



MINUTES

MAY 2024 MEETING ADMINISTRATIVE RULES REVIEW COMMITTEE

MEMBERS PRESENT

Senator Mike Klimesh, Chair
Senator Nate Boulton
Senator Cindy Winckler

Representative Michael R. Bergan, Vice Chair
Representative Amy Nielsen
Representative Rick L. Olson
Representative Michael V. Sexton

EX OFFICIO, NONVOTING MEMBER: Nate Ristow, Administrative Rules Coordinator, Office of the Governor

LSA CONTACTS: Organizational staffing provided and minutes prepared by Jack Ewing, Administrative Code Editor, 515.281.6048, and Kate O'Connor, Division Editor/Supervisor, 515.281.6329

BULLETINS NEEDED FOR THIS MEETING: 4/3/24, 4/17/24, 5/1/24

Procedural Business

Senator Klimesh convened the regular, statutory meeting of the Administrative Rules Review Committee (ARRC) at 11 a.m. on Monday, May 6, 2024, in Room 116, State Capitol, Des Moines, Iowa. The minutes of the April 8, 2024, meeting were approved. The next meeting was scheduled for Tuesday, June 11, 2024, at 11:00 a.m. Committee members elected Representative Bergan as Vice Chairperson of the ARRC by voice vote.

Committee members expressed disappointment that the committee and the public are not provided a side-by-side comparison of existing rules and the rules resulting from Executive Order 10. Mr. Ewing stated that 2024 Iowa Acts, Senate File 2370, which is effective July 1, specifically prohibits strikes and underscores in such rulemaking documents. He explained that the committee could request that agencies provide a side-by-side comparison as that is not prohibited by state law. He also confirmed that legislative action would be required to change the law prohibiting strikes and underscores. Members asked the purpose of prohibiting strikes and underscores in rules undergoing a five-year review. Mr. Ristow replied that the purpose was to force agencies to take a fresh look at each rule by rescinding the entire rule and starting from a zero base. As permitted by 2024 Iowa Acts, Senate File 2370, members asked if the committee would see uniform rules on agency procedure applicable to all agencies adopted by the Administrative Rules Coordinator. Mr. Ristow answered in the affirmative and confirmed that uniform rules on agency procedure would follow the same rulemaking process as other rules. Members stated that they are concerned with the workload imposed on agencies, the committee, and caucus staffers by Executive Order 10 and 2024 Iowa Acts, Senate File 2370. The meeting was adjourned at 12:40 p.m.

Fiscal Overview

Mr. Chris Ubben, Division Editor/Supervisor, presented the LSA fiscal report.

Rulemaking type is indicated in parentheses following the ARC number. The acronyms have the following meanings: Notice of Intended Action (NOIA), Amended Notice of Intended Action (ANOIA), Notice of Termination (NOT), Adopted and Filed Emergency (AFE), Filed Emergency After Notice (FEAN), and Adopted and Filed (AF).

REVENUE DEPARTMENT

Representing the agency: Madelyn Cutler

ARC 7835C (AF), Collection of Tax Debt and Debt Owed to Other State Agencies, Chs. 20-25, 27
No discussion on ARC 7835C.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT

Representing the agency: Colin Tadlock, Dr. Jeff Kaisand

Emergency Filing, Approval Required: Infectious and Contagious Diseases, Highly Pathogenic Avian Influenza, Ch. 64

Committee members asked if highly pathogenic avian influenza (HPAI) had been found in sheep herds in Iowa. Dr. Kaisand replied that it had not been found in any sheep herds yet. Members asked if cats in Texas contracted HPAI from drinking unpasteurized cows' milk. Mr. Tadlock confirmed that is true. Dr. Kaisand stated that other mammals in Iowa had contracted it but no symptoms, such as decreased milk production, had been detected in the state. Members asked if it was possible for a herd to have HPAI and not show any clinical signs. Dr. Kaisand answered in the affirmative.

