

MINUTES OF THE REGULAR MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting

The regular meeting of the Administrative Rules Review Committee was held Tuesday and Wednesday, July 7 and 8, 1987, State Capitol, Des Moines, Iowa.

Members Present

Representative Edward G. Parker, Vice Chairman; Senator Donald V. Doyle; Representatives David M. Tabor and Betty Jean Clark. Not present: Senator Berl E. Priebe, Chairman, and Senator Dale L. Tieden, both on vacation. 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

Vice Chairman Parker convened the Committee at 10:05 a.m. in Senate Committee Room 24.

AGRICULTURE & LAND STEWARDSHIP

He announced that proposed Agriculture amendments originally listed on the agenda would be transferred to the "No Agency Representative Requested" category.

CAMPAIGN FINANCE DISCLOSURE

Kay Williams, Executive Director, presented the following proposal:

Amendments to remove reference to gender, update and correct Iowa Code citations, correct income checkoff amount, reflect name changes, and update reporting requirements; amendments to chs 1 to 6 Campaign contributions to state officeholders and candidates for state office; new ch 7 transfer 199 chs 1 to 7 to 121--chs 1 to 7 ARC 7686 W 6 17 87

4.3

After brief overview of the changes, Williams advised that Ted Yanacek, speaking for the Iowa Farm Bureau, had pointed out language in 4.3, "...within 15 calendar days..." would exceed the statute. If the contribution exceeds \$100, it must be submitted within 15 days. Correction will be made before final adoption.

3.4

Clark questioned the choice of ballot information in 3.4 and Williams stated that it depends upon the different operations by county auditors. Also, size of ballots vary.

1.6

Doyle voiced opposition to use of "power" in 1.6 and suggested "hearing officer shall 'rule' on the relevancy of any inquiry...and shall have 'discretion as judicial magistrates'...". Williams noted that "power" was old language and asked for suggestions--Doyle and Royce concurred that "Authority of hearing officer" was acceptable.

ch 7

Royce referred to definition of "registered lobbyist" in 7.1(2) and mentioned that House and Senate rules vary slightly. Parker thought the definition would apply to the house where the lobbyist registered.

7-7-87

CAMPAIGN
FINANCE
DISCLOSURE
Concluded

Discussion of the definition of "While the General Assembly is in session" and what was meant by "adjournment" in 7.1(4). Royce commented that sine die is approved for a date certain, a vote is taken, and the clock is stopped before the legislature leaves. This is the recorded time and date, even though actual vote is taken some weeks later. Royce concluded that there is no case law on the issue. In response to Doyle, Williams said that the seven hearings relative to late filings or failure to file were held in 1986. She stressed that her goal was and would continue to be one to educate the public and identify problems before they materialize.

With respect to expenses, Williams pointed out the importance of specifics in reporting expenditures. No action.

Committee
Business
Motion
Senator
Carr

Motions by Doyle: Doyle moved that Senator Robert Carr be requested to appear at the August 20 ARRC meeting; that he be advised of the state government bill on re-organization of state government as it affects promulgation of rules, primarily in the Departments of Health and Inspections and Appeals; and that Senator Carr be authorized expenses and per diem. Motion carried.

Motion
Education
Ch 4

Doyle moved that since Department of Education hearings [School Standards, Chapter 4] would be held in Des Moines, Council Bluffs, Ottumwa, Waterloo, and Sioux City, that members of the ARRC, including staff, be authorized to attend any of those meetings, and if they attend, the legislators will be paid expenses and per diem and the staff will be paid expenses. Brief discussion with Royce stating that ARRC could insist that the Department of Education prepare summaries of the hearings. Vote on the Doyle motion carried.

Motion

Doyle moved that the Department of Education be requested to prepare summaries of the testimony received at their hearings on school standards. Motion carried.

Royce
Bar Assn
Committee

Royce apprised the Committee of his membership on the Bar Association Committee on State Administrative Law and his recent appointment as Vice Chairman for this year. He indicated that three or four trips to meetings might be necessary during his term. Doyle asked that the minutes reflect Royce's position and the fact that the ARRC favors his attendance at the meetings, but that he should receive Committee approval prior to a trip.

Parker announced a change in the agenda: The hour for Personnel Department and the College Aid Commission would be reversed.

PERSONNEL
DEPARTMENT

Clint Davis and Carol Swanson represented the Department for the following:

Miscellaneous amendments to chs 1 to 8, 10 to 12, 14, 15, 19, 20; amend and transfer 270—ch 2 to 581—ch 23, transfer 690—ch 1 to 581—ch 24 ARC 7678N 6 17.87

ch 5

Davis reviewed the amendments and pointed out that Chapter 5 was rewritten for clarification. Davis informed Royce that there was no rule stating that certain classes would be closed for recruitment. Generally, job classes are open only when there is a need.

Doyle questioned Davis as to the procedure for application by a nonstate employee. A constituent of Doyle had sought a social worker position but was informed that only state employees would be accepted because of the Governor's freeze on hiring. Davis responded that the social worker position had been open for one month in the spring for any qualified person.

Davis stressed that applications from state employees are accepted any time -- it is not a question of open and closed. Only those currently unemployed would be affected and the freeze was unrelated. Doyle asked Davis to contact Larry Clausen, Woodbury County Supervisor, Sioux City. Davis was amenable.

5.2(3)

Clark viewed language in 5.2(3), "...two years as determined by the director" to be quite discretionary on the part of the director. Davis noted the statute provides for retention of applications no less than one year and no more than three years. The Department was considering use of one year.

5.2(6)d

Doyle asked for example of "political" influence in 5.2(6)d. Davis admitted that "political" might not be appropriate. He added that someone had suggested "improper" which he was willing to substitute. Discussion followed.

