

**MINUTES OF THE NOVEMBER 2001 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Date of meeting: The regular meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, November 13, 2001, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Senator Merlin E. Bartz, Chair; Representative Clyde Bradley, Vice Chair; Senators Patricia Harper, JoAnn Johnson, John P. Kibbie, and Sheldon Rittmer; Representatives Marcella Frevert and Janet Metcalf. Representatives Danny Carroll and Paul Scherrman were not present.
- Also present: Joseph A. Royce, Legal Counsel; Kathleen K. Bates, Administrative Code Editor, and Teresa VanderLinden, Assistant; Kristen Hardt, Office of the Administrative Rules Coordinator; caucus staff and other interested persons.
- Convened Chair Bartz convened the meeting at 10 a.m.
- ECONOMIC DEVELOPMENT DEPARTMENT** Melanie Johnson, Rose Wazny, Terry Vestal and Hank Manning represented the department. Kathy Kahoun represented the City of Des Moines. Rick Allely of Clarinda Economic Development Corporation and Ray Forsythe of West Central I-80 Development Corporation were also in attendance.
- ARC 1005B Proposed amendments to ch 25 relate to the housing fund. A change which specifies that matching funds be from a participating jurisdiction's CDBG or HOME funds was opposed by the City of Des Moines; Kahoun indicated that the city would prefer flexibility regarding the source of the matching funds. Metcalf asked the department to work with the city and to keep the committee advised.
- ARC 1006B No action on proposed amendments to ch 41 regarding the community development fund.
- Special review Johnson requested a follow up on the August review of technical assistance for community development grants. Manning indicated that a meeting for administrators of CDBG funds is scheduled for Monday, November 19, 2001. Private bidders remain concerned about an apparent advantage that COGs have in the bidding process. Allely reported that councils of government have access to all bids and can underbid others for administration of projects without going through the procurement process. Allely provided examples of projects to illustrate that COG bids are less when COGs are competing with private bidders. Forsythe explained how development corporations are now circumventing the system by procuring administration in advance of the award in order to avoid competition from COGs. Allely requested that a letter from Marsha Cory be distributed to committee members. Bartz asked the department to advise the committee of the outcome of the November 19 meeting.
- PUBLIC SAFETY DEPARTMENT** Mike Coveyou, George Howe and Jeffrey Quigle represented the department.
- ARC 1047B No questions on waiver of administrative rules.
- ARC 1030B Amendments to ch 16 relate to the manufactured home installer certification program. The fee-based program allows for individual certification as well as group certification for installation crews. Coveyou advised Bradley that because training requirements have not yet been established, certification will initially be based on related experience. Coveyou stated that the Iowa Manufactured Housing Association worked with the department and supports the rules.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg, Jim Krogman and Roger Munns represented the department.
- Special review Freudenberg reported on DHS reductions in state provider payment rates and field organization due to budget cuts mandated by the special session of the legislature. Middle management positions and regional offices will be eliminated and eight service administrative areas will be established by January 1. Kibbie expressed concern about shifts in caseworker assignments due to employee bumping rights. Bradley asked for an overview of where the reductions will come from and the department's plan for informing the public of changes in service locations. Krogman estimated a net loss of 116 employees, including 82 from regional offices.
- ARC 1008B No questions on the proposed amendment relating to the 60-month limit on FIP assistance.
- ARC 1048B No questions on amendments to Medicaid application and eligibility.
- ARC 1049B No questions on amendments to SSA RCF and IHHRC reimbursement rates.
- ARC 1050B No questions on amendments to ch 53 pertaining to the rent subsidy program.
- ARC 1051B No questions on amendments to the interim assistance reimbursement program, ch 57.
- ARC 1009B Proposed amendments to chs 77 and 78 concern Medicaid coverage of audiology and hearing aid services. Bartz requested information about costs of hearing aids, reimbursements under the program, and a comparison with coverage under private health insurance.

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Human Services Department (continued)

- ARC 1010B No questions on proposed coverage for services of dental hygienists in screening centers.
- ARC 1011B A proposed amendment to ch 78 expands transplant coverage. Federal funds will cover a category of transplants previously paid with state dollars as exceptions to policy.
- ARC 1012B No action on proposed amendments to ch 78 concerning rehabilitation agencies.
- ARC 1052B No action on amendments to ch 79 pertaining to disproportionate share payments.
- ARC 1053B No questions on corrective amendments to ch 79 concerning prior authorization.
- ARC 1054B No action on proposed amendments to ch 81 relating to quality of care at nursing facilities.
- ARC 1013B No action on proposed amendment to implementation date in 81.6(16)"a"(1).
- ARC 1014B No questions on proposed amendments to EPSDT program.
- ARC 1002B No questions on amendments to the HAWK-I program.
- ARC 1015B No questions on proposed amendments to ch 88 pertaining to the Iowa plan for behavioral health.
- ARC 1055B No questions on amendments to ch 150.
- ARC 1016B No action on proposed amendments to ch 168.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT Ron Rowland and Maury Wills were present to represent the department.