Committee members asked if the department had any concerns related to the availability of unpasteurized milk in Iowa. Mr. Tadlock replied that the department has had concerns with the availability of unpasteurized milk since the legislation that allows it passed. He explained that the department regulates the sale of raw milk in the state and may quarantine a herd, including a raw milk dairy, due to contagious and infectious diseases. The department, however, does not have any oversight of the production, processing, or labeling of raw milk. Mr. Tadlock stated that pasteurization was the optimal step to prevent transmittal of HPAI into humans or other animals and stated that the public should not be consuming raw milk at this time. Members asked if it was possible for the state to pause the sale of raw milk until there is a better national response to the prevention of further transmission of HPAI. Mr. Tadlock replied that the department does not have the ability to do that at this time. Mr. Tadlock stated that the Department of Health and Human Services has the authority to require an individual who contracts HPAI to obtain a signed affidavit from a medical professional stating that the person contracted HPAI from a specific product from a specific producer. Dr. Kaisand stated that the department had communicated to producers that herds that test positive were not being quarantined; however, this could change if circumstances change. Dr. Kaisand explained that HPAI is a select agent and in some circumstances the department had to depopulate entire poultry farms, but depopulation was not currently planned for dairy farms.

Committee members asked if an infected animal would be processed or destroyed if it is taken to be processed for meat. Dr. Kaisand replied that under federal requirements an animal that is going to be processed and cross state lines must have a health certificate. The United States Department of Agriculture Food Safety and Inspection Service inspectors also inspect the animals prior to processing and conduct spot testing of processed meat. Dr. Kaisand explained that HPAI had not been detected in processed meat and stated that the United States has one of the safest food supplies in the world due to its inspection process. Members asked if animals are randomly or routinely tested, or only tested if an animal displays symptoms. Dr. Kaisand replied that under the federal order a lactating dairy cow that crosses state lines must be tested. Members asked if producers were preemptively testing as the department requested. Dr. Kaisand stated that the federal order came about due to producers' reluctance to test.

Emergency Rulemaking Authorized

A motion to authorize emergency rulemaking carried by a voice vote with seven members present.

NATURAL RESOURCE COMMISSION

Representing the agency: Tamara McIntosh, Kelly Smith, Kim Bohlen, Jessica Flatt, Michelle Wilson

ARC 7892C (AF), Concessions, Ch. 14

Committee members asked for clarification on the bidding process for concessions on state property. Ms. Bohlen stated that the commission sends out a request for proposals, accepts and reviews proposals, and offers a concession contract to selected proposals. Members asked if bids were based on the percentage of the concession sales that the commission would receive. She responded in the affirmative and explained that there is not a standard percentage. Members asked what the average percentage is. She replied that it was typically two to five percent.

No action taken on ARC 7892C.

ARC 7901C (AF), Blufflands Protection Program and Revolving Loan Fund, Ch. 24

No discussion on ARC 7901C.

ARC 7905C (AF), All-Terrain Vehicle Registration Revenue Grant Program, Ch. 28

Committee members asked for an explanation of the intent of the grant program. Ms. Flatt replied that the primary purpose was to support the operation and maintenance of designated off-highway parks in Iowa. Members asked if creating new parks was also part of the grant program. She replied in the affirmative. Members asked how many dollars had gone toward new parks in the last year. She stated that new trails had been added to existing parks. Members asked if the department had received applications to fund new parks. She replied that there had been a couple of applications for new parks that either were still in process or that did not complete the entire application process. Members asked if there were restrictions on the type of land that may be converted to a park. She responded that while there were not restrictions on the type of property, there were rules as to how a property may be developed and designated as an off-highway park. She explained there is a public meeting process as well as procedures to determine if there are sensitive environmental or cultural issues with a certain property. Members asked what metrics are used to determine if a property is a “high quality natural area.” She replied that experts hired by the department make that determination. Members asked how the experts are selected. She explained that experts who were utilized would be determined based on the property being acquired. She also clarified that possessing “high quality” characteristics does not necessarily preclude an entire property from becoming a designated off-highway park. Members asked what qualifies a property to be classified as “previously disturbed.” She replied there are many factors involved in making that determination. Members asked if the complexity of the rules causes problems for clubs and organizations trying to establish more trail riding opportunities in the state. She stated that stakeholders did not have any comments regarding the rulemaking and that her role is to assist stakeholders in navigating the program. Members asked for a breakdown of how the moneys in the fund were spent and for a copy of the application for the program. She responded that she would get back to the committee with that information.