Parker was informed that Personnel did not review applications without names. Parker thought, in terms of government hiring, that names on applications would constitute political influence and he opposed use of "political" influence. "Coercion" was suggested as a possible substitute for "political." No formal action taken.

CORRECTIONS
DEPARTMENT

Hal Farrier, Director, Jeanette Bucklew, Deputy Director, and Fred Scaletta represented the Department of Corrections for community-based corrections, firearms prohibition, 40.4(11), ARC 7719, Notice, IAB 7/1/87. Also present: Linda Murken, Second Judicial District, Corrections; Dean Giltner and Jerry W. Else, Wapello County Supervisors; Curt Campbell, Eighth Judicial District; Daryl Tisue, Appanoose County; Sheldon Kongable, Henry County Supervisor; Dick Emmert, Poweshiek County Supervisor; Gary Baugher, Chairman, Iowa Board of Corrections.

CORRECTIONS
DEPARTMENT
40.4(11)

According to Scaletta, the subrule was proposed by the Board of Corrections upon advice of the Attorney General's Office. The intent was to prohibit Judicial Districts from setting policy to allow their employees to carry firearms or weapons for use in official duties. This has not been a practice since the formation of Judicial Districts in the late 1970s and there is no record of harm to parole and probation officers.

Campbell distributed a written statement of opposition to the proposed subrule and introduced Giltner, Tisue, Else, Kongable and Emmert who shared his views. Campbell reviewed the structure and function of Community-Based Corrections and the law which established independent public agencies in the eight Judicial Districts. He reported that the concept had created a great deal of interest and had been deliberated since April 1986. Requests for permission to carry firearms came from adult parole and probation officers.

Campbell offered history of their request and contended that officers were entitled to protection in certain unavoidable situations. The Attorney General had reviewed the policy adopted by the 8th District Board to permit officers to carry concealed firearms and found that it met requirements for constitutionality. He referenced hazards that "intensive supervision officers" face when late evening curfew checks are made at the homes of offenders--many of whom live in remote areas. Campbell cited examples of incidents in Wapello County and the city of Des Moines. He discussed the potential for law suits if officers are not provided adequate tools.

Parker was told that probation officers do not carry weapons at this time. There was discussion of the pilot project for parolees wherein intensive officers supervise about 40 of 1200 "clients."

Kongable spoke of the success of Community-Based Corrections and voiced support of continued decision-making at the community level.

Tisue alluded to counties being faced with cutbacks, resulting in lack of available backup to officers.

Baughner presented perspective of the Iowa Board of Corrections and stressed that this was the first time they had overturned a local board's decision. He saw the two issues as being local board vs state board. Baughner continued that bearing of arms had not been an Iowa tradition and serious injury had not occurred "due to the professionalism of officers." He posed a philosophical question: "Should the probation officer act as a police agent or work with the client in a

CORRECTIONS
DEPARTMENT
Continued

different manner?" The Board's position is that Iowa should maintain its current policy. Only 11 states allow those officers to carry arms.

In response to Parker, Scaletta said that the Attorney General had recommended adoption of 40.4(11) as proposed.

Bucklew viewed the role of the AG in the matter as two-pronged. The AG's office has consistently advised the Board of Corrections of their broad administrative rule-making authority for Community-Based Corrections under Code chapter 905. In addition, the AG has advised that if Board of Corrections does not prohibit use of firearms by rule, and they have not done so, the overall decision permits 8th Judicial District to establish a policy permitting use of firearms. Also, that policy meets all constitutional requirements and could be defended in a liability issue. Clark commented, "If it fulfills constitutional requirements, why the opposition?"

Baughner reiterated the Board's position that it was not needed. He added that Polk County does not favor the rule and yet they encounter some of the most difficult situations in the state.

Murken indicated that 22 counties in the 2nd District supported the decision by the Board of Corrections. She was concerned as to the liability factor and lack of uniformity on use of firearms.

Doyle was informed that hollow-point ammunition had been recommended by the Law Enforcement Academy. Tabor reasoned that the serious issue before the ARRC had not been taken lightly by either side. It was his opinion that the entire Legislature should consider the matter. Doyle urged the Department and the Districts to seek input from the Iowa Department of Law Enforcement or Department of Public Safety as to policies re persons who should carry weapons. Doyle recalled that Department of Transportation had made a similar request several years ago and reminded that a state policy exists for professional peace officers. He contended further clarification by the AG would be helpful.

Royce explained Committee options relative to the rule. In response to Doyle, Scaletta indicated that a quick survey of Districts at a conference revealed that 70 per cent were nonsupportive of carrying firearms.

ECONOMIC
DEVELOPMENT

Melanie Johnson, Fran Fleck, Doug Getter, and Jeff Nall were present for the following:

Self employment loan program, ch 8 ARC 7714
Iowa targeted small business procurement program (set aside program), ch 41 ARC 7715
Apprenticeship program, ch 57 ARC 7716
Iowa industrial new job training program, 5.340, 5.345, 5.349, 5.41, 5.42, 5.43, 5.349, 5.350
5.11 ARC 7713
Child care grants program, 20.1, 20.3, 20.5, 20.6, 20.7, 20.8, 20.9, 20.10, 20.11, 20.12, 20.13, 20.14, 20.15, 20.16, 20.17, 20.18, 20.19, 20.20, 20.21, 20.22, 20.23, 20.24, 20.25, 20.26, 20.27, 20.28, 20.29, 20.30, 20.31, 20.32, 20.33, 20.34, 20.35, 20.36, 20.37, 20.38, 20.39, 20.40, 20.41, 20.42, 20.43, 20.44, 20.45, 20.46, 20.47, 20.48, 20.49, 20.50, 20.51, 20.52, 20.53, 20.54, 20.55, 20.56, 20.57, 20.58, 20.59, 20.60, 20.61, 20.62, 20.63, 20.64, 20.65, 20.66, 20.67, 20.68, 20.69, 20.70, 20.71, 20.72, 20.73, 20.74, 20.75, 20.76, 20.77, 20.78, 20.79, 20.80, 20.81, 20.82, 20.83, 20.84, 20.85, 20.86, 20.87, 20.88, 20.89, 20.90, 20.91, 20.92, 20.93, 20.94, 20.95, 20.96, 20.97, 20.98, 20.99, 21.1, 21.2, 21.3, 21.4, 21.5, 21.6, 21.7, 21.8, 21.9, 21.10, 21.11, 21.12, 21.13, 21.14, 21.15, 21.16, 21.17, 21.18, 21.19, 21.20, 21.21, 21.22, 21.23, 21.24, 21.25, 21.26, 21.27, 21.28, 21.29, 21.30, 21.31, 21.32, 21.33, 21.34, 21.35, 21.36, 21.37, 21.38, 21.39, 21.40, 21.41, 21.42, 21.43, 21.44, 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36.4, 36.5, 36.6, 36.7, 36.8, 36.9, 36.10, 36.11, 36.12, 36.13, 36.14, 36.15, 36.16, 36.17, 36.18, 36.19, 36.20, 36.21, 36.22, 36.23, 36.24, 36.25, 36.26, 36.27, 36.28, 36.29, 36.30, 36.31, 36.32, 36.33, 36.34, 36.35, 36.36, 36.37, 36.38, 36.39, 36.40, 36.41, 36.42, 36.43, 36.44, 36.45, 36.46, 36.47, 36.48, 36.49, 36.50, 36.51, 36.52, 36.53, 36.54, 36.55, 36.56, 36.57, 36.58, 36.59, 36.60, 36.61,

ECONOMIC
DEVELOPMENT
Continued
ch 8

Johnson briefed the ARRC re Chapter 8. Nall was unable to provide details for Parker as to how the self-employment program funds had been used. However, he advised that six very small businesses had been recipients. Many of these businesses are home based.

ch 54
ch 57

Fleck reviewed major changes in chapter 54. No questions. In reviewing chapter 57, Johnson stated that no written or oral comments had been forthcoming. It was noted that despite the Governor's veto of a transfer in the supplemental appropriation, the program was kept in tact.

ch 5

No questions re amendments to chapter 5. Brief discussion of amendments to 20.1 et al. Parker challenged the emergency filing and was reminded of the July 1 effective date of the statute. Criteria changes were mentioned. No recommendation.

Recess

Vice Chairman Parker recessed the Committee for lunch at 11:55 a.m. and reconvened it at 1:35 p.m.

HUMAN
SERVICES
DEPARTMENT

Mary Ann Walker, Cindy Dobson, Larry Allen, Barb Momberg, Dan Gilbert, Cynthia Tracy and Mary McGee represented Human Services for the following:

Food stamp program -- verification of deductible expenses, resources, 65.22(2) to 65.22(6), 65.30	ARC 7670	6/17/87
Amount, duration and scope of medical and remedial services, 78.1(2)(a), 78.1(11), 78.4(1), 78.10,		
78.24(2) "a" to "d," 78.28(1)	ARC 7672	6/17/87
Centralized registry for brain injured persons, ch 39	ARC 7661	6/17/87
Application for assistance, 50.2(3), 50.3(2)	ARC 7662	6/17/87
Conditions of eligibility, 75.1(25), filed emergency after Notice	ARC 7671	6/17/87
Application and investigation, 76.1 to 76.3, 76.7, 76.8	ARC 7663	6/17/87
Amount, duration and scope of medical and remedial services, 78.8	ARC 7664	6/17/87
Adult support program, rescind chs 178 and 179, new ch 183	ARC 7665	6/17/87

After brief review by Walker, there were no questions on amendments to chapter 65 and 78.1(2) et al.

ch 39

Discussion of chapter 39. Clark thought use of "or other measure" in 39.4(3) was vague. Allen said that it was developed by the Committee of Medical Association and the Iowa Hospital Association. The level of severity is a new concept and it is being updated continuously. The language was intended to simplify reporting by hospitals.

Parker suggested use of "or any other measure approved by the Medical Society as major head injuries" to provide a professional seal. Clark supported the qualifier.

50.2(3)

No questions re 50.2(3), 50.3(2), 75.1(25), 76.1(249A) et al. According to Walker, the amendment to 78.8 was brought to the Department's attention by a chiropractor who pointed out nonconformity with Medicare. Discussion of the definition of "subluxation." Momberg pointed out that the state will reimburse for treatment of dislocated vertebrae.

ch 183

With adoption of chapter 183, three Social Services Block Grant programs will be combined. Doyle questioned department officials as to appeals and was told that

7-7-87

HUMAN
SERVICES

Inspections and Appeals hears the appeals and issues a proposed decision. Human Services then issues a final decision. Walker informed Parker that the matter of provider increases would be before the Human Services Council on July 22.

REVENUE
DEPARTMENT

In a matter not officially before the Committee, Royce discussed House File 631, groundwater quality bill, and the interpretation by the Revenue and Finance Department. Under the Act, persons who sell "home hazardous materials" must be licensed and the fee is to be based on a sliding scale of gross retail sales. Royce continued that the Department decided the sliding scale would be based on gross revenue, which is statutory. He questioned whether the legislative intent was to impose the fee on "gross revenue of the hazardous material." It was his opinion that Code chapter 17A would require the fee to be set by rule. According to Royce, Department officials spoke with the author of the bill who concurred with the Department's interpretation of the gross sales of the entire business.

