

MINUTES OF THE SPECIAL MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting

The special meeting of the Administrative Rules Review Committee was held Wednesday and Thursday, December 9 and 10, 1987, State Capitol, Des Moines, Iowa, in lieu of statutory date.

Members Present

Senator Berl E. Priebe, Chairman; Representative Edward G. Parker, Vice Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representatives David M. Tabor and Betty Jean Clark. Staff present: Joseph A. Royce, Counsel; Phyllis Barry, Deputy Code Editor; Vivian Haag, Executive Administrator. Also present: Barbara Booker Burnett, Governor's Administrative Rules Coordinator.

Convened

Citizens' Aide

Chairman Priebe convened the Wednesday meeting at 10:01 a.m., Room 24. He recognized William Angrick, Citizens' Aide, who was present to discuss a question posed by the Legislative Council at their December meeting as to the prerogative of the legislative agencies in promulgating rules under Code chapter 17A. Angrick noted that the Citizens' Aide/Ombudsman rules date back to 1975. He was supportive of the rule-making process for the agency since they work directly with the public. Legislative Service Bureau had been requested to research the statute on the issue and Donovan Peeters, Bureau Director, advised that Janet Wilson from his staff would work with the Citizens' Aide attorney. Priebe admitted that rule-making authority was not spelled out but seemed to be implied. He expressed the importance of "open government" and his preference for the rules.

Royce Directive

Clark took the position that rule making by the Citizens' Aide should not be considered on the same basis as other in-house legislative matters. Priebe viewed involvement by the Legislative Council as an attempt to usurp the authority of the entire General Assembly. Doyle concurred that Citizens' Aide should have rules. He recalled that Senators Welsh and Carr had advocated requiring Clerks of Court to file administrative rules, a proposal with which he disagrees. He asked Royce to research this matter, also.

Motion

Carried

At the request of Angrick, Doyle moved that the Citizens' Aide defer submitting his Noticed rules for publication in the Iowa Administrative Bulletin. Motion carried. Angrick was directed to communicate with Royce, Burnett and Peeters on the issue.

BLIND DIVISION

R. Creig Slayton and Kris Lischefska represented the Commission for the Blind for the following:

HUMAN RIGHTS DEPARTMENT (421) "umbrella"
Agency procedure for rule making, ch 3 ARC 8073N 11/4/87

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BLIND Doyle was informed that vendor rules were completed and
DIVISION were in the Attorney General's office for perusal. No
(Cont.) action taken by ARRC.

Parker arrived.

ATTORNEY According to Linda Lowe, no comments had been received
GENERAL re the following rules:

ATTORNEY GENERAL[61]
Consumer rental purchase agreements forms, ch 19 ARC 8081 E. 11/4/87

No action.

COLLEGE Laurie Wolf represented the Commission for review of:

AID PLUS loans, interest, 10.59 ARC 8074 E. 11/4/87
COMMISS- Iowa guaranteed student loan program, 10.27, 10.77, 10.79(2) ARC 8076, also filed emergency ARC 8076 N.F.E. 11/4/87
SION

10.59 There was general discussion of 10.59 which incorporates
variable interest rate specifications for PLUS loans.

10.27 Tieden expressed concern that students are being advised
to ignore repayment of student loans. Amendments to 10.27
et al. specify lender incentives which are prohibited in
Supplemental, Guaranteed, Iowa PLUS and Consolidation Loan
Programs. Tieden mentioned that some institutions could
be more helpful in assisting students find employment after
graduation from college. He was told that the Commission
is writing to institutions in that category. Priebe
learned that the Commission was advised of the 5000 program
changes about one year ago. Approximately 100 more would
be forthcoming. Priebe requested Wolf to consult with Royce
and Burnett as to possibility of adopting the federal
guidelines by reference to a date certain. Any subsequent
changes would need to be submitted for review. Responding
to Tieden, Wolf said that no lenders had been disqualified to
date.

INSPECTIONS Xenda Lindel-Prine, Howard A. Palmer, Pearl Johnson,
AND Robert Horton, and Vijay Jain appeared on behalf of
APPEALS Inspections and Appeals for the following:

Foster care facility inspection, ch 40, rescind 7.2, 7.3 ARC 8072 E. 11/4/87
Examinations for aides and orderlies from other states, 58.11(1)"k," 59.13(1)"k" ARC 8121 E. 11/18/87
Food establishment, 30.2 ARC 8120 N. 11/18/87
Real estate broker trust account audits, health care facility audits, chs 21 and 22, amended notice ARC 8182 N. 12/2/87
Wholesale food standards, 31.2; 30--33.1 to 33.1 and 33--34.1 to 34.4 transferred to inspections and appeals
department and rescinded ARC 8165 N. 12/2/87

ch 40 No questions re chapter 40, 7.2, 7.3 or 58.11(1)k.

et al.

30.2 In re 30.2, roadside markets or farmers markets are not
considered food establishments in the Retail Food Code.
The definition of "food establishment" has been changed
in order to govern food in grocery stores and restaurants.
Brief discussion of sale of baked goods from the home. It
was noted that sale of baked goods at a farmers' market would
be excluded from rules.

12-9-87

INSPECTIONS
& APPEALS
Concluded

Lindel-Prine said that Chapters 21 and 22 would be re-noticed since major revision was necessary.

No questions re 31.2 et al.

JOB SERVICE
DIVISION

The following rules were presented by Paul Moran and Joseph Bervid:

EMPLOYMENT SERVICES DEPARTMENT (341) "umbrella"
Claims and benefits, placement, forms, 4.2(1)c(2), 7.2(19), 10.7(2) ARC 8135, also filed emergency
ARC 8134.....N.F.E. 11/18/87

Clark suggested clarification of 4.2(1)c(2).