No action taken on ARC 7905C.

ARC 7909C (AF), Private Open Space Lands, Rescind Ch. 32

Committee members asked what entity had taken on managing private open spaces as the Department of Natural Resources indicated that its historical role had been eliminated. Ms. McIntosh responded that the Secretary of State had assumed those responsibilities.

No action taken on ARC 7909C.

ARC 7910C (AF), Resources Enhancement and Protection Program: County, City, Private Open Spaces and Conservation Education Grant Programs, Ch. 33

Committee members asked whether a nongovernmental organization (NGO) could apply to the program on behalf of a property owner. Ms. Wilson replied that NGOs could work with a property owner regarding land that the NGO wanted to purchase, and in its application the NGO must note that it had worked with the property owner. Members asked if grants were just for acquisition, or if grants were also available for long-term leasing and protection. She confirmed that grants were only available for acquisition. Members asked what encumbrance was placed on a property after the property is purchased and whether the property could be transferred to county conservation or to the Department of Natural Resources. She replied that the property could be under the ownership and management of the state of Iowa or managed by a county conservation board. Members asked who makes that determination. She responded that since she has been the coordinator, an NGO had not asked that a property be transferred to a county conservation board; however, she assumed that request would have to be part of the application process.

No action taken on ARC 7910C.

INSPECTIONS AND APPEALS DEPARTMENT

Representing the agency: Ashleigh Hackel

ARC 7754C (NOIA), Military Service, Veteran Reciprocity, and Spouses of Active-Duty Service Members, Ch. 7

Committee members asked if the rulemaking solidifies what had been the practice by various licensing authorities. Ms. Hackel answered in the affirmative.

No action taken on ARC 7754C.

COLLEGE STUDENT AID COMMISSION

Representing the agency: Todd Brown

ARC 7851C (NOIA), All Iowa Opportunity Scholarship Program, Ch. 8

Committee members asked how the commission selected the rulemaking for regulatory analysis under Executive Order 10. Mr. Brown replied that the rules had been selected due to a reference to the family contribution in current rules that would become obsolete in the 2024-2025 academic year. The reference would be replaced in the new rulemaking with a more generic financial metric called the student aid index. Members suggested that the commission conduct more outreach to the general public regarding federal changes to the Free Application for Federal Student Aid.

No action taken on ARC 7851C.

ARC 7852C (NOIA), Iowa Tuition Grant Program—For-Profit Institutions, Ch. 11

No discussion on ARC 7852C.

ARC 7853C (NOIA), Iowa Vocational-Technical Tuition Grant Program, Ch. 13

No discussion on ARC 7853C.

ARC 7854C (NOIA), Skilled Workforce Shortage Tuition Grant Program, Ch. 23

No discussion on ARC 7854C.

EDUCATION DEPARTMENT

Representing the agency: Thomas Mayes

ARC 7792C (AF), Special Education, Ch. 41

Committee members asked if the legislation passed related to area education agencies (AEAs) would require further changes to the department's rules. Mr. Mayes replied that there are over 800 references to AEAs in the department's rules. Members asked if the bulk of changes to the rules would be in the next 12 months. Mr. Mayes answered in the affirmative, to the extent changes are necessary.

No action taken on ARC 7792C.

ARC 7793C (AF), Pupil Transportation, Ch. 43

Committee members asked how the parameters regarding ride time were determined. Mr. Mayes stated that there are not statutory requirements for ride time; it is a legacy rule and was retained due to stakeholders' requests. He further stated that the department had not received a waiver request regarding the rule in the 18 years that he had been with the department.

No action taken on ARC 7793C.