Parker had sponsored the amendment and he contended the fee should not be based on gross sales of the business. Clark concurred that logic would seem to dictate that the fee be limited to household hazardous materials. Tabor also was of the opinion that imposition of a fee should be limited to household hazardous materials. General discussion. It was pointed out that the Department of Natural Resources had not determined a list of hazardous materials. Clark opined this was "a classic case of situations where a Department goes ahead and acts on something before rules and an understanding exist."

Parker thought the Department should be notified of Committee concern and that retailers should challenge the Department's policy. He wanted the Department to be advised that the ARRC would object. Royce had no commitment as to when rules would be promulgated but thought the Department was vulnerable. He said that although it had never been done before, the ARRC could file an objection to the Departmental "policy" and allow the court to decide.

INSPECTIONS
& APPEALS

Robert Horton represented the Department for the following:

Inspections of food establishments, food service establishments, food and beverage vending machines, hotels and motels; field survey administration, rescind chs 21 to 25, new chs 30 to 33, 37 ARRC 7690

N 7/1/87

Horton stated that rules 30.12 and 32.4 would be deleted as unnecessary since the matters are covered by statute. He explained that the rules were transferred from Agriculture with only minor change. Fees set out in 30.4 were a repeat of the statute for informational purposes.

7-7-87

INSPECTIONS
& APPEALS

Parker suggested that license fees should be deleted and the Code section referenced. Clark was told that selling vegetables and fruits at roadside stands was covered in the retail food code. Brief discussion.

37.4

Tabor referred to 37.4 relative to lavatory facilities in hotels and mentioned new legislation which will exempt bed and breakfast facilities. [H.F. 556, §3]

30.5

Re 30.5, Doyle noted that some departments were including the statutory \$10 fee for returned checks and Horton was amenable. Doyle recommended adding the word "motels" following "hotels" in chapter 37 for clarification. Horton indicated the definition of "hotel" in the Code included "motel." It was noted that rule 37.8--plumbing--would also be deleted as being unnecessary.

INDUSTRIAL
SERVICES
DIVISION

David E. Lindquist, Acting Industrial Commissioner, and Sharon Tow, Assistant Industrial Commissioner, were present for review of the following:

Contested cases 42, 427 ARC 7660 F 6/17/87
Substantive and interpretive rules - payroll tax tables, S.B. filed emergency ARC 7659 FE 6/17/87

There was brief discussion of the rules. No recommendations.

Committee
Business
Hearings -
Education

There was discussion of scheduled hearings on educational standards rules to be held in August. The ARRC secretary was directed to prepare expense claims for members and staff who plan to attend. It was also decided that review of the rules by the ARRC would be scheduled in the Wallace Building Auditorium.

No Agency
Reps

No Agency Representatives were requested to appear for the following:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21] Bulletin
Grain indemnity fund board - organization and operations, claims against the grain depositors and sellers
indemnity fund, 63.2, 63.4, 64.1, 64.2, 64.4, 64.5(2), 64.6 ARC 7718 N 7/1/87
EDUCATION DEPARTMENT[670]
State area school funding plan, Division V, 5.45 ARC 7709 F 7/1/87
EMPLOYMENT SERVICES DEPARTMENT[641]
Administration, 1.1(2) to 1.1(5), 1.2(3), 1.2(5) ARC 7704 F 7/1/87
LABOR SERVICES DIVISION[347]
Occupational safety and health rules for general industry, 10.20 ARC 7725, also filed emergency ARC 7724 FEAN 7/1/87
Occupational safety and health rules for construction, 26.1 ARC 7727, also filed emergency ARC 7726 FEAN 7/1/87
NATURAL RESOURCES DEPARTMENT[561]
Declaratory rulings, ch 6 ARC 7679 F 6/17/87
NURSING BOARD[590]
Administrative and regulatory authority -- declaratory rulings, 1.3(1), renumber existing 1.3(1) and
1.3(5), filed emergency ARC 7728 FE 7/1/87
PUBLIC HEALTH DEPARTMENT[70]
Cosmetology continuing education, 151.2(1) ARC 7666 N 6/17/87
REGENTS BOARD[720]
Suspension of parietal rule, 2.2(5), 2.3(5) ARC 7677 F 6/17/87
TRANSPORTATION DEPARTMENT[761]
Regulations applicable to carriers, 520.1(1) "a" and "b" ARC 7668, also filed emergency ARC 7667 N/FE 6/17/87
UTILITIES DIVISION[199]
Formal complaint procedures, 6.5(3) ARC 7669 F 6/17/87
Practice and procedure, 7.3, 7.7(11) ARC 7720 N 7/1/87
Meter standards, 19.1(3), 19.6, 20.6 ARC 7721 N 7/1/87