INSURANCE
DIVISION

Division representatives present were Craig Goettsch, Kevin Howe, Martha Crist, Dennis Britson. Also present: Ruth Ohde Niemann, Alda Post Stookey and Bruce A. Overton, Iowa Funeral Directors Association. The agenda:

CONSUMER DEPARTMENT (191) "umbrella"
Prearranged funeral contracts, ch 19 ARC 8088.....E. 11/4/87
Types and classifications of licenses, 10.7 ARC 8085.....N. 11/4/87
Agents' licensing rules, 10.8(2) ARC 8087.....N. 11/4/87
Unfair trade practices, 15.2(3) ARC 8086.....N. 11/4/87
Unfair discrimination — mental retardation, developmental disabilities, chronic mental illness,
15.24 ARC 8132.....N. 11/18/87
Motor vehicle service contracts, ch 23 ARC 8084.....N. 11/4/87
Residential service contracts, ch 64 ARC 8133.....N. 11/18/87
Unfair trade practices — health data commission, 15.12 ARC 8167.....N. 12/2/87
Unfair trade practices — testimonials 15.20(2) ARC 8166.....N. 12/2/87
Gravestone death benefits, 30.4(6) ARC 8168.....N. 12/2/87

Ch 19

Goettsch reported on changes in Chapter 19 following extensive comments on the Notice. Tieden expressed his apprehension about oral agreements for funeral contracts. Goettsch indicated the definition of "prearranged funeral contracts" had been expanded after discussion with the industry. He continued that the fee structure in 19.16 had generated much comment and the Department has deleted minimum and maximum ranges. However, the \$10 per contract fee will be retained. Other significant changes dealt with public access to records to conform to Code chapter 22--rule 19.13. No recommendations re 10.7.

19.16

10.8(2)

Amendment to 10.8(2) will enable an agent to solicit business prior to being licensed. Under proposed sub-rule 15.2(3), no installment payments or other credit terms may be accepted by licensed insurance agents in the sale of bail bonds. There was discussion of sales made by individuals in bordering states. Committee consensus was that unfairness would prevail with the provision.

Doyle suspected that a broad range of issues had not been dealt with by the Insurance Division. He requested that the Association of Clerks of Court and individuals who issue the license be apprised of the rules.

15.84

Based upon comments received re 15.84, Division officials indicated that changes would be made and the rules renoticed. A second hearing would be held.

Karen Hansen
4/20/90

INSURANCE
DIVISION
(Cont.)
ch 23

There was discussion of Chapter 23, motor vehicle service contracts. Tieden raised question re the late filing fee of an additional \$100 which seemed excessive. No formal action.

ch 54
15.12

No questions re Chapter 54 nor for 15.12.

15.11

Chairman Priebe recalled that Representative Sue Mullins had requested rule 15.11 relative to submission of information to the state health data commission.

15.20(2)

There was lengthy discussion of amendments to 15.20(2) which would require media spokespersons "celebrities" who appear in advertisements for insurance to be licensed insurance agents. According to Howe, the Division had received complaints and their intent "is to make it more difficult to take advantage of Iowa's older insurance buyers." Parker questioned statutory authority for the rule. Howe responded that the matter was of general interest to the public and the Division relied on its general rule-making authority. Parker thought it questionable to rely on "best interest."

Royce was of the opinion that the rule was unreasonable in that it mandates a condition which is impossible to meet. After further discussion, Howe agreed to revise and resubmit early in 1988.

30.4(6)

In re 30.4(6), Committee was advised that the consumer would be more informed with implementation of this subrule.

ch 19

Chairman Priebe recognized Dennis White, Service Corporation Institutions, who addressed the Committee with respect to his concerns re Chapter 19. One area in particular was the \$10 filing fee per contract--19.16"5." He recommended a maximum fee for large operations. His firm averages 200 contracts monthly. Goettsch pointed out that the consumer will pay pro rata share for regulation. He added that the Division would make evaluations and investigations. Goettsch was willing to work with White re his concerns.

Gene Kennedy reported that 97% of Iowa funeral directors are in compliance with the statute which became effective July 1.

GENERAL
SERVICES

Kathy Williams was present for the following:

Organization and operation -- smoking, 1.5(3), 1.5(4) ARC 8174 F 12/2/87
New state historical building use, 1.6, filed emergency ARC 8136 F 11/12/87

Also present were: David Crosson, Administrator, State Historical Society, and Carol Ulch, Deputy Administrator.

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GENERAL
SERVICES
(Cont.)
1.5

Williams indicated that the only comment received on amendments to 1.5 was that they "did not go far enough" in the ban of smoking.

1.6

David Crosson represented the State Historical Society for review of rule 1.6. Tabor questioned justification for the emergency filing since the complex had been under construction for a number of years. Williams responded that most efforts had been directed toward the construction and she admitted that General Services should have used better foresight. The project was a joint effort of Cultural Affairs, Historical Society and General Services. Priebe reminded Williams of ARRC opposition to filed emergency rules.

Parker took chair.

HISTORICAL
DIVISION

David Crosson and Carol Ulch presented the following:

CULTURAL AFFAIRS 2211 "umbrella"
Description of organization, ch 13 ARC 8144 N. 11/18/87
F. utilities management, 13.5 filed emergency ARC 8143 EE 11/18/87

Crosson accepted responsibility for emergency filing saying that he was "preoccupied with the move."

ch 13

According to Crosson, all rules of Cultural Affairs are being reviewed. Chapter 13 sets out procedures by which Historical Division of Cultural Affairs will administer the organization. Crosson agreed to clarify quorum requirements in 13.7(4).

Clark referred to 13.5(6)b(4) with respect to liability for cancellation or change of the contract. She thought cause or reasons should be included. Ulch noted that one major reason for cancellation of an event would be failure of the party or group to obtain a liquor license. General consensus was to modify the rule to stipulate reason would be failure to meet provisions of the contract.

In re 13.5(6)a, Doyle was advised the fee applied to historical facilities with the exception of the State Historical Museum. There is statutory authority to impose admission fees. Ulch was willing to clarify the language. There was brief discussion of the controversy concerning possible sale and use of alcoholic beverages in the new state historical museum. Tabor was informed that the new museum had not been leased to anyone. Crosson distributed a list of groups who are interested in using the building in January. Crosson defended the position of the Society, and ARRC members reiterated concern over the use of the building for purposes other than historical preservation. It was noted that this issue would be on the ARRC agenda for January. No formal action.

