

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, October 13 and 14, State Capitol, Des Moines, Iowa.

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  
Committee  
Business

Chairman Priebe convened the October 13 meeting at 10:02 a.m. in Room 24. Priebe temporarily deferred Transportation Department and proceeded to discussion of Committee Rules of Procedure.

Committee  
Rules of  
Procedure

Barry recalled she had been authorized to update rule 15. She realized that much of the language adopted in 1978 was no longer pertinent and there was discussion. Barry also suggested deletion of rule 12 which is covered by Code section 17A.4(1)b.

Motion

After further discussion, Doyle moved deletion of rule 12 and renumbering of the remaining rules. Motion carried

In re rule 15, Priebe suggested deletion of "instead" and change of "shall" to "may" in the third line. He also recommended removal of "affected" both times it appears before "agency." Doyle preferred "comments" in lieu of "arguments" and Barry reminded ARRC that the Code citation would read 17A.8(9); "forty-five calendar days after the convening" would be deleted, and "adjournment" inserted to comply with statutory changes. Doyle moved the proposed changes in Rule 15 (renumbered as Rule 14) and that it be published in the Committee's Rules of Procedure. Motion carried. Rule 14 is as follows:

14. Pursuant to the authority of 17A.8(9) the committee may, by two-thirds vote, delay the effective date of a rule until adjournment of the next regular session of the General Assembly. Before imposing a delay pursuant to this subsection the committee may, upon request by the agency, impose a seventy-day delay pursuant to 17A.4(5), to allow the agency time to submit written and, if desired, oral comments to the committee in support of the rule. These comments shall be considered by the committee at its next scheduled meeting. The committee may impose the delay authorized by 17A.8(9) or take any other action authorized by statute.

TRANSPOR-  
TATION  
DEPARTMENT  
Ch 604  
600.2(5)

Chairman Priebe recognized Clark who introduced Jim Armstrong of Mason City. Armstrong expressed his concern re DOT rule 600.2(5) which precludes issuance of a driver's license to individuals who must wear bioptic lenses to meet the visual acuity standard set out in 761--Chapter 604. He spoke in support of the lenses and offered his glasses for inspection.

TRANSPOR-  
TATION  
DEPARTMENT  
Continued

Armstrong contended that individuals should be tested on a case-by-case basis rather than the state imposing an across-the-board ban. He continued that he had driven with bioptic lenses for the last six years with no violations, accidents, or problems. He pointed out that 85 per cent of the time, peripheral vision is used when driving and that his was normal. Armstrong disagreed with Department contention that bioptic lenses were too restrictive and create a blind spot in the field of vision.

There was discussion of the two types of bioptic lenses. Armstrong maintained that he has become a much safer driver because of his limitations.

Chrystal emphasized that the Department's position was not adversarial. They believe the rule to be "in the best interests of the people of the State of Iowa." The rule, which had existed since 1973, was tested before the Iowa Supreme Court in 1986 and resulted in a decision favorable to the Department. The issue has been discussed at length with the Iowa Medical Society and the American Association of Motor Vehicle administrators, consisting of representatives from 42 states.

Chrystal admitted that a few states do permit limited use of bioptic lenses. A California study revealed an accident rate of one and one-half times higher by those wearing bioptic lenses.

Armstrong and Clark discussed the fact that special training is provided those who use bioptic lenses. Armstrong urged consideration for the few individuals with circumstances similar to his. His driving privilege would cease tomorrow.

Motion re  
Agenda

Priebe thought that notice of review of the rules in question should be published in the November ARRC agenda. Clark was interested in reviewing proposed legislation on the issue. She moved that the matter of bioptic lenses be placed on the November agenda. Carried.

ECONOMIC  
DEVELOPMENT

Melanie Johnson, Sharon Dreyer, Fran Fleck, Nancy Landess, and Dory Briles were present for the following:

Iowa industrial new jobs training program, 5.3(3), 5.3(5), 5.3(6), 5.4, 5.5, 5.6, 5.7(2), 5.8 to 5.11 ARC 7885 .F..... 9/9/87  
Welcome center program, ch 58, filed emergency ARC 7884 .F#..... 9/9/87

Also present: Clyde Kramer, Vice President of Economic Development for Des Moines Area Community College.

Ch 5

Johnson briefed ARRC re history of the proposal concerning amendments to Chapter 5. In re 5.3(3), Priebe considered the change of "may not" to "shall" pertaining to standby property to be major. It was his opinion the term "expanding industry" added another quotient which he opposed. Clark recalled the Legislature sought development of new small industries and she envisioned "expanding industry" to accomplish the opposite.