JOB
SERVICE
DIVISION

Administration, employer's contribution and charges, claims and benefits, 1.162, 1.163, 1.201, 1.203, 1.204, 1.302 to 1.366, 1.402 to 1.429, 1.432 to 1.439, 1.440 to 1.443, 1.444 to 1.446, 1.447 to 1.449, 1.450 to 1.453, 1.454 to 1.456, 1.457 to 1.459, 1.460 to 1.462, 1.463 to 1.465, 1.466 to 1.468, 1.469 to 1.471, 1.472 to 1.474, 1.475 to 1.477, 1.478 to 1.480, 1.481 to 1.483, 1.484 to 1.486, 1.487 to 1.489, 1.490 to 1.492, 1.493 to 1.495, 1.496 to 1.498, 1.499 to 1.501, 1.502 to 1.504, 1.505 to 1.507, 1.508 to 1.510, 1.511 to 1.513, 1.514 to 1.516, 1.517 to 1.519, 1.520 to 1.522, 1.523 to 1.525, 1.526 to 1.528, 1.529 to 1.531, 1.532 to 1.534, 1.535 to 1.537, 1.538 to 1.540, 1.541 to 1.543, 1.544 to 1.546, 1.547 to 1.549, 1.550 to 1.552, 1.553 to 1.555, 1.556 to 1.558, 1.559 to 1.561, 1.562 to 1.564, 1.565 to 1.567, 1.568 to 1.570, 1.571 to 1.573, 1.574 to 1.576, 1.577 to 1.579, 1.580 to 1.582, 1.583 to 1.585, 1.586 to 1.588, 1.589 to 1.591, 1.592 to 1.594, 1.595 to 1.597, 1.598 to 1.600, 1.601 to 1.603, 1.604 to 1.606, 1.607 to 1.609, 1.610 to 1.612, 1.613 to 1.615, 1.616 to 1.618, 1.619 to 1.621, 1.622 to 1.624, 1.625 to 1.627, 1.628 to 1.630, 1.631 to 1.633, 1.634 to 1.636, 1.637 to 1.639, 1.640 to 1.642, 1.643 to 1.645, 1.646 to 1.648, 1.649 to 1.651, 1.652 to 1.654, 1.655 to 1.657, 1.658 to 1.660, 1.661 to 1.663, 1.664 to 1.666, 1.667 to 1.669, 1.670 to 1.672, 1.673 to 1.675, 1.676 to 1.678, 1.679 to 1.681, 1.682 to 1.684, 1.685 to 1.687, 1.688 to 1.690, 1.691 to 1.693, 1.694 to 1.696, 1.697 to 1.699, 1.700 to 1.702, 1.703 to 1.705, 1.706 to 1.708, 1.709 to 1.711, 1.712 to 1.714, 1.715 to 1.717, 1.718 to 1.720, 1.721 to 1.723, 1.724 to 1.726, 1.727 to 1.729, 1.730 to 1.732, 1.733 to 1.735, 1.736 to 1.738, 1.739 to 1.741, 1.742 to 1.744, 1.745 to 1.747, 1.748 to 1.750, 1.751 to 1.753, 1.754 to 1.756, 1.757 to 1.759, 1.760 to 1.762, 1.763 to 1.765, 1.766 to 1.768, 1.769 to 1.771, 1.772 to 1.774, 1.775 to 1.777, 1.778 to 1.780, 1.781 to 1.783, 1.784 to 1.786, 1.787 to 1.789, 1.790 to 1.792, 1.793 to 1.795, 1.796 to 1.798, 1.799 to 1.801, 1.802 to 1.804, 1.805 to 1.807, 1.808 to 1.810, 1.811 to 1.813, 1.814 to 1.816, 1.817 to 1.819, 1.820 to 1.822, 1.823 to 1.825, 1.826 to 1.828, 1.829 to 1.831, 1.832 to 1.834, 1.835 to 1.837, 1.838 to 1.840, 1.841 to 1.843, 1.844 to 1.846, 1.847 to 1.849, 1.850 to 1.852, 1.853 to 1.855, 1.856 to 1.858, 1.859 to 1.861, 1.862 to 1.864, 1.865 to 1.867, 1.868 to 1.870, 1.871 to 1.873, 1.874 to 1.876, 1.877 to 1.879, 1.880 to 1.882, 1.883 to 1.885, 1.886 to 1.888, 1.889 to 1.891, 1.892 to 1.894, 1.895 to 1.897, 1.898 to 1.900, 1.901 to 1.903, 1.904 to 1.906, 1.907 to 1.909, 1.910 to 1.912, 1.913 to 1.915, 1.916 to 1.918, 1.919 to 1.921, 1.922 to 1.924, 1.925 to 1.927, 1.928 to 1.930, 1.931 to 1.933, 1.934 to 1.936, 1.937 to 1.939, 1.940 to 1.942, 1.943 to 1.945, 1.946 to 1.948, 1.949 to 1.951, 1.952 to 1.954, 1.955 to 1.957, 1.958 to 1.960, 1.961 to 1.963, 1.964 to 1.966, 1.967 to 1.969, 1.970 to 1.972, 1.973 to 1.975, 1.976 to 1.978, 1.979 to 1.981, 1.982 to 1.984, 1.985 to 1.987, 1.988 to 1.990, 1.991 to 1.993, 1.994 to 1.996, 1.997 to 1.999, 2.000 to 2.002, 2.003 to 2.005, 2.006 to 2.008, 2.009 to 2.011, 2.012 to 2.014, 2.015 to 2.017, 2.018 to 2.020, 2.021 to 2.023, 2.024 to 2.026, 2.027 to 2.029, 2.030 to 2.032, 2.033 to 2.035, 2.036 to 2.038, 2.039 to 2.041, 2.042 to 2.044, 2.045 to 2.047, 2.048 to 2.050, 2.051 to 2.053, 2.054 to 2.056, 2.057 to 2.059, 2.060 to 2.062, 2.063 to 2.065, 2.066 to 2.068, 2.069 to 2.071, 2.072 to 2.074, 2.075 to 2.077, 2.078 to 2.080, 2.081 to 2.083, 2.084 to 2.086, 2.087 to 2.089, 2.090 to 2.092, 2.093 to 2.095, 2.096 to 2.098, 2.099 to 2.101, 2.102 to 2.104, 2.105 to 2.107, 2.108 to 2.110, 2.111 to 2.113, 2.114 to 2.116, 2.117 to 2.119, 2.120 to 2.122, 2.123 to 2.125, 2.126 to 2.128, 2.129 to 2.131, 2.132 to 2.134, 2.135 to 2.137, 2.138 to 2.140, 2.141 to 2.143, 2.144 to 2.146, 2.147 to 2.149, 2.150 to 2.152, 2.153 to 2.155, 2.156 to 2.158, 2.159 to 2.161, 2.162 to 2.164, 2.165 to 2.167, 2.168 to 2.170, 2.171 to 2.173, 2.174 to 2.176, 2.177 to 2.179, 2.180 to 2.182, 2.183 to 2.185, 2.186 to 2.188, 2.189 to 2.191, 2.192 to 2.194, 2.195 to 2.197, 2.198 to 2.200, 2.201 to 2.203, 2.204 to 2.206, 2.207 to 2.209, 2.210 to 2.212, 2.213 to 2.215, 2.216 to 2.218, 2.219 to 2.221, 2.222 to 2.224, 2.225 to 2.227, 2.228 to 2.230, 2.231 to 2.233, 2.234 to 2.236, 2.237 to 2.239, 2.240 to 2.242, 2.243 to 2.245, 2.246 to 2.248, 2.249 to 2.251, 2.252 to 2.254, 2.255 to 2.257, 2.258 to 2.260, 2.261 to 2.263, 2.264 to 2.266, 2.267 to 2.269, 2.270 to 2.272, 2.273 to 2.275, 2.276 to 2.278, 2.279 to 2.281, 2.282 to 2.284, 2.285 to 2.287, 2.288 to 2.290, 2.291 to 2.293, 2.294 to 2.296, 2.297
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Doyle questioned Department officials as to whether there were any changes in laws relative to pregnancy benefits. Bervid cited a Missouri case where benefits had been denied to pregnant women and the Supreme Court held that such denials could not be based on pregnancy alone. Under Iowa law, pregnancy claims are processed the same as those relative to illness and injury. Bervid would review the matter. Doyle was interested in knowing if the rules for state employees differed from those of legislative employees. Royce was unsure whether Personnel rules were applicable to all employees. He was aware of a specific maternity leave policy for men. In response to Doyle, Department representatives did not believe that policy was mandated for private employers.