Recessed

Recessed at 12:15 p.m.

12-9-87

SECRETARY
OF STATE

Vice Chairman Parker reconvened the meeting at 1:40 p.m.

10.4

Paulee Lipsman represented the Secretary of State for the review of alternative voting systems, 10.4, ARC 8092, filed, IAB 11-4-87.

Clark thought it regrettable that voting machines were a deterrent to voting. Lipsman indicated that a study was being conducted by the federal government on use of machines. Royce recalled that the statutory conflict between Code sections 49.44 and 52.25 had been referred to the General Assembly.

Doyle suggested that the Secretary of State send proposed legislation on the matter to the Code Editor and Legislative Service Bureau for consideration by the Code Publications subcommittee scheduled to meet January 7. Lipsman agreed to pursue the matter.

REGENTS
BOARD

The following rules of the Regents Board were before the Committee:

Personnel administration, 3.26, 3.39(4), 3.67(2), 3.82, 3.83, 2.104(4)"d" ARC 8125 F... 11/18/87
Admission rules common to the three state universities, 1.4 ARC 8130 N..... 11/18/87

1.4

A Board representative was unable to attend the ARRC meeting and it was decided that rule 1.4 should be placed on the January agenda. No recommendations re amendments to Chapter 3.

Minutes
Approved

Clark moved approval of the minutes of the October meeting. Motion carried.

LAW
ENFORCEMENT
ACADEMY

Ben Yarrington, Director, Law Enforcement Academy, reviewed the following proposal:

LAW ENFORCEMENT ACADEMY[501]
Certification of law enforcement officers, 3.26, 3.27 ARC 8116 N. 11/18/87

3.26

According to Yarrington, the rules merely set out current practice for reserve peace officer training. Committee members were assured that qualified officers at the academy would not be precluded from giving the training. No other questions.

Recess

Parker announced a 15 minute recess.

NATURAL
RESOURCE
COMMISSION

The Commission representatives were: Mark Landa, Mike Murphy, Judy Powell, Richard A. Bishop, Jim Mayhew, Mike Carrier and the agenda follows:

Water recreation access cost-share program, 20.3"10,""14," 30.7 to 30.9, 30.11, 30.12(1) ARC 8101 F 11/18/87
State parks and recreation areas, 61.2, 61.3(1) to 61.3(3), 61.3(5), 61.4(1)"c" ARC 8093 F 11/18/87
State park user fees, ch 65, 65.2, 65.3, 65.4(4), 65.4(5), 65.5(3), 65.5 ARC 8100 F 11/18/87
Fishing regulations, 81.1, 81.2(2), 81.2(8) ARC 8096 F 11/18/87
Wild turkey spring hunting regulations, ch 96 ARC 8186 F 12/2/87
Wildlife refuges, 52.1(1) ARC 8069 N. 11/18/87
Wildlife refuges, 52.1(1) (dis emergency) ARC 8068 FE 11/18/87
Commercial fishing, permissive catch, 52.2(1) ARC 8094 N 11/18/87
Public, commercial, private dock and dock management areas, 16.9(8), 16.9(1)"a" ARC 8185 N 12/2/87
Manufacturer's certificate of origin, ch 29 ARC 8187 N 12/2/87

NATURAL
RESOURCE
COMMISSION
(Cont.)
ch 30

Carrier described the minor amendments to Chapter 30 following the Notice. Twenty-five year lease provision was removed. Priebe was informed that the director's authority to alter cost-share provision had created no problem.

Parker saw need for public input since, in his opinion, this was an issue beyond legislative intent. There was brief discussion of funding. No other comments.

61.2 et al. No action re 61.2 et al.

ch 65 Carrier stated that two additional changes had been made in Chapter 65 since the Notice.

ch 81 In review of amendments to Chapter 81, Mayhew said that Minnesota and Wisconsin would meet with Iowa in January in an attempt to standardize fishing regulations.

ch 98 Bishop discussed Ch 98, and was confident that turkeys would be plentiful for two or three years. No questions re Chapter 98.

52.1(1) Emergency amendment to 52.1(1) adds Mericle Woods in Tama County to the list of wildlife refuges per deed stipulation. Mention was made of the fact that use of firearms in a refuge would constitute a simple misdemeanor under Code chapter 111.

82.2(1) No recommendations for 82.2(1), 16.8(8), or 16.9(1).

ch 20 Chapter 20 establishes a new chapter pertaining to manufacturer's certificate of origin. Doyle discussed proposed legislation to resolve a conflict in Code Chapter 106 created by 1987 legislation. He had been working with the County Recorders Association on the problem.

MANAGEMENT
DEPARTMENT

Ray Petersen and Lawrence Bryant were present for the following:

MANAGEMENT DEPARTMENT[541]

Contract compliance, ch 4 ARC 8173F 12/2/87

ch 4 Department representatives reviewed changes which had been made in response to the general public and state departments. Royce observed that a number of definitions had been added as well as a new provision re sanctions in 4.7(2). He was doubtful the Department could issue cease and desist orders. Doyle called attention to lack of penalty for cease and desist. Royce advised that the Department's statute does not address enforcement but they have authority to request assistance from the Governor's office.

MANAGEMENT
DEPARTMENT
(Cont.)ch 4
Motion

Tieden expressed concern for what seemed to be rather extensive changes since the Notice. Priebe took the position that the general public should have input since many changes had been made. He moved that Chapter 4 be deferred and that it be placed on the January 5 agenda. Motion carried.

UTILITIES
DIVISION

Priebe resumed chair.

