

**MINUTES OF THE OCTOBER 2005 MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**

- Date of meeting: The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, October 11, 2005, in Room 116, State Capitol, Des Moines, Iowa.
- Members present: Representative George Eichhorn, Chair, and Senator John P. Kibbie, Vice Chair; Senators Jeff Angelo, Michael Connolly, Mary Lundby, and Paul McKinley and Representatives Danny Carroll, Marcella Frevert, David Heaton and Geri Huser.
- Also present: Joseph A. Royce and Emily Gardyas, 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 9:05 a.m. and introduced Administrative Rules Coordinator Sonya Streit.
- Fiscal report** Mary Beth Mellick presented the LSA fiscal report on ARC 4531B, ARC 4533B, ARC 4504B, ARC 4505B, ARC 4511B, ARC 4544B, ARC 4526B and ARC 4518B.
- HUMAN SERVICES DEPARTMENT** Nancy Freudenberg, Mary Nelson, Mary Lovan and Jody Caswell represented the department.
- ARC 4511B No action on proposed ch 118, child care quality rating system. Frevert was advised that training on the use of environmental rating scales is available evenings and weekends from ISU Extension Service. Caswell indicated that point criteria may be adjusted in response to comments received.
- ARC 4545B No action on proposed ch 66, the emergency food assistance program. In response to McKinley's inquiry about fraud prevention measures, Freudenberg agreed to provide information about auditing procedures.
- ARC 4486B No action on proposed amendments to ch 86, the HAWK-I program.
- ARC 4512B Proposed amendments to ch 99 generated discussion about the requirement that both parents agree to a step change or a suspension of support obligations.
- ARC 4532B No action on amendments related to foster care services.
- ARC 4513B No action on proposed amendments to ch 109 concerning licensed child care centers.
- CORRECTIONS DEPARTMENT** Michael Savala and Mike Richardson represented the department.
- ARC 4531B No action on amendments to ch 38 concerning the sex offender risk assessment. Discussion related to local law enforcement notification of schools, the risk assessment instruments, appeal procedures, and information posted on the sex offender registry Web site.
- ARC 4516B Proposed amendments to ch 50 would bring rules governing Iowa's jail facilities into conformance with the American Corrections Association standards. These standards would apply to facilities built or remodeled after the effective date of the amendments; existing facilities may also opt to comply.
- ARC 4517B Proposed amendments to ch 51 would bring rules governing Iowa's temporary holding facilities into conformance with the American Corrections Association standards.
- SECRETARY OF STATE** Sandy Steinbach represented the secretary of state.
- ARC 4546B No action on proposed amendments to ch 22 to implement HAVA standards. Discussion related to computer security.
- PUBLIC SAFETY DEPARTMENT** Mike Coveyou and Stuart Crine represented the department. Other interested parties included Glenn Siders, Chairman of the Building Code Advisory Committee; Tom Jolas, member of the Building Code Advisory Committee; Charles Green of the University of Iowa; Mike Brown of the Clinton Fire Department; Bill Dikis of the Iowa Chapter of the American Institute of Architects; Chuck Thomas of the Iowa Association of Building Officials; Rita Swearingen of the International Code Council; and Jim Thatcher, the Cedar Rapids Fire Marshal.
- ARC 4514B The department proposes to adopt the 2003 Edition of the International Building Code (IBC) as the state building code. McKinley requested a summary of IBC standards and information about its applicability. Members expressed a hope that information will be disseminated statewide and that localities will adopt the state building code. Jolas commented on the cost savings of projects that have been completed in Iowa under the IBC. All commenting parties expressed support for the IBC and encouraged statewide adoption by communities.
- ARC 4515B No action on proposed ch 350, state historic building code.
- DENTAL EXAMINERS BOARD** Jennifer Hart represented the board. Kristine Lindell of the National Association of Social Workers was also present.
- ARC 4535B No questions on proposed amendments to 10.3 regarding dental hygiene services provided to new patients.
- ARC 4534B No questions on 11.7(2) to 11.7(4) regarding local anesthesia permits.

Dental Examiners Board (continued)

- ARC 4533B No action on increased renewal fees.
- ARC 4536B No questions on proposed 29.11 regarding renewal and reinstatement of deep sedation/general anesthesia and conscious sedation permits.

SOIL CONSERVATION DIVISION Dean Lemke represented the division. Bob Mulqueen represented the Iowa Environmental Council.