Organization, procedures, rule-making, declaratory ruling, library for blind and physically handicapped, business enterprises program, adult orientation and administration center, vocational rehabilitation program, independent living rehabilitation services, facilities, chs 1 to 12, research, 100 — chs 1 to 10. ARC 7693

DIVISION
FOR THE
BLIND

Sleighton briefed the ARRC with respect to changes made since Notice which included 6.1 as requested by Doyle and 6.3 as a result of public hearing.

There was brief mention of "talking books." Doyle asked about availability of cassettes and Sleighton responded that cassettes were provided through application. No other comments.

NATURAL
RESOURCE
COMMISSION

Richard A. Bishop, Mike Murphy, Mark Landa, Rex Walker, Pete Hamlin, Morris Preston, Darrell McAllister, and Rick McGeough represented the Commission for the following:

Declaratory rulings, ch 6, rescind 290—ch 61	ARC 7694	F	7 1 87
Motor regulations, 45 421b	ARC 7700	F	7 1 87
Migratory game bird regulations, 92 330	ARC 7695	F	7 1 87
Common snipe, Virginia rail, sora, woodcock and ruffed grouse hunting season, 97.1 to 97.4	ARC 7698	F	7 1 87
Deer hunting regulations, ch 106	ARC 7697	F	7 1 87
Rabbit and squirrel hunting season, 107.1 to 107.3	ARC 7698	F	7 1 87
Mink, muskrat, raccoon, badger, opossum, weasel, striped skunk, fox (red and gray), beaver, coyote, otter and spotted skunk seasons, 108.1 to 108.5, 108.7(2)	ARC 7699	F	7 1 87
Recreation tourism grants to county conservation boards, 218	ARC 7693	N	7 1 87

McGeough reviewed 45.4(2)b. No questions.

ch 6

Murphy gave overview of Chapter 6, commenting that uniform rules on declaratory rulings were modified for the Natural Resource Commission, Environmental Protection Commission and other entities within the Department. No questions.

92.3

Bishop, Wildlife Bureau Chief, reviewed 92.3(3) which requires use of steel shot for taking of migratory game birds. He emphasized that exemptions would not be made. Tabor asked about potential problems and Bishop could foresee none. In discussing the cost and availability of steel shot, Bishop thought the market was now competitive. No recommendations re 97.1 to 97.4.

ch 106

In discussion of Chapter 106, Bishop described changes from the Notice. He pointed out that the number of any-sex licenses is still restricted in the first season. According to Bishop, 62,000 deer were shot and killed in Iowa last year. In Colorado, 60,000 were killed and Colorado normally has a higher take. Bishop estimated that 70,000 to 80,000 Iowa deer would be killed in 1987. A census is taken in March or April. Tabor reasoned that when the herd increases, a landowner should be allowed to purchase a permit. Bishop stated that this was covered by statute and indicated there had been talk of allowing a landowner to take two deer. The Department could not give two free permits but would allow the landowner to purchase a permit. Bishop viewed the rules as "quite liberal" and did not rule out the possibility of allowing two deer and additional seasons.

Doyle asked if promotion of deer whistles had been considered and Bishop replied that there was no solid data supporting their use. However, the Department cooperates with DOT. Bishop did not know whether Conservation cars

7-8-87

NATURAL
RESOURCE
COMMISSION
Continued
ch 108

were using the whistles. It was his opinion whistles would be less effective when in wide usage. He favored "good, common sense." No questions re 107.1 to 107.3.

Royce reported concerns of a citizen with respect to trapping inside muskrat houses. The citizen contended that a more humane method was to trap the muskrat so it will drown quickly. Bishop pointed out that traps on top of houses on ice will injure geese and ducks and create a bad image.

Sept.
Agenda

Parker asked that the matter placed on the September agenda. No other comments.