Vicki Place, Cynthia Dilley, and Diane Munns represented the Division for the following:

Requests or demands for contested case proceedings, 6.5(2), 8.2, 10.2(1), 11.1(4)	ARC 8079	.....F	11/4/87
Rate case expense, 7.3, 7.7(11)	ARC 8178	.....F	12/2/87
Master metering, 19.3(1)"b," 20.3(1)"b"	ARC 8179	.....F	12/2/87
Pipeline safety, 19.2(5)"d"(1), 19.2(5)"d"(6), 19.2(5)"d"(9), 19.2(5)"e" and "f," 19.2(5)"h," 19.5(2), 19.5(3), 19.7(2), 19.7(6), 19.7(7), 19.8(3)	ARC 8181	.....N	12/2/87
Business service, pay telephone services, 22.1(3), 22.3(6)	ARC 8078	.....N	11/4/87
Low-income telephone connection assistance program, 22.18	ARC 8077	.....N	11/4/87

Also present: Jack Clark, Iowa Utility Association; Barb Johnson, Public Affairs, United Telephone.

No questions re amendments to 6.5 et al., 7.3, 7.7(11).

19.3(1) In re 19.3(1)b, Dilley agreed to research question raised by Doyle with respect to old office buildings where utility bills are excessive.

ch 19 In review of amendments to 19.2(5) et al., Clark pointed out lack of a CFR date certain in 19.5(2).

ch 22 No recommendations for amendments to Chapter 22.

Recessed Committee was in recess at 3:20 p.m.

THURSDAY
Dec. 10

Chairman Priebe reconvened the Committee at 9:07 a.m. in Committee Room 24, Thursday, December 10, 1987.

AGRICULTURE
AND LAND
STEWARDSHIP
DEPARTMENT

Walter Felker, John D. Hinshaw, Daryl Frey, Arlo Hullinger and Charles Eckermann represented the Department for the following:

Registration of Iowa-foaled horses and Iowa-whelped dogs, 14.15(3)"a," 14.25(3)"a," 14.35(3)"a"	ARC 8176	.....F	12/2/87	930
Livestock movement, 18.11	ARC 8175	.....F	12/2/87	930
Pesticide applicator certification requirements, fees, examinations and renewals, 10.22, 10.22(1) to 10.22(4), 10.22(8)	ARC 8155	.....N	12/2/87	893
Pesticides — license fees and reporting requirements, 10.47, 10.48	ARC 8154	.....N	12/2/87	894
Pesticide registration fees, exemptions, penalties, 10.49	ARC 8153	.....N	12/2/87	895
Pesticides — notification requirements, 10.50	ARC 8152	.....N	12/2/87	896
Multiflora rose eradication program, 4.1, 4.2	ARC 8066	.....N	11/4/87	742
Pesticide applicators continuing education, 10.22(5) to 10.22(7)	ARC 8066	.....N	11/4/87	742

Also present: Ned F. Chiodo and H. Edward Yelick, representing Chemical Substance Manufacturing applicators; Randy S. Allman, Iowa Grain and Federation Association; Winton Etchen, Iowa Fertilizer and Chemical Association.

Hinshaw presented amendments to Chapter 14. No questions.

AGRICULTURE
DEPARTMENT
(Cont.)

Felker explained rule 18.11 and pointed out that proof of ownership is required when moving cattle except for slaughter. Priebe mentioned the need for a change in the branding law.

10.22
Pesticides

In discussing rule 10.22, Eckermann explained that it extends standards to include groundwater contamination and integrated pest management for public, commercial, and private applicators. A \$5 certification fee for private applicators is established and before restricted use grain fumigant can be purchased, it will be necessary to meet certification requirements in category 7C. A new designation for a noncommercial applicator is also included.

Eckermann clarified that if use were not restricted, it would be classified as general use. Priebe and Eckermann discussed the examination process for certification and licensing of applicators. Eckermann stated that, in the past, they allowed those who took the examinations to review the answer sheet if they came into the office of the Agriculture Department. However, because of the large volume in the past six months, this privilege has not been provided. There are several locations where 300 to 600 take the examination.

Tieden had received many complaints of unfairness, and ARRC members concurred that individuals should know where they failed. It was noted that Iowa State University develops a study manual and provides a battery of test questions. Eckermann's staff selects pertinent questions to meet Code of Federal Regulations standards. The Department has two or three versions of each test.

Eckermann pointed out that the law requires applicators to be certified. Committee members could envision problems in the event of a major outbreak requiring pesticide application quickly. Priebe could foresee that the test requirement would eventually be disregarded. Frey defended the rule as being within the statute. All public applicators must be certified, regardless of the type of pesticide to be applied. Eckerman spoke of the certified applicator and certified technician and thought a test could be developed to be more in tune with the regular laborer.

Discussion of EPA certification programs in Nebraska and Colorado which, according to Eckermann, are probably easier. State law is more stringent than federal.

Doyle asked about reciprocity with bordering states and Frey was not aware of any. It was noted that out-of-state aerial applicators would operate under Iowa license. Discussion of certification of out-of-state individuals.

AGRICULTURE
DEPARTMENT
(Cont.)

In re noncommercial applicators, Frey emphasized that the statute requires public applicators to be certified whether or not they apply restricted or general-use pesticides. He concluded that the law has had an unforeseen impact.

10.22(3)a Allman suspected there would be disregard of the law and that border states would buy elsewhere. He referred to 10.22(3)a which would require certification of employees of applicators.

Priebe took the position that it was unnecessary to certify all persons working with the pesticides, but he agreed someone must be "responsible." Discussion of corrective legislation to clarify intent which was to commercial applicators who apply both agricultural and lawn and garden chemicals. Areas to be addressed include "responsible party," "public applicators" and "reporting sales and fee structures."

10.22(4) Tieden reasoned "we are kicking everybody in the teeth while trying to get more economic development." Tieden questioned 10.22(4)c which would impose a six month waiting period if there were three unsuccessful attempts to pass the test in a six-month period. Eckermann cited problem with individuals memorizing the questions.

Tabor arrived.

Frey suspected that the Department would "learn a great deal about private applicators between now and March 1988 when 10,000 face recertification." Approximately 40,000 face recertification annually. Frey shared ARRC concerns.

Special
review

A special review of all proposed rules relative to pesticides was agreed upon for January 7.