ARC 1045B Excused from review.

INSURANCE DIVISION Roseanne Mead and Jim Thornton represented the division. Jeannine Freeman of the Iowa Medical Society and Tracy Warner of the Iowa Hospital Association were also present.

- ARC 1041B Mead reported that the division is continuing discussions with interested parties regarding proposed amendments relating to audit procedures and payment of claims. Consensus has not been reached regarding the time period for audits and the definition of "clean claim." Freeman and Warner indicated that the medical community has high interest in these rules. Freeman stated that the auditing process, rather than the claim, should be subject to the insurance commissioner's review and that the rules need to specify what constitutes a clean claim.
- ARC 1040B No questions on proposed amendments to Medicare supplement insurance minimum standards.
- ARC 1044B Proposed ch 48, based on an NAIC model, provides for licensure and regulation of providers and brokers of viatical and life settlements. Following discussion about the purpose of insurance, rights of policy owners, and needs of the insured, Mead offered to prepare a summary of the rules for the committee.
- ARC 1042B No questions on proposed amendments to the long-term care asset preservation program, ch 72.
- ARC 1043B No questions on proposed amendments to ch 76 concerning external review.

INFORMATION TECHNOLOGY DEPARTMENT Debbie O'Leary, Jeff Nelson and James Day represented the department.

ARC 1056B Proposed ch 13 relates to acquisitions of information technology devices and services. The rules are intended to establish both a procurement process and an approval process. O'Leary indicated that a list of preapproved devices is being developed. Royce noted that the approval process refers to "participating agencies" and "procurement authorities." O'Leary responded that the standards established by ITD will apply throughout state government. Bradley questioned the requirement for "compliance" with "recommended standards."

Committee business Bradley moved approval of the minutes of the October 2001 meeting. The motion carried.

Royce distributed a draft of a rule to regulate firearms on the capitol complex.

ENVIRONMENTAL PROTECTION COMMISSION Christine Spackman, Wayne Ferrand, Anne Preziosi, Catharine Fitzsimmons, Cory McCoid, Theresa Stiner, Jim Humeston and Wayne Gieselman represented the commission. Cynthia Turkle of Turkle-Clark Environmental Consultants was also present.

ARC 1020B The commission identified proposed amendments to chs 1, 9 and 11 as clarification of current policy. Frevert and Kibbie expressed strong concern about the state's providing property tax relief for confinement feeding operations. Spackman indicated that the commission has received oral and written comments expressing similar concerns. Bartz asked the commission to provide a copy of the tax exemption application form. Ferrand commented that counties may not be uniform in their treatment of the exemptions.

Motion Kibbie moved the department provide a regulatory analysis of the amendments.

Motion carried The motion carried.

ARC 1025B No questions on ch 13 regarding waiver of administrative rules.

Environmental Protection Commission (continued)

ARC 1024B No action on proposed 22.1, which was developed in conjunction with the Iowa Association of Business and Industry.

ARC 1021B No questions on proposed amendments to ch 22 concerning title V permits.

ARC 1026B No action on amendments updating effluent and pretreatment standards.

ARC 1001B No action on extension of time for application of manure from a storage structure. Kibbie was advised that the department has received 2464 plans; approximately 1400 have been reviewed and 1000 approved.

ARC 1022B No questions on amendments proposed for chs 119, 144, 210 to 212 and 214 in response to Exec. Ord. 8.

ARC 1023B No questions on proposed ch 134 amendments relating to certification of groundwater professionals.

ARC 1019B No questions on proposed ch 135 amendments concerning notification requirements relative to underground storage tanks.

Regulatory Analysis The regulatory analysis of demanufacturing of discarded appliances has been published. Tack reported that no comments have been received and the rules will be presented to the commission for adoption this month. Tack responded to Bradley that while enforcement may not be uniform, the federal requirements apply to all states. Turkle commented that the rules clarify existing federal requirements.

NATURAL RESOURCE COMMISSION Arnie Sohn, Jon Tack, Steve Dermand, Anne Preziosi, Daryl Howell, and Richard Bishop represented the commission.

ARC 1069B No questions regarding waiver of administrative rules.

ARC 1071B No questions on proposed amendments to ch 37.

ARC 1073B No questions on proposed 41.2(1) regarding uniform marker buoy symbol system.