24.8

Amendment to 24.8 was before the Committee. Murphy stated that the revision was an attempt to meet concerns expressed in past meetings. A public hearing was scheduled for July 21.

John Stuart, Wapello County, commented that the Association of County Conservation Boards took the position echoed by Wapello County Conservation Board's Commission. The wording was a step in the right direction but, in their opinion, it should be more definitive. Parker urged the Department to work toward resolution of the conflict.

ENVIRON-
MENTAL
PROTECTION
COMMISSION

Randy Clark, Dennis Alt, Diana Hansen, Darrel McAllister, and Wayne Reed were in attendance for the following:

Declaratory rulings ch 6, rescind 900 ch 6 ARC 7684	F 6 17 87
Design standards for wastewater treatment facilities, 64.2(9)b ARC 7683	F 6 17 87
Animal feeding operations, 65.1 to 65.9, Appendixes A and B ARC 7685	F 6 17 87
Sulfur dioxide emission standards, 23.2(3)a(1)(2) and (6) ARC 7680	N 6 17 87
Maximum contaminant levels for fluoride in drinking water, 40.2, 41.3(1)b, 41.3(2) ARC 7691	N 6 17 87
Withdrawal, diversion or storage of water, 50.2, 51.6(1), 52.2(2) to 52.2(4), 52.3(3)a and (b), 52.3(4)a, 52.3(4)b, 52.3(5)	N 6 17 87
52.7(2), 52.9, 52.10 ARC 7682	N 6 17 87
ENGINEER CERTIFICATION ARC 7613 - 70 DAY DELAY	9-2-87

64.2(9)b

Hansen briefed the ARRC with respect to 64.2(9)b relative to changes in design standards for wastewater treatment facilities. Summaries had been distributed to the Committee.

ch 65

In review of amendments to chapter 65, Doyle suggested deletion of "by man" in the definition of "man-made drainage system." Murphy indicated that many definitions were federal quotes. Parker questioned use of "cow" for the base unit and Murphy advised that it was from federal regulations. Department officials suspected that many equate the rules with cattle feedlots.

Laverne Schroeder, Iowa Greyhound Association, thought that animals such as racing dogs and horses, could be considered in the future. Parker was interested in knowing if there were an inventory of the facilities and response was in the negative.

23.3(3)a
(1)(2)(3)

Landa gave brief explanation of 23.3 and explained that state emission limits will coincide with federal limits.
- 3407 -

ENVIRON-
MENTAL
PROTECTION
Continued

Royce asked about possible impact on Iowa Coal and Landa replied that of 17 sources affected, four were in noncompliance. Landa agreed to research for Royce and provide specifics. Public hearings were planned all across the state.

40.2 et al Hansen presented amendments to chapters 40 and 41. Doyle recalled reports of children swallowing too much fluoride toothpaste. Alt advised that Public Health Service documentation indicates that levels below four milligrams per liter do not create a problem. They were not aware of incidents of dental fluorosis. Alt indicated to Parker that if a small community has a consecutive water supply hooked to a rural system, the amount of monitoring is basically limited to bacterial monitoring.

50.2 et al Randy Clark described amendments to 50.2 et al as the last of a series made necessary by waterplan legislation in 1984.

ch 135
70-day
delay There was discussion of installation of underground storage tanks--70-day delay--chapter 135. Royce reviewed the statute (chapter 114) with respect to engineer certification. He referred to a specific exemption from licensure for registered engineers who work for corporations. Doyle recalled that he had recommended consultation with the Engineering Licensing Board. Landa indicated that a letter had been sent to the Board. He provided copies of amendment to the Economic Impact Statement which Barry said would be published in the July 29 IAB. The Committee decided against lifting the 70-day delay.

RACING &
GAMING
DIVISION

The following amendments were reviewed by Mick Lura:

Organization, greyhound rules, mutual departments, 1.2(1), 7.3(9), 7.11(2), 7.13(1), 8.2(1)k, 8.3(1) and 8.3(2) ARC 7701	F.	7/1/87
Greyhound racing, guidelines for occupational licenses, 7.3(16)n" ARC 7687	N.	7/1/87

7.3(16)n Discussion focused on 7.3(16)n. According to Lura, the guidelines were intended to aid greyhound track officials in granting or denying an occupational license.

Doyle observed that an alcohol-related offense was more restrictive than in most professions. The first offense for drunk driving is serious misdemeanor and the second is aggravated. Doyle contended that would have nothing to do with honesty or tasks performed by stewards. Lura assured him that judgment would be used. Nothing absolutely precludes licensing. Lura admitted they intend to be more restrictive than most professions since they observe many alcohol-related situations. Parker favored an ethical statement that certain things would be considered in granting a license, and each case would be considered on its merit.

7-8-87

RACING &
GAMING
concluded

Clark supported that suggestion. Royce cautioned against a "middle ground" approach. Doyle wanted assurance that the alcohol-related offenses were not judged more harshly than more serious crimes. Lura would report Committee comments to the Commission.

REVENUE &
FINANCE
DEPARTMENT

Carl Castelda, Deputy, appeared for review of:

Practice and procedure -- declaratory rulings 7.25 ARC 7723F 7/1/87
Sales and use tax on services, 26.8"16" ARC 7676N. 6/17/87
Receipts exempt from use tax, 32.4 Notice ARC 7531 terminated ARC 7674N.T. 6/17/87
Receipts exempt from use tax, 32.4 ARC 7676N. 6/17/87
SPECIAL REVIEW - HAZARDOUS HOME MATERIALS-IMPOSITION OF RETAILERS

Also present: Martha Martell, Iowa Auto Dealers Association; Ted Yanacek, Iowa Farm Bureau.