10.47
10.48

Eckermann commented on 10.47 and 10.48 re filing of annual reports which would reflect gross dollar amount and volume of pesticides sold during each month of the previous year. A dealer will be required to file an annual report showing each pesticide sold by product name, registration number, plus the dollar amount. Manufacturers or registrants will be required to file annual reports similar to dealers. Reports and fees would be considered delinquent 60 days after the due date because of a problem with the statute.

Chairman Priebe recognized Chiodo who expressed concern that the rules and law were unworkable. He cited instances where "there could be six or seven different layers" and the manufacturer would have no idea of the destination of the product. He was willing to accept fees based upon report forms sold in Iowa.

AGRICULTURE
DEPARTMENT
(Cont.)

Etchen and Chiodo were asked to consult with bill drafters in Legislative Service Bureau for corrective legislation. Eckermann saw little flexibility in the law as written.

10.49

Allman took the position that 10.49, first paragraph, would be critical to Iowa Grain and Feed. They use fly control known as "Ravon" in dairy feeds and one manufacturer had 8.4 million dollars in sales of one registered dairy feed. The regional cooperative would be required to pay one-fifth of one per cent on the total retail value of that product and each local cooperative would pay one-tenth of one per cent because they are also licensed pesticide dealers. Allman continued that where the active ingredient is 2.3 pounds per ton, exposure would be to the environment. Eckermann advised that the product would need to be registered with the state and custom mix feed would not. He saw no difference from any other types of products, e.g., impregnated fertilizers are sold for lawns and there may be one-half ounce in one bag of crabgrass preventer, but the fee would be based on sale of total product. Etchen declared that costs would be passed to the consumer. General agreement was there were many problems.

Chiodo urged flexibility in the fee structure in providing exemptions for products used minimally.

Frey reminded that the statute was extremely broad re exemption to minimum fee. During passage of the bill, there were many differences of opinion and the controversial responsibility was left to the Department. The Department would welcome legislation to resolve the issue. Frey reminded that the public hearing on the rules was scheduled for December 22. By the time the Legislature convenes, the Department will know how many products remain nonregistered.

Tabor recalled that California had substantially raised registration fee which resulted in dramatic reduction in the number of products. He asked Frey to contact California officials on the matter.

10.50

Discussion of rule 10.50 pertaining to urban pesticide application. Doyle was advised that the problem of defining an urban area had not been resolved. Etchen indicated many small communities include a mile or two outside as part of their community.

Frey said that lawn and garden dealers took the position that posting after the fact was superior to posting prior to application and they are implementing a nationwide program in that area. Etchen thought many applicators could be caught unaware if they are required to post prior to spraying. Eckermann said the farmer would not be required to post.

AGRICULTURE
DEPARTMENT
(Cont.)

Priebe asked Frey for an informal economic impact statement on the pesticide law by January 7. Frey was amenable.

4.1

Hullinger gave brief overview of rules to implement the \$60,000 appropriation to eradicate multiflora rose. Hullinger reminded that state-county match is equal. No action.

10.22

Discussion of requirement to submit evaluation forms 10 days following completion of CE program--10.22(7). Priebe wondered if other professions had that stipulation and Frey was unsure. Priebe thought that 10 days was too short a time. Committee members suspected that three additional employees would be needed to implement the rule. It was Frey's belief and the Department's philosophy that the more knowledgeable the applicator, the safer the application.

Deferral

Rules of Pharmacy Examiners Board and Education Department were deferred until the January meeting.

NATURAL
RESOURCES
DEPARTMENT
Energy and
Geological
Resources

The Natural Resources Department representatives present were: Randy Clark, Mike Murphy, Rex Walker, Morris Preston, Allen Stokes and Peter Hamlin. The agenda follows:

NATURAL RESOURCES DEPARTMENT (641) "umbrella"
Solid wastes energy grants, ch 19 ARC 8137 N 11/19/87

ch 19

Vic Kennedy gave brief explanation and pointed out that when Chapter 19 is adopted, the heading will read "Waste Management Authority."

Tieden was concerned about criteria for projects nearing completion. Kennedy responded that grants are intended for development and innovativeness as opposed to construction of sewers. Kennedy told Priebe that the Department has power to grant use of overcharge funds from allocation of funds appropriated by the legislature. Some are earmarked--there is no slush fund. Kennedy said that solid waste tonnage fees provided "other funds."

Environ-
mental
Protection
Commission

The agenda for Environmental Protection Commission is as follows:

Hydrologic monitoring systems in sanitary landfills, 100.2, 103.2(1) to 103.2(10), 103.3 to 103.5, 110.1 to 110.12 ARC 8188 N 12/2/87
Emission standards for contaminants, 23.1(2), 23.1(3) ARC 8141 N 11/18/87
Agricultural drainage wells, application forms, 50.2, 50.3(1), 51.8, filed emergency ARC 8109 N 11/18/87
Criteria for award of grants, 91.1 ARC 8138 N 11/18/87
Scope of title, sanitary landfills, hydrologic monitoring system standards, amendments to 100.1, 103.1, 110 Notice
ARC 7814 terminated ARC 8142 N 11/18/87
Sanitary landfills -- uncontained liquid prohibited, 100.2, 102.13(8) ARC 8145 N 11/18/87
Monitoring of underground storage tanks, 135.7(3) ARC 8140 N 11/18/87

Environ-
mental
Protection
Commission
(Cont.)
100.2 et al.

Murphy briefed ARRC re 100.2 et al. and reported on the groundwater monitoring that was done in Polk County near Prairie City. Stokes stated that a special three-month surfacewater monitoring study was conducted at a cost of \$30,000. Results revealed that the groundwater is generally at or better than background levels found elsewhere in the state. Murphy continued that two instances of elevated nitrates were found in two wells not used for drinking water. Pictures shown in newspaper were from an area north and west of the landfill where the culvert lies above grade and the water stagnates.

103.2(8)b
23.1(2)

Clark recommended addition of "in" before "which" in the last sentence of 103.2(8)b. According to Murphy, amendment to 23.1(2) will conform to federal rules defining "new source."

50.2 et al.

