

**MINUTES OF THE JANUARY 2007 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Wednesday, January 3, 2007, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Representative George Eichhorn, Chair, and Senator John P. Kibbie, Vice Chair; Senator Michael Connolly; Representatives Danny Carroll, Marcella Frevert, David Heaton, and Geri Huser. Senators Thomas Courtney, Paul McKinley, and James Seymour were not present.
- Also present: Joseph A. Royce, Legal Counsel; Kathleen K. West, Administrative Code Editor; Sonya Streit, Administrative Rules Coordinator; fiscal staff, caucus staff and other interested parties.
- Convened Chair Eichhorn convened the meeting at 9 a.m.
- Fiscal report** Mary Beth Mellick presented the LSA report on rule makings that may have a significant fiscal impact.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg represented the department.
- ARC 5582B No action on ch 187, aftercare services and supports. Ms. Freudenberg outlined changes made at the request of a commenter.
- ARC 5579B No questions on amendments to increase to \$50 the personal needs allowance for Medicaid residents of nursing facilities and to establish a state-funded personal needs supplement. Ms. Freudenberg stated that the legislation did not include such funding for persons in intermediate care facilities for the mentally retarded or intermediate care facilities for persons with mental illness.
- ARC 5626B No questions on amendments to combine nine Medicaid provider enrollment forms into a single form.
- ARC 5578B No questions on the increase in the limits on maximum cost for home- and community-based waiver services.
- ARC 5581B No questions on the amendment to ch 151 concerning supervised community treatment services.
- INSPECTIONS AND APPEALS DEPARTMENT** David Werning represented the department. Kristie Oliver represented the Iowa Association of Homes and Services for the Aging.
- ARC 5585B No questions on amendments to ch 51 regarding licensure of long-term acute care hospitals within licensed hospitals. Mr. Werning explained changes to clarify the definition of a “long-term acute care hospital,” to update a CFR reference, and to clarify provisions regarding inspections.
- ARC 5587B Amendments to chs 58 and 61 provide for the establishment of person directed care environments in long-term care facilities. Ms. Oliver commended the department for this change.
- ARC 5586B The committee had previously referred these amendments to the general assembly. Mr. Werning reported that the director sought the advice of the attorney general regarding admission procedures for long-term care facilities and that the response has been distributed to the committee. Ms. Oliver commented that facilities need to ask the right questions so that only persons potentially eligible for veterans benefits are reported to the veterans affairs department.
- AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT** Ron Rowland represented the department. Other interested parties included Tom Colvin on behalf of the Animal Rescue League of Iowa and the Iowa Federation of Humane Societies and Jane McCall of the Dubuque Regional Humane Society.
- ARC 5623B Proposed rule 67.12, which was requested by the Iowa Federation of Humane Societies, provides procedures for Iowa’s 132 licensed pounds and shelters to voluntarily participate in oversight of foster homes for animals that are not ready for adoption. Mr. Colvin and Ms. McCall expressed support for the rule.
- PROFESSIONAL LICENSURE DIVISION** Pierce Wilson represented the division.
- ARC 5571B No questions on proposed amendments to ch 31, licensure of marital and family therapists and mental health counselors.
- ARC 5615B No action on proposed amendments to chs 361 and 362 affecting interpreters for the hearing impaired.
- LABOR SERVICES DIVISION** Kathleen Uehling and Mitchell Mahan represented the division. Scott Smith was present on behalf of Boone County.
- ARC 5596B No action on proposed adoption of OSHA regulations regarding hexavalent chromium standards and respirator selection requirements.
- ARC 5583B No action on proposed ch 34 concerning civil penalties for violations of Iowa Code chapter 91A, the wage payment collection law.

Labor Services Division (continued)

ARC 5619B Proposed amendments to chs 90 and 95, approved by the boiler and pressure vessel board, propose safety requirements for water heaters located in places of public assembly. Committee members voiced concerns about the expanded scope of the rules, the fiscal impact the rules will have on businesses and governmental entities throughout the state, and the lack of notification of affected parties. Mr. Smith commented on the impact the rules would have on Boone County and suggested that the League of Cities, the Iowa State Association of Counties, the Iowa State Association of School Boards, and other statewide associations and organizations be notified of the proposed rules.

Motion Rep. Huser made a motion that the committee request a Regulatory Analysis.

Motion carried The motion carried.

ARC 5618B No questions on amendments pertaining to construction contractor registration and to asbestos encapsulation and removal.

ARC 5584B No questions on amendments to require blood-borne disease testing for professional boxers and shoot fighters.