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ECONOMIC  
DEVELOPMENT

Kramer commented that three or four companies of the fifty-plus which cooperate with DMACC would be considered large business and industry. He emphasized that this was not retraining--intent was to create jobs.

Motion to  
Delay

Tieden expressed concern for additional paperwork for community colleges. Parker said there was no legislative intent to limit the number of certificates to be issued and he moved that 261--5.3(3) be delayed to the end of the next General Assembly. There was brief discussion and motion carried with voice vote--Tieden voted "no."

Ch 58

Fleck reported that Chapter 58 implements 1987 Iowa Acts, HF 540, and provides long-range plans relating to welcome centers, including a pilot project to bring the centers on line. Funding was provided through the Iowa Plan Fund in SF 515 ['87 Acts]. According to Fleck, awards were made to communities on the basis of proximity to interstates, primary highways, and in or near communities of 5000 or less population.

Priebe and Fleck discussed 58.4(1)a. Priebe had knowledge of a project in a downtown area which was not near an interstate or primary highway. Fleck agreed to follow up.

Parker in the Chair.

GENERAL  
SERVICES

Kathy Williams appeared for review of the following:

Consumption of alcoholic beverages in capitol complex, 1.6(5)	ARC 7924	9/9/87
Centralized purchasing, 6.8(18)	ARC 7921	9/9/87
Organization and operation -- smoking, 1.5(3), 1.5(4)	ARC 7922	9/9/87
Closure of capitol grounds to public, 1.6(18), amended notice	ARC 7923	9/9/87

1.6(5)

Discussion centered on 1.6(5) which would provide an exception for the consumption of alcoholic beverages on the Capitol Complex. Tabor was advised that "special events" in the new historical building would include receptions for conventions.

Tieden admitted he had some reservations about the proposal and Royce raised legal questions, e.g., would the Department hold a liquor license? Who would pay the Dram Shop? Williams responded that the state would not be responsible and would not sell alcoholic beverages. According to Williams, guidelines and forms were being prepared for those who wish to utilize the new facility.

Motion to  
Delay

ARRC members recommended that forms be included in the rule. Williams was amenable. There was further discussion with general Committee opposition. Tabor moved a delay until adjournment of the next session of the General Assembly. Royce suggested a 70-day delay and recommended that Mr. Crosson, Cultural Affairs, be invited to the next ARRC meeting. Tabor preferred a delay into the session. Doyle interjected that a delay could be lifted at a later meeting.

Vote

The Tabor motion carried by voice vote.

GENERAL  
SERVICES  
Concluded

Priebe resumed the Chair.

No questions re 6.8(18), 1.5(3) and (4), and 1.6(13).

LAW  
ENFORCEMENT  
ACADEMY

Ben Yarrington and William J. Callaghan appeared for minimum standards for Iowa law enforcement officers, 2.1(1), 2.1(3), ARC 7887, filed IAB 9-9-87.

2.1(1)

Yarrington reviewed amendments which change minimum standards for railway special agents who have been approved by the Commissioner of Public Safety. Priebe asked if a precedent were being set in exempting these agents from requirement to possess a valid Iowa driver's or chauffeur's license. Yarrington indicated the majority of agents work for the railroads in more than one state and benefiting financially from the peace officer status is prohibited.

2.1(3)

Doyle recommended adding "if there is a valid license from another state" at the end of 2.1(3). Yarrington was amenable to Doyle's suggestion and there was Committee concurrence that the amendment could be an emergency filing. No other action.

JOB SERVICE  
DIVISION

Joseph Bervid and Paul Moran appeared on behalf of the Employment Services Department for the following:

EMPLOYMENT SERVICES DEPARTMENT(341) "umbrella"  
Employer records and reports, employer's contribution and charges, claims and benefits, benefit payment  
control, appeals procedure, amendments to chs 2 to 6 ARC 7953 E 9/23/87

Bervid briefed ARRC re contributions, benefits and appeals and announced that a three-hour telephone conference would be held this week.

Priebe was advised of an estimated \$247 million surplus currently with an anticipated \$195 million in 1988. The outgo was projected to be \$170 million. Bervid reminded that the "legislation had cut taxes by about \$30 million."

Committee  
Business

Committee meeting dates were set for Tuesday and Wednesday, December 8 and 9, 1987, and Tuesday and Wednesday, January 5 and 6, 1988.