Re 50.2 et al. R. Clark pointed out that all agricultural drainage wells must be registered with DNR by January 1, 1988. More than 100 registration forms have been received. Priebe suggested that legislation should be passed to change the date to March 15. Royce was requested to pursue the matter through Legislative Service Bureau. Priebe raised question as to how a well is "washed"--50.2. Stokes described use of a high pressure hose which literally digs the well. R. Clark thought that the definition of drainage well was statutory. However, after researching the statute, he learned that only "water well" was defined.

No questions re 91.1, 100.2 or 102.13(8)

135.7(3)

In discussion of 135.7(3), Priebe reported that schools were protesting the cost of sniffer wells for monitoring motor fuel vapors. Stokes stated that the Gas Dealers Association had reminded the Department that sniffer wells could not be used in areas where there had been previous leaks. He added that the rule was identical to federal language which probably will be promulgated in 1988.

Discussion of liability and fiscal impact for cleanup of tanks. In response to Doyle, Stokes said that state superfund dollars were generally for remuneration of abandoned and uncontrolled hazardous waste. A mini superfund for underground storage tanks has been created with federal funds. A grant request would bring \$400,000 to \$600,000 per year over short term into Iowa, specifically for cleanup. Stokes stressed that industry and others who generate hazardous waste have made great strides to eliminate such waste--\$90,000 to \$100,000 annually has been utilized by ADEX.

Environ-
mental
Protection
Commission
(Cont.)

The State Fire Marshal has authority to order immediate excavation of tanks, testing or removing them from service. Tieden was informed that the contamination would remain forever unless man acts to change it.

Priebe thought the contaminated soil could be spread on soil for worm control. Hamlin cited soil complexity and the stigma of the waste as reasons for not utilizing it.

HUMAN
SERVICES
DEPARTMENT

Mary Ann Walker, Anita Smith, Cynthia Tracy, Vivian Thompson, Bob Schoene, Gary Gesamon, Mary Helen Cogley, C.S. Ballinger, Don Bice, Harold Poore and Darlene Clark, all Department of Human Services representatives and Daniel W. Hart, Assistant Attorney General, appeared for review of:

Income in-kind, 41.7(2)p" ARC 8113 F. 11/18/87
Facility participation, intermediate care facilities for the mentally retarded, 54.2, 54.3(2), 54.8(1), 54.9(1)"a," 82.5,
82.17(1), 82.17(1)"a" ARC 8115 F. 11/18/87
Child medical assistance program, 75.1(15) ARC 8112 F. 11/18/87
Rates for Medicaid and service providers, foster care support, sheltered work leave days, 79.1(2), 79.1(9)"a" and
"e," 79.1(9)"b," 81.6(16)"e," 150.3(5)"p," 156.3(1)"e," 172.3(3) ARC 8114 F. 11/18/87
Medical assistance advisory council, election of officers, 79.7(1)"a" ARC 8110 F. 11/18/87
Dependent adult abuse, multidisciplinary teams, 176.1, 176.16 ARC 8111 F. 11/18/87
Exceptions to departmental rules, 1.8 ARC 8082 N. 11/4/87
Standards for services to persons with mental retardation, developmental disabilities, or chronic mental illness,
chs 22 ARC 8071 N. 11/4/87
Conditions of eligibility, 75.1(11), 75.1(15)"a," "b," "c," 75.1(17), 75.1(21), 75.1(20) (filed emergency after
Notice ARC 8109 FEAN 11/18/87
Child care centers, family and group day-care homes, 109.1(7), 109.2(2), 109.2(8), 109.3(8), 109.4(1)"a,"
"c," "d," "e," 109.4(8), 109.6(4), 109.6(8), 109.6(2), 109.6(3)"b," "c," 109.6(5)"c," 110.5(1)"a" ARC 8128 N. 11/18/87

41.7(2)p

No questions on 41.7(2), 54.3 et al., 75.1(15).

Walker reported on the public hearing for amendments to 79.1(2) et al. Service providers complained about rates being paid. Also, there were complaints about calculation of leave days for sheltered work activity.

Tieden was interested in the source of funding since the appropriation had been vetoed. Walker was not sure.

79.7(1)a

No questions re 79.7(1)a or 176.1 et al.

1.8

Priebe questioned the statutory authority for 1.8. Walker explained that the Commissioner had granted exceptions in the past and had been advised by the Attorney General to set out procedure and guidelines for exceptions. Royce was supportive of the rule. Priebe saw the rule as usurping the Advisory Council. Hart stressed that the Attorney General would not be granting exceptions to Department policies specifically required by law. Royce pointed out that without this rule, you would have to go through contested case.

chs 22, 75,
109

No recommendations for amendments to Chapters 22, 75, or 109.

12-10-87

COMMERCE
DEPARTMENT
Credit Union
Division

Betty Minor appeared on behalf of the Credit Union
Division for the following:

Change of address, 1.3(1), 5.2, 14.4(1), 15.2(2), (filed emergency) ARC 8126 F/E 11/18/87
Investment powers, ch 17 ARC 8127 N. 11/18/87

No questions re 1.3 et al.

According to Minor, one comment received re Chapter 17
pertains to the \$15 million in asset limit--many
believe it should be lower. Others contended that
there should be two rather than four highest grades.
Minor indicated that the last sentence of 17.2 would
be clarified by adding "commercial paper."

Representative Parker arrived.

