303. Required academic standards. Todd Allen, interim general counsel, represented the department.

In response to questions by Co-Chair West, Mr. Allen stated that this administrative regulation was being amended to reorganize requirements. The cabinet was putting each program into its own administrative regulation. This amendment moved vocational standards into a separate administrative regulation and updated standards pursuant to statutory changes.

Academic Standards

704 KAR 8:080. Required academic standards in career studies and financial literacy.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO; STATUTORY AUTHORITY; and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Technical Education: Management of the Kentucky TECH System

780 KAR 2:040. Live work projects.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3 and 4 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PUBLIC PROTECTION CABINET: Department of Insurance: Rates and Rating Organizations

806 KAR 13:040. Automobile fleet insurance defined. D. J. Wasson, executive advisor, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

806 KAR 13:071. Repeal of 806 KAR 013:070.

806 KAR 13:101. Repeal of 806 KAR 013:100.

Life Insurance and Annuity Contracts

806 KAR 15:090. Notice of rights as an owner of a life insurance policy.

A motion was made and seconded to approve the following amendments: to amend the STATUTORY AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Healthcare: Long-Term Care

900 KAR 2:050. Transfer and discharge rights. Stephanie Brammer – Barnes, regulation coordinator, represented the division.

A motion was made and seconded to approve the following amendments: to amend Section 2 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Public Health: Division of Administration and Financial Management: Local Health Departments

902 KAR 8:040. Definitions for 902 KAR Chapter 008. Julie Brooks, policy specialist; Krista Hamilton, branch manager; and Ron Horseman, assistant division director, represented the division.

A motion was made and seconded to approve the following amendments: to amend Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

902 KAR 8:060. Salary adjustments for local health departments.

902 KAR 8:080. Initial appointment, probationary period, layoffs, performance evaluation, and the resignation of employees of local health departments.

902 KAR 8:100. Disciplinary procedures applicable for local health department employees.

902 KAR 8:110. Disciplinary appeal process applicable for local health department employees.

Health Services and Facilities

902 KAR 20:450. Ambulatory infusion agencies. Stephanie Brammer – Barnes, regulation coordinator, represented the division.

A motion was made and seconded to approve the following amendments: to amend Section 3 to allow a patient's plan of care to be established by other prescribers in addition to physicians. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Division of Protection and Permanency: Child Welfare

922 KAR 1:330 & E. Child protective services. Laura Begin, regulation coordinator, and Melanie Taylor, assistant director, represented the division.

The following administrative regulations were deferred or removed from the January 13, 2020, subcommittee agenda:

STATE BOARD OF ELECTIONS: Forms and Procedures

31 KAR 4:120. Additional and emergency precinct officers.

FINANCE AND ADMINISTRATION CABINET: Kentucky Teachers' Retirement System: General Rules

102 KAR 1:125. Omitted contributions. Beau Barnes, deputy executive secretary and general counsel, represented the system.

A motion was made and seconded to approve the following amendments: To amend the TITLE and Statutory AUTHORITY and NECESSITY, FUNCTION, AND CONFORMITY paragraphs to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

In response to a question by Co-Chair Hale, Mr. Barnes requested that this administrative regulation be deferred to the February meeting of the subcommittee. A motion was made and seconded to defer consideration of this administrative regulation to the February meeting. Without objection, and with agreement of the agency, this administrative regulation was deferred.

Ad Valorem Tax; State Assessment

103 KAR 8:160. Valuation of municipal solid waste landfill facilities.

BOARDS AND COMMISSIONS: Board of Pharmacy

201 KAR 2:095. Pharmacist interns.

Board of Veterinary Examiners

201 KAR 16:500. Code of ethical conduct for veterinarians.

201 KAR 16:510. Fees for veterinarians.

201 KAR 16:512. Fees for veterinary technicians.

201 KAR 16:514. Fees for animal control agencies and animal euthanasia specialists.

201 KAR 16:516. Fees – other fees.

201 KAR 16:520. Approved veterinary colleges; approved programs for veterinary technicians.

201 KAR 16:530. Examination requirements for veterinarians and veterinary technicians.

201 KAR 16:540. Application requirements for veterinarians and veterinary technicians.

201 KAR 16:550. Authorization for animal control agencies to apply for a restricted controlled substances certificate from DEA.