NATURAL RESOURCE COMMISSION Linda DePaul, Diane Ford-Shivvers, and Marion Conover represented the commission.

ARC 5601B No questions on ch 67 concerning development and management of recreation trails on state forests, parks, preserves and recreation areas.

ARC 5602B No questions on amendments to ch 81, fishing regulations.

ARC 5603B No action on proposed amendments to ch 87 regarding commercial and sport harvesting of mussels.

ARC 5604B No action on proposed amendments to ch 94 pertaining to nonresident deer hunting and harvest reporting. Ms. Ford-Shivvers reported that approximately 12,000 nonresidents apply for the 6,000 any-sex licenses authorized by the legislature.

ENVIRONMENTAL PROTECTION COMMISSION Jon Tack, Alex Moon, Teresa Stiner, Brian Tormey, Christine Paulson, and Chris Schwake represented the commission. Other interested parties included Scott Smith on behalf of the Boone County Landfill, Hal Morton of the Des Moines County Regional Solid Waste Commission, Cindy Turkle of Turkle-Clark Environmental Consultants, Jeff Dworek of the Metro Waste Authority, Sara Bixby of the South Central Iowa Solid Waste Agency, Karmin McShane of Cedar Rapids/Linn County Solid Waste Agency, and Kathy Morris of the Scott County Waste Commission.

ARC 5599B No questions on proposed amendments pertaining to air quality.

ARC 5598B No action on a proposed amendment to ch 61 concerning water quality certification. There was discussion about provisions affecting single-family homes.

ARC 5597B In presenting the proposed amendments affecting sanitary landfills for municipal solid waste facilities, Mr. Tack related the history of the rules; summarized and responded to concerns that have been raised; announced that a third-party review will take place; and distributed a regulatory analysis prepared by the department. Mr. Tack emphasized that the department wants input from affected parties and is willing to continue to refine the rules.

Mr. Smith challenged the fiscal analysis and the need for the rules, contending that the department needs to enforce the current rules. Mr. Morton concurred with Mr. Smith and expressed concern about additional costs that all landfills will incur. Ms. Turkle indicated that regulated entities are concerned about having to comply by October 2007, even if a landfill closes, and they want to have more input in the rules process. Mr. Dworek expressed support for the changes and commented that DNR has reached out to the regulated community. Ms. Bixby commented that DNR is now coming into compliance with the federal requirements and asked that the committee not delay adoption of the rules. Ms. McShane expressed support for the rules as necessary for the protection of the environment. Ms. Morris indicated that Scott County wants to protect the environment and expressed confidence that DNR will listen to concerns and work with facilities.

Discussion pertained to the fiscal analysis, implementation schedule, provisions that are more restrictive than the federal standards, and the department's prior enforcement efforts.

Mr. Tack and Mr. Tormey explained that the rules had allowed for grandfathering of existing facilities that were not in compliance and the department is attempting to rectify that mistake. Rep. Eichhorn asked the department to advise the committee of any rules that exceed federal regulations and of the legal basis for applying the rules to existing landfills.

ARC 5600B No action on ch 215 regarding mercury-added switch recovery from end-of-life vehicles.

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION Excused: ARC 5624B
REVENUE DEPARTMENT Excused: ARC 5593B and ARC 5595B

ECONOMIC DEVELOPMENT DEPARTMENT Terry Vestal and Melanie Johnson represented the department. David Smitherman represented the renewable fuel infrastructure board.

ARC 5609B No action on the housing fund, ch 25.

ARC 5608B Chs 311 to 314 pertain to the renewable fuel infrastructure program. Ms. Johnson noted that a subsequent emergency rule making affects provisions regarding length of the contract and the waiver process. Sen. Connolly voiced concern that board members from the fossil fuel industry may not be advocates for the promotion of renewable fuels. Mr. Smitherman responded that petroleum and renewable fuels will both be needed in order to meet the needs of the future and he does not believe there is any conflict. Applications to date have not exceeded the funds available, and Mr. Smitherman suggested that the longer contract term may discourage applications in an uncertain market.

Committee business The minutes of the December 2006 meeting were approved. The next meeting was set for February 2, 2007. Rep. Frevert asked that the minutes reflect the committee's appreciation and best wishes to Representatives Carroll, Eichhorn and Huser who have served faithfully and professionally on this committee. Rep. Carroll reminisced about his ten years on the committee.

Adjourned The meeting was adjourned at 2:15 p.m.
Respectfully submitted,

Kathleen K. West

APPROVED:

Chair

Vice Chair