ARC 1072B Proposed amendments to ch 45 concern size of boat motors. Dermand agreed to advise Johnson of limits in effect from September to December.

ARC 1070B No action on proposed amendments to ch 61 relating to state parks and recreation areas.

ARC 1067B No action on proposed amendments to ch 77 relating to endangered and threatened species.

ARC 1068B No questions on wild turkey spring hunting.

INSPECTIONS AND APPEALS DEPARTMENT Jennifer Fiihr and Larry Bryant represented the department.

ARC 1060B No questions on proposed amendments to ch 10 relating to the code of administrative judicial conduct.

ARC 1018B No questions on amendments to chs 30 and 31 regarding a licensure exemption for honey producers.

ARC 1059B Amendments to chs 100 and 102 have been adopted. In response to an issue raised at the previous meeting, Fiihr reported that amendments have been proposed to bingo and raffle rules to allow discounting of tickets if discounts are open to all buyers, prices are printed on promotional materials and discounts are offered throughout the duration of the ticket sales.

PROFESSIONAL LICENSURE DIVISION Marge Bledsoe represented the division. Tony Mack represented the Iowa Physical Therapy Association.

ARC 1058B No action on proposed 12.1 regarding materials for board review.

ARC 1027B Bledsoe reported receiving numerous comments from the public: 51 comments supported the amendment, 632 opposed the amendment. The amendment relates to use of the terms "physiotherapy" and "chiropractic physical therapy." Metcalf suggested a session delay on the amendment would give the state government committee another opportunity to resolve the issue.

Motion to delay Rittmer moved a session delay be placed on 44.1(7).

Motion failed The motion failed on a vote of three to five.

ARC 1057B No questions on revision of podiatry rules. Bledsoe distributed a summary showing changes from the existing rules.

PUBLIC HEALTH DEPARTMENT Mike Magnant represented the department. Chuck Thomas represented the Iowa Association of Building Officials.

ARC 0982B The department has adopted the uniform plumbing code as the standard for Iowa. Magnant stated that, in general, plumbing inspectors, plumbing trainers and plumbers support the department's choice; those who oppose the code adopted by the department include building officials and architects. Thomas expressed a preference for local jurisdictions to have the option of complying with either the uniform plumbing code or the international plumbing code and asked the committee to impose a session delay. Magnant responded that the department views the two codes as significantly different and added that, absent a complaint, the department does not have the resources to go out and make inspections. Johnson was concerned about why jurisdictions may have adopted a standard other than the one required by the state.

Public Health Department (continued)

Motion to delay Metcalf moved a session delay be imposed.

Substitute motion Kibbie offered a substitute motion of 70-day delay. Metcalf accepted the substitute motion.

Motion failed The motion for a 70-day delay failed on a vote of four to three.

REVENUE AND FINANCE DEPARTMENT Carl Castelda and Ed Henderson represented the department.

ARC 1064B No questions on proposed interest rate for calendar year 2002.

ARC 1062B No questions on proposed ethanol-blended gasoline tax credits.

ARC 1061B No questions on amendments relating to eligible housing business tax credit.

ARC 1063B No questions on amendments pertaining to motor fuel and undyed special fuel.

ARC 1065B No action on amendments relating to property tax and manufactured home tax.

IOWA FINANCE AUTHORITY Donna Davis and Loyd Ogle represented the authority Other interested parties included James Conlin of Conlin Properties and Robert Burns of Burns & Burns, L.C.

ARC 1074B The 2002 QAP has been adopted. Conlin reiterated the opinion that stronger underwriting standards should be required and voiced concern about projects that have been awarded credits but are not yet under construction. Davis responded that in recent years the board has made significant progress in strengthening the standards and would be open to consideration of proposals for firm financing commitments. Bartz asked that the board continue to work toward program improvement. Johnson supported Bradley's suggestion that an analysis of failed projects be undertaken in order to determine how such problems can be avoided.

Burns pointed out that the reduction from 35 to 15 points for tenant ownership is a change from the notice which did not result from public comment and asked the committee to object to the provision which was adopted without opportunity for public comment. Davis responded that the federal government has not provided specific guidance as to how to give preference for eventual tenant ownership, and the board chose not to allocate the same preference as allowed for a longer compliance period.

Bartz stated that the committee will defer action and continue review of the rule at the December meeting.

Adjourn The meeting was adjourned at 4:15 p.m.

Respectfully submitted,

Kathleen K. Bates
Kathleen K. Bates

Teresa VanderLinden
Teresa VanderLinden

APPROVED:

Merlin E. Bartz
Chair Merlin E. Bartz

Clyde Bradley
Vice Chair Clyde Bradley