- ARC 4520B Chapters 101 to 107 regarding the watershed improvement review board were simultaneously proposed and emergency adopted. Lemke reported that \$5 million was appropriated as an incentive for local entities to improve watersheds.

REVENUE DEPARTMENT Jim McNulty represented the department.

- ARC 4518B No action on proposed amendments related to tax credits for historic preservation and cultural and entertainment districts, eligible housing businesses and the endow Iowa programs. Committee comments related to the potential for a project to qualify under multiple programs and questions about the effect that additional funding would have on investors who had bought discounted credits from project developers.

RAILWAY FINANCE AUTHORITY John Hey represented the authority.

- ARC 4523B No action on proposed ch 5, the railroad revolving loan and grant fund program.

EDUCATION DEPARTMENT Carol Greta represented the department.

- ARC 4529B Greta outlined the four changes proposed for ch 12, general accreditation standards. Discussion related to the amendment to subrule 12.4(14), which, in accordance with the ADA, eliminates the requirement for periodic physical examination; members commented on the need to protect students from transmission of communicable diseases by school employees.

- ARC 4530B No questions on proposed amendments to ch 96.

Committee business The minutes of the September 2005 meeting were approved. The next meeting will be held Tuesday, November 8, 2005. Royce advised the committee that the ethics and campaign disclosure board is considering an amendment to provide for a surcharge on penalties; Royce will schedule a review of the proposal in November. The emergency rule makings subcommittee will include Senators Kibbie and Lundby and Representatives Carroll and Huser.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT Ron Rowland and Richard Wahl represented the department.

- ARC 4481B No questions on rescission of the sunset provision for the chronic wasting disease program.
- ARC 4408B No action on proposed chs 90 to 94 concerning grain dealers and warehouse operators and the grain indemnity fund.

ENVIRONMENTAL PROTECTION COMMISSION Jim McGraw, Chuck Correll, Adam Schnieders, and Wayne Gieselman represented the commission. Leo Alderman represented the U.S. Environmental Protection Agency. Other interested parties included Julie Smith of the League of Cities, Emily Piper of the Iowa Rural Water Association, Ted Payseur of the Iowa Water Pollution Control Association, and Rich Leopold of the Iowa Environmental Council.

- ARC 4502B No questions on amendments to ch 22 which exempt additional equipment and processes from construction permit requirements.

- ARC 4503B The amendment to 23.3(2)“c”(1) classifies routine traffic and road maintenance activities on unpaved roads as ordinary travel exempt from the requirements of the fugitive dust rule.

- ARC 4504B and
ARC 4505B

These two rule makings are intended to bring Iowa into compliance with the standards of the Clean Water Act. Ten informational meetings, six public hearings and an ICN public meeting have been scheduled to inform the public. Correll explained that intermittent streams require an acute level of protection; perennial streams and perennial pools in intermittent streams require a chronic level of protection; and, if wastewater that is discharged into an intermittent stream causes a perennial flow, the chronic level of protection applies. These amendments remove the “protected flow” concept; establish warm water use protocol to determine the appropriate use designation; and institute a “fishable/swimmable” standard for perennial streams and pools. Correll noted that three to five years of field work must be done before EPC can determine appropriate designations and offered assurance that no facilities will need to be upgraded and no permits will be issued until that work is completed. Correll further noted that any change in Iowa’s rules requires EPA approval, and all designations will be subject to the rule-making process. Alderman stated that Iowa is one of a handful of states not yet in compliance with the “fishable/swimmable” standards of the Clean Water Act and that EPA has worked closely with the state and is supportive of the proposed rules. Correll stated that facilities will continue to discharge under their existing permits until the field work is completed. Connolly

Environmental Protection Commission (continued)

wanted the record to reflect that environmental groups led by the Iowa Environmental Council and the Sierra Club have mentioned the possibility of bringing suit in federal court against the EPA if Iowa does not comply.
Discussion related to costs of compliance, the limited financial assistance available, possibilities for phased implementation and the importance of communication with communities. Members were advised that runoff is an even greater source of pollution than discharges from wastewater treatment facilities.
Commenters expressed concern about the costs of implementation and the lack of financial assistance and also expressed hope that alternative technologies may reduce costs so that compliance can be achieved.

ARC 4507B

No action on amendments to ch 65 pertaining to open feedlots. Gieselman indicated that some changes may be made due to public comments.

Adjourn

The meeting was adjourned at 3:30 p.m.

Respectfully submitted,

Kathleen K. West

APPROVED:

Chair George Eichhorn

Vice Chair John P. Kibbie