REVENUE AND
FINANCE
DEPARTMENT

The following agenda was reviewed by Carl Castelda:

Time for issuing a decision, 1.2 ARC 8148 F 11/18/87
Taxable and exempt sales determined by method of transaction or usage, sales of automotive fluids, 11.2,
18.46 ARC 8147 F 11/18/87
Rental of mobile homes that are not tangible personal property, 18.40, 28.18(2)"c," 103.1(2) ARC 8097 F 11/4/87
Minimum taxes--corporation income and franchise tax, income from regulated investment companies, 51.1(4),
52.1(5), 52.5, 53.8, 53.11(4), 57.1(3), 58.5, 59.6, 59.8(4), 59.9 ARC 8098 F 11/4/87
Semiannual mobile home tax, 74.4(3), 74.4(4) ARC 8102 F 11/4/87
Exempt sales, 17.21 ARC 8100 F 12/2/87
Withholding, 48.1(1)"f" ARC 8161 F 12/2/87
Interest, penalty, and exceptions to penalty, 10.2, 10.2(7) ARC 8095 N. 11/4/87
Filing returns, exemptions, determination of taxable income, adjustments, 39.5, 39.5(6)"a" and "c," 41.5, 41.5(6),
42.2, 42.2(8) ARC 8149 N. 11/18/87
Taxable and exempt sales determined by method of transaction or usage -- casual sales, 19.28(1), 18.28(2),
18.28(3) ARC 8159 N 12/2/87
Fuels for human consumption, 20.1, notice ARC 7915 ~~terminated~~ ARC 8157 N 12/2/87
Fuels for human consumption, 20.1, 20.1(1)"b" to "d," 20.1(3), 20.1(3)"a" and "b," 20.2 ARC 8166 N 12/2/87
Determination of net income, 40.2, 53.5 ARC 8168 N 12/2/87

Also present was Ted Yanacek, Farm Bureau.

Castelda informed the Committee that emergency rules
to implement new tax laws would be filed on December 27.
It was decided that those rules should be reviewed on
January 7. Priebe asked Doyle to reschedule his Code
bill subcommittee meeting, if possible.

39.5

Amendments to 39.5 et al. were taken out of order.

41.5(5)

Clark was informed that the deduction allowed for
tuition and textbooks in 41.5(5) would be applicable
to both public and private institutions. Castelda
indicated that public schools had filed a law suit
and an injunction was requested. A hearing had not
been scheduled, so on advice of their counsel, the
item was included in the Department's income tax
instruction booklet.

Clark observed that "supplies" were in the definition
of textbooks. Castelda replied that often there is
no difference and he cited examples of slides for a
lab student.

Tabor and Parker were excused.

Castelda noted that their seven sets of filed rules
were identical to those published under Notice.

12-10-87

REVENUE
DEPARTMENT
(Cont.)
46.1(1)

He advised that amendment to 46.1(1) had generated some controversy and copies of their concise statement and analysis of financial data had been provided to the ARRC. The amendment implements 1987 Acts, H.F. 675, which authorized state withholding from pari-mutuel winnings.

Doyle expressed concern as to the Department's interpretation of "confidentiality" with respect to information relative to an estimated \$13 million franchise tax allocation to cities. Cities have not received the funds and the Revenue Department contends they lack authority to divulge information. Castelda said that the Department intends to give each city an aggregate amount of the loss from all financial institutions in their districts. He spoke of a legislative draft which would allow the Director to enter into agreements with localities to allow for exchange of confidential information under certain situations.

Recessed
Reconvened

Chairman Priebe recessed the Committee for lunch at 12:15 p.m. Reconvened at 1:20 p.m.

ENGINEERING
AND LAND
SURVEYING
BOARD

K. Marie Thayer, E. Kevin Kelly, Attorney, and Patricia Peters represented the Board for the following:

ENGINEERING AND LAND SURVEYING BOARD(399)
Minimum standards for property surveys, 2.1, 2.2 ARC 8104F. 12/2/87

Kelly offered background on minimum standards for property surveys which must meet Code requirements. No action taken.

ARCHITECTURAL
EXAMINING
BOARD

K. Marie Thayer and William Dikus, Board member, briefed the ARRC re the following:

ARCHITECTURAL EXAMINING BOARD(30)
Registration, rules of conduct, 2.1(3), 2.4, 4.1(6) ARC 8087F. 11/4/87

According to Dikus, the amendments were intended to implement 87 Acts, H.F. 587. Fees have been increased as a result of an increase by the National Council of Architectural Registration Boards. Dikus added that the total number of registrants had dropped from 1500 to 900. As a result, registration fees were increased to \$140 to meet the budget. Thayer advised that none of the examining boards have a reduced fee for reinstatement. No other comments.

ECONOMIC
DEVELOPMENT
DEPARTMENT

Diane Foss and Melanie Johnson represented the Department for the following:

Self-employment loan program, 52.2, 52.4(3), 52.7, rescind 52.4(5) to 52.7(7) ARC 8080N. 11/4/87
Business incubator center program, 52.2, 52.7, 52.7(11)a ARC 8070N. 11/4/87

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ECONOMIC
DEVELOPMENT
DEPARTMENT
(Cont.)
52.2 et al.

Johnson gave brief overview of 8.2 et al. No questions. Although a public hearing had been scheduled, no one attended and no comments had been received on amendments to 52.2 et al. Foss indicated that three changes were being made in annual application provisions. No recommendations.

TRANSPORTA-
TION
DEPARTMENT

Norris Davis, Driver Services; Tom McElherne, Engineer Specifications; Larry Jessie, Office of Local Systems; Lew March, and Ruth Skluzacek represented the DOT, and the agenda follows:

State functional classification review board meetings. 100.15(2) ARC 8118 F 11/18/87
Highway and bridge construction requirements. 125.1 ARC 8106 F 11/18/87
Motor carrier safety and hazardous materials regulations. ch 520. 520.1(1)"a" and "b." 520.1(2).
520.1(3) ARC 8119 F 11/18/87
Vehicle registration and certificate of title. 400.3(13), 400.5 ARC 8150 F 12/2/87
Vehicle registration, mobile home dealers. 400.6, 400.6(1)"a." 400.6, 400.6(19), 400.21, 400.22(2)"a" and "b." 421.4.
421.4(1), 421.6, 421.4(1), 421.4(2) ARC 8105 N 11/18/87
Types of motor vehicle licenses: driver licenses; license examination; renewals, cancellations, suspensions and
revocations. 600.6, 600.7(1), 600.7(2), 600.11(9), ch 602. 604.30(1)"b." 604.32(5), 604.32(8)"b" and "c." 615.7,
615.19, 615.21, 615.28 ARC 8163 N 12/2/87
Temporary restricted license. 600.15, 615.45, 620.1, 620.4(1)"c" and "d." 630.3(3) ARC 8162 N 12/2/87

Jesse reviewed 100.15(2). No questions.