201 KAR 16:560. Certification as an animal euthanasia specialist.

201 KAR 16:570. License renewal for veterinarians and veterinary technicians.

201 KAR 16:572. License renewal for registered animal control agencies and animal euthanasia specialists; renewal notice.

201 KAR 16:580. Board issued licenses and certificates, inactive and retired statuses.

201 KAR 16:590. Continuing education requirements, veterinarians and veterinary technicians.

201 KAR 16:600. Prescription and dispensation of drugs for animal use.

201 KAR 16:610. Procedures for grievances, investigations, and administrative charges.

201 KAR 16:700. Material incorporated by reference.

Real Estate Appraisers

201 KAR 30:130. Education provider, instructor, and course.

TOURISM, ARTS AND HERITAGE CABINET: Department of Fish and Wildlife Resources: Game

301 KAR 2:185. Hunter education.

301 KAR 2:251. Hunting and trapping seasons and limits for furbearers.

GENERAL GOVERNMENT: Department of Agriculture: Office of the State Veterinarian: Livestock, Poultry, and Fish

302 KAR 22:010. Authority to inspect, test, identify, remove and dispose of livestock, poultry, and fish.

302 KAR 22:020. Restriction of transportation of livestock, poultry, and fish.

302 KAR 22:070. Restrictions on biological materials in Kentucky.

302 KAR 22:040. Carcass transport and composting.

302 KAR 22:080. Feed restrictions.

JUSTICE AND PUBLIC SAFETY CABINET: Asset Forfeiture

500 KAR 9:011. Repeal of 500 KAR 009:010, 500 KAR 009:020, 500 KAR 009:030, and 500 KAR 009:040.

Motorcycle Safety Education Commission

500 KAR 15:010 & E. Motorcycle safety education program.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Division of Driver Licensing: Administration

601 KAR 2:030E. Ignition interlock.

Department for Technical Education: Management of the Kentucky TECH System

780 KAR 2:060. Discipline of students.

LABOR CABINET: Department of Workers' Claims

803 KAR 25:260. Treatment guidelines.

PUBLIC PROTECTION CABINET: Department of Housing, Buildings, and Construction: Plumbing

815 KAR 20:010. Definitions for 815 KAR Chapter 020.

815 KAR 20:020. Parts or materials list.

Plumbing

815 KAR 20:030. Plumbing licenses.

815 KAR 20:050. Installation permits.

815 KAR 20:055. Water heating devices.

815 KAR 20:060. Quality, weight, installation, and storage of materials.

815 KAR 20:070. Plumbing fixtures.

815 KAR 20:080. Waste pipe size.

815 KAR 20:090. Soil, waste, and vent systems, traps, and clean-outs.

815 KAR 20:111. Repeal of 815 KAR 020:071, 815 KAR 020:072, 815 KAR 020:073, 815 KAR 020:074, 815 KAR 020:078, 815 KAR 020:084, 815 KAR 020:100, and 815 KAR 020:110.

815 KAR 20:120. Water supply and distribution.

815 KAR 20:130. House sewers and storm water piping; methods of installation.

815 KAR 20:150. Inspection and tests.

815 KAR 20:170. Manufactured home and mobile home community waste system distribution and connections.

815 KAR 020:180. Special connections.

815 KAR 20:195. Medical gas piping installations.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of Inspector General: Division of Healthcare: Health Services and Facilities

902 KAR 20:036. Operation and services; personal care homes.

Division of Audits and Investigations: Controlled Substances

902 KAR 55:130. Electronic prescribing of controlled substances.

Department for Medicaid Services: Division of Provider Integrity

907 KAR 5:005. Health Insurance Premium Payment (HIPP) Program.

The subcommittee adjourned at 1:35 p.m. The next meeting of the subcommittee is tentatively scheduled for February 10, 2020, at 1 p.m.