Parker called on Castelda to address the Department's policy on implementing H.F. 631--the fee schedule for household hazardous products. Castelda said that the Department thought the statute was clear and saw no reason for emergency rule making. He continued that while working with the General Assembly on the issue of the Department's interpretation of "gross receipts," the first time through, the concept was sales tax on product. However, at some point, the GA realized that would be difficult to administer, so the concept switched to permit. That was based on sales tax concept, and each location would have an annual permit. Castelda recalled that the Fiscal Bureau estimate on cost was based on total gross receipts of businesses. Department officials had talked with Representative Osterberg and others seeking further clarification. However, during that process, the definition of total gross receipts was not discussed.

Castelda pointed out that Department of Natural Resources officials concur that total gross receipts was intended. He added that involvement by the Revenue and Finance Department was limited to voluntary processing of permits in an expeditious way for DNR. Castelda stressed that a different process would require several months.

All applications with checks are being held awaiting an AG opinion on the issue. In the event the AG rules that "product basis" was intended, Revenue will return applications and checks. The opinion was anticipated within 30 days.

Castelda spoke of the difficulty in developing a policy until DNR identifies hazardous products. He cited problems for the retailer with respect to inventory and use of gross receipts for the product. It would be a savings for the retailer to go with gross receipts. Castelda also mentioned costs for changing accounting systems. He maintained that Revenue's approach was practical and followed legislative intent. Castelda reminded that enforcement was with DNR.

REVENUE &
FINANCE
Continued

In response to Parker's comment on lack of rules, Castelda said that as an agency, whenever there is an issue deserving further explanation and clarification, Revenue always implements rules.

Tabor personally disagreed with the Department's interpretation but commended them for holding the checks in light of the controversy.

Martell commented that new car franchise dealers would have a \$90 per vehicle impact if the opposite interpretation is made. She reasoned that the purpose of the statute was to provide groundwater funds from retailers who sell commodities to individuals who may not dispose of them properly. Martell concluded that auto dealers do not fit that category.

Yanacek contended that the Department's interpretation was a topic for rule making. Otherwise, the public will be precluded from input.

August
Agenda

Before Doyle was excused to attend the Legislative Council meeting, he suggested that this matter be considered further at the August meeting. No recommendations re 7.25, 26.8 and 32.4.

INSURANCE
DIVISION

The following new rules intended to implement Iowa Code chapter 509B were submitted by Fred Haskins:

Continuation rights under group accident and health insurance policies, new ch 29 ARC 7673..... 6/17/87

Haskins said that the rules address ambiguities in the Code and clarify responsibilities of group policyholders and rights of employees. Rules were promulgated at the request of the Iowa Association of Business and Industry. The federal Act--COBRA--had created some problems and impacts employers with more than 20 employees. Haskins concluded that the rules were quite technical but workable.

COLLEGE AID
COMMISSION

Patricia Paddock represented the Commission for review of the following:

Iowa guaranteed student loan program, 10.22, 10.27, 10.60, 10.61 ARC 7712 7/1/87
Iowa guaranteed student loan program, 10.230, 10.24, 10.30, 10.62 ARC 7711 also filed emergency ARC 7710 N.E.E. 7/1/87

The amendments were necessary to implement the Higher Education Act of 1986. There was a reduction in the special allowance rate paid to lenders of guaranteed student loans. Bankers' margin is cut by 25 basis points. Paddock pointed out that the Department of Education eliminated the 15-year repayment requirement. The only specification is that the borrower must repay within 10 years of the time repayment is begun, exclusive of forbearance or deferment periods.

In response to Parker, Paddock said that lenders were dissatisfied with the student loan program in general because of the gross amount of changes being made--700 lending institutions participate. No action taken.

DEAF
SERVICES
DIVISION

Diana Leonard represented Deaf Services Division for procedure requirements, Chapters 1 to 9, ARC 7722, filed 7-1-87 IAB. She briefed Committee with respect to changes made since the Notice. No questions.

TREASURER
OF STATE

Lawrence Thornton appeared for the following:

Coordination of bonding activities, ch 6 ARC 7688 F 7/1/87
Reporting on state and local government bonding activities, ch 7 ARC 7689 F 7/1/87

ch 7

Chapter 7, according to Thornton, would permit collection of general information on outstanding debts for all local governments throughout Iowa. He distributed copies of the disclosure form to be used and indicated that a report would be submitted to the next General Assembly. Tabor thought it would be interesting to know the interest rates of the bond issue as shown on the form. Thornton agreed but pointed out the complexity of collecting such information. The Treasurer had sought simplicity at the outset. Thornton said that the Investment Dealer's Digest allows them to tap into a data base service without charge for low level use. Tabor was hopeful that a lower interest rate might be offered if the information collected would warrant that. Parker suggested making it as simple as possible by use of a median interest rate.

ch 6

Thornton reviewed chapter 6. No Committee recommendations.

SOIL
CONSERVA-
TION
DIVISION

The following agenda was reviewed by Kenneth Tow who announced that he had accepted a position for the state of Minnesota:

Iowa financial incentives program for soil erosion control, 5.41 ARC 7703, also filed emergency ARC 7702 NIFE 7/1/87

A hearing was scheduled for July 30 and the Division did not anticipate comment. Six million dollars will be incorporated into the existing program following the same pattern for previous years. Tow agreed to provide Tabor with information on the woodland fencing program-- 5.41(9).

Minutes
Next
Meeting

Minutes of the June meeting were approved unanimously. A special meeting in lieu of the statutory date was scheduled for August 18, 19 and 20, 1987.

Adjourned

Vice Chair Parker adjourned the Committee at 12:55 p.m.

Respectfully submitted,

Phyllis Barry
Phyllis Barry, Secretary
Assisted by Vivian Haag

APPROVED:

Deed E. Piles

CHAIRMAN