According to McElherne, the requirements for highway and bridge construction were adopted by reference in 125.1. No other comments. After explanation by Marsh of amendments to motor carrier safety and hazardous materials regulations found in Chapter 520, there were no questions.

400.3(13)
400.5

No questions re amendments to Chapters 400 and 600.

600.15

Discussion of proposed amendments relative to restricted license intended to implement H.F. 167. It was noted that minors are required to have a profile photograph on their driver licenses until age 21. Clark recalled that a student at NIACC had demonstrated how to make a fake ID. Bartenders want legislation which would serve as a deterrent to those under age who try to buy liquor. No action taken.

HUMAN RIGHTS
DEPARTMENT
Community
Action
Agencies
Division
ch 10

John Burnquist and Rod Huenemann appeared for the Department of Human Rights to review:

Low-income home energy assistance program — crisis program. 10.3(7) to 10.3(9) ARC 8104, also filed
emergency ARC 8103 N+FE 11/4/87
Emergency community services homeless grant program, ch 28 ARC 8172, also filed emergency ARC 8171 N+FE 12/2/87

Burnquist pointed out that Congress had reduced funding and the amendments to Chapter 10 will return the crisis program to the eligibility and payment level of previous years. No questions.

ch 23

Huenemann described the federal homeless grant program which will have approximately \$400,000 this year. Clark requested that a date certain be included in OMB Circular references in rule 23.13.

Community
Action
Agencies
Division

In response to Royce's question on definition of "homeless," Huenemann said they were attempting to define persons who lack adequate nighttime residence. They want to make resources available in communities where the homeless might not be visible on the streets.

23.7

Rule 23.7, taken from federal precedent, addresses degree of need. Approximately \$18,000 to \$20,000 FY '87 would be available for 19 regions.

NO AGENCY
REPRESENTA-
TIVES

NO AGENCY REPRESENTATIVES REQUESTED TO APPEAR:

EDUCATION DEPARTMENT[670]

Extracurricular interscholastic competition, ch 9 Notice ARC 8064 terminated ARC 8129 *NI* 11/18/87

LABOR SERVICES DIVISION[347]

EMPLOYMENT SERVICES DEPARTMENT[341] "umbrella"

Fees, 41.8, ch 42 ARC 8189 *F* 12/2/87

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641] "umbrella"

Chiropractic examiners, 40.13(1)"d" ARC 8169 *F* 12/2/87

RACING AND GAMING DIVISION[491]

INSPECTIONS AND APPEALS DEPARTMENT[481] "umbrella"

Amendments to change umbrella department name, chs 18 to 20, 22; transfer 195—chs 1 to 25 to 491—chs 1 to 25 ARC 8117 *F* 11/18/87

VETERINARY MEDICINE BOARD[842]

Amendments to correct address, examination sites, reciprocal license fee, auxiliary personnel examination dates,

1.2, 2.1, 3.1(1), 3.2(1), 4.1(4), 4.2, 4.3, 5.1(1), 5.1(6), 6.1 ARC 8177 *F* 12/2/87

PUBLIC HEALTH
DEPARTMENT

Ted Scurletis, Susan Osmann, Dennis Bach, Janet Hammer, Rose Vasquez, David J. Fries and Bruce W. Hokel appeared for the following:

Radiation machines and radioactive materials, amendments to chs 38 to 41; transfer 470—chs 38 to 42 to

641—chs 38 to 42 ARC 8151 *F* 12/2/87

Lead abatement program, ch 72 ARC 8170 *F* 12/2/87

WIC Program, 73.2, 73.3, 73.5(4) to 73.5(6), 73.6(1), 73.7(3) to 73.7(5), 73.18 ARC 8146 *N* 11/18/87

Radiation

Fries stated that recommendations of the ARRC had been incorporated in the adopted rules. No questions.

ch 72

Scurletis knew of no opposition to the lead abatement rules.

ch 73

Bach assured Clark that out of 800 to 850 stores, an estimated 15 would not qualify for the WIC program. He did not envision an adverse effect on small communities. Bach concluded that most grocery stores do not read the Iowa Administrative Bulletin so a mass mailing was made to all vendors to apprise them of the rules. The Department has received no comments.

Doyle referred to confusing language in the Schedule of Violations in 73.18(1)b relative to cashing "one or more checks at the same time." The Department was willing to clarify.

COMMERCE
DEPARTMENT
Banking
Division

Don Senneff, Attorney, and Steve Moser represented the Banking Division for the following:

COMMERCE DEPARTMENT[1811] "umbrella"

Application procedures, 2.14, 2.15, 2.16 ARC 8131 *N* 11/18/87

12-10-87

Banking
Division

Discussion of new rules 2.14 to 2.16 intended to implement 1987 Acts, H.F. 658 [Ch 171]. Parker quoted from section 14 of the Act, "...may engage directly, or may organize, acquire and invest in subsidiary for the purpose of engaging in securities activities..." and took the position that the rules were in conflict. Division officials advised Parker that a discount broker could not offer advice unless a separate subsidiary were set up.

2.16(2)

In re 2.16(2), Tieden was told that the superintendent had discretion to determine whether or not a bank was well run, adequately capitalized, etc. Parker quoted from 2.16(4)c and 2.16(6) and considered them to be ambiguous. Moser was willing to clarify. Parker was unsure that the banking industry had the necessary expertise in the area of futures. Senneff said a school will be held after the first of the year to train securities examiners. No recommendations.

Committee
Business

Barry provided Committee members with a partial list of agencies whose rules have not been revised to conform with government reorganizations.

There was brief discussion of action taken by the legislative council to authorize computerization of the rules in the Iowa Administrative Code.

Adjournment

Chairman Priebe adjourned the meeting at 3:15 p.m.

Next meeting

The next meeting was scheduled for January 5, 6, and 7, 1988.

Respectfully submitted,



Phyllis Barry, Secretary
Assisted by Vivian Haag and
Bonnie King

APPROVED:

CHAIRMAN