SECRETARY  
OF STATE

Sandy Steinbach was present for the following amendments which reflect changes in the law:

Alternative voting systems, 10.4(1) to 10.4(8) ARC 7888 N 9/9/87  
Election forms, 4.3 ARC 7955 E 9/23/87

Tieden and Steinbach discussed the provision permitting the County Commissioner to summarize material which is too lengthy for the special paper ballot. Discussion of complaints by handicapped individuals who contend that most voting places and machines are inaccessible to wheelchairs, etc. Steinbach advised Doyle that curbside voting was legal and she referenced federal law which requires all voting places to be accessible to elderly and handicapped voters on federal elections.

SECRETARY  
OF STATE

Information is being provided to local officials and exemptions are being considered. Steinbach anticipated that eventually all voting places would be accessible.

Motion to  
Refer to GA

Doyle spoke of the concern of his County Auditor since most voting places are not owned by the County and costs enter in. Tieden raised point of apparent conflict between Code sections 49.44 and 52.25 with respect to publication of text on paper ballot and use of computer readable ballot cards. Clark moved that the conflict be referred to the General Assembly. Motion carried.

4.3

No questions re 4.3.

PUBLIC  
HEALTH  
DEPARTMENT

Ted Scurletis, Rose Vasquez, Dennis Bach, and Sue Anthony were present for the following agenda of Public Health:

Lead abatement program, ch 72 ARC 7903. *N*..... 9/9/87  
Special Review - Ch 73, WIC Program, participation by convenience stores

Also present: Trish Smallenberger and James West, Associated Grocers of Iowa.

Ch 72

Scurletis stated that Chapter 72 implements HF 169['87 Acts] and includes definitions, the application process, and eligibility requirements for the lead abatement program. Priebe was informed that state funds support the program at the local level.

Scurletis assured Doyle that lead water main pipes in older houses do not pose a big threat.

72.3(1)

Tieden referred to subrule 72.3(1) and wondered if there were many cases of lead poisoning in children and Scurletis recalled a national average of two per cent.

Ch 73

There was special review of rules relating to the WIC program, chapter 73. Royce briefed ARRC members concerning a memorandum from the Health Department which notified convenience stores that they would no longer be approved as vendors for the program.

Smallenberger and West expressed opposition to the letter contending that the policy statement was in fact a rule under 17A.2(7) and the change should have been adopted under provisions of Code chapter 17A. West provided background and it was noted that the selection criteria had been set out in a manual for two years. West continued that two convenience stores had received notification of reinstatement in the program since he had requested review by the ARRC. Department officials were hesitant to comment on the issue since an administrative appeal was in process.

Clark saw unfairness in the rather strict criteria which would preclude participation by those convenience stores located near grocery stores. Priebe concurred with Clark.

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PUBLIC  
HEALTH  
DEPT  
Continued

The Committee was informed that the Board of Health would meet November 4 for further review of the issue. Doyle suspected that the General Assembly would be in session before a decision was rendered on the contested case. He asked that Royce be kept informed as to proceedings.

Motion

Tieden moved that Chapter 73 be placed on the November ARRC agenda. Carried.

Recess

Committee in recess at 11:50 a.m.

Reconvened

Vice Chairman Parker reconvened the meeting at 1:30 p.m. and called on Human Services for the following:

HUMAN  
SERVICES  
DEPARTMENT

Standards for the care of and services to county care facility residents with mental illness and mental retardation, ch 37 ARC 7983.....	9/23/87
Centralized registry for brain injured persons, ch 39 ARC 7981.....	9/23/87
Application for assistance, 50.2(3), 50.3(2) ARC 7932.....	9/23/87
Administration—food stamp program, 65.3, 65.29(3), filed without notice ARC 7929.....	9/23/87
Application and investigation, 76.1, 76.2, 76.3, 76.3(2), 76.7, 76.8 ARC 7938.....	9/23/87
Amount, duration and scope of medical and remedial services, 78.1(20), 78.3(10), 78.8 ARC 7940.....	9/23/87
Checking of child abuse reports and criminal convictions, access to information, 107.8(1)c, 108.4(2)d, 108.4(3), 108.4(4), 109.4(7), 109.9(4)c to "e," 109.9(5)c to "e," 110.7(3), 112.5(1)c to "e," 112.6(1)c to "e," 112.6(2)b, "d," "e," 113.13(1), 113.13(2), 113.20, 114.7(8)f to "h," and "m," 114.8(1)e, 175.1, 175.5(1) to 175.5(3), 175.8, 175.8(4)a, 175.8(5), 176.1, 176.10(8) to 176.10(9), 176.11, 200.1(2), 200.2(1), 200.3 ARC 7937.....	9/23/87
In-service training for foster parents, 113.8(3), 117.1(2)d, 117.3(4), 117.6, 117.5(1), 117.5(3), 117.5(4)a and "b," 117.6, 117.7, 156.18(1), 156.18(4) ARC 7939.....	9/23/87
Expanded eligibility for independent living foster care program, services defined, time limit and requirements for purchasing services, transition period, 156.12, 202.9 ARC 7936.....	9/23/87
Adolescent pregnancy prevention and services to pregnant and parenting adolescents, ch 163 ARC 7934.....	9/23/87
Adult support program, ch 183, rescind ch 178, 179 ARC 7935.....	9/23/87
Volunteer services, preamble, 12.2, 12.3, ARC 7949.....	9/23/87
Mental health institutes, 29.2(10) to 29.2(12) ARC 7947.....	9/23/87
Granting assistance, 41.8(3)d ARC 7926, also filed emergency ARC 7927.....	9/23/87
Reporting of financial and statistical information — care facilities, 54.3, 54.3(2), 54.8(1), 82.5, 82.17(1) ARC 7905.....	9/9/87
Work and training programs, 55.2(2) "b"(3) ARC 7948.....	9/23/87
Administration — food stamp program, 65.3, 65.29(3) ARC 7928, also filed without notice ARC 7929.....	9/23/87
Conditions of eligibility, 75.1(11), 75.1(15)a(1) to (5), 75.1(15)b and "c," 75.1(17), 75.1(21), 75.1(28) ARC 7904.....	9/9/87
Conditions of eligibility — unborn child, 75.1(15) ARC 7906.....	9/9/87
Medicaid reimbursement for birth centers, 77.27, 78.30, 79.1(2), filed emergency ARC 7930.....	9/23/87
Purchase of service, 150.1 to 150.9 ARC 7950.....	9/23/87
Dependent adult abuse, 176.1, 176.15 ARC 7907.....	9/9/87

Those in attendance included Mary Ann Walker, Margaret O. Ward, Ken Tigges, Sharon Dozier, Carol Clift, Marg Corkery, R. Schoene, Mary Nelson, Cindy Dobson, Carol Stratemeyer, Anita Smith, Barb Momberg, Dan Gilbert, Gary Gesaman, Dan Bice and Darlene Clark, all of the Department.

Chs 37, 39

Walker gave brief overview of Chapters 37 and 39, and amendments to 50.2(3) and 50.3(2). No recommendations. In re 65.3, Walker said that four federal laws impact the administration of the Food Stamp Program. If Iowa adheres to the option of disregarding as income for food stamp purposes the first \$50 in child support payments collected by the state on behalf of ADC families, it would cost over \$1 million. The Department has chosen not to exercise that option because of budget limitations. She added that food stamp policies are usually federal.

Ch 76

Doyle opined that the five-day time frame in 76.1 et al. for applications to be received at local offices was too short. Walker pointed out that federal time frames are involved and indicated people are cooperative. No questions re 78.1 et al.

HUMAN  
SERVICES  
Continued  
Ch 107  
et al.

In reviewing amendments to 107.8(1)c et al., Walker stated that several changes had been made as a result of discussion with the Attorney General. The Department will be checking foster parents and adoptive parents to ensure any reported abuse.

113.8  
Ch 163  
Ch 183

No recommendations re 113.8 et al., 156.12 and 202.9, or Chapter 163. Walker reviewed Chapter 183 and there were no questions.

Ch 12

In discussion of amendments to Chapter 12, which implements SF 471['87 Acts], Walker emphasized that guardians and protective payees would be eliminated from examples of roles to be performed by volunteers. New subrules in

Ch 29

Chapter 29 will update the list of medical services provided to patients in mental health institutes which the Department bills directly to counties.

41.8(3)d

Walker explained that amendment to 41.8(3)d adds special need provision to the ADC Program for child care for ADC recipients in the JTPA Program who do not qualify for child care payment under IETP. Funding of \$100,000 was received from the Department of Economic Development. There was brief discussion of the allocation process. Walker agreed to notify Priebe of any surplus in ADC funds.

54.3 et al.  
Ch 75

No questions re 54.3 et al. or 55.2(2)b(3). Discussion of amendments to Chapter 75. In response to Clark as to contributions by man-in-the-house, Walker replied that the provision in 75.1(15)a(2) was relative to medical, not ADC, and policies differ. She added that there was no way to determine paternity until the birth of the child. This is covered by federal rule.

75.1(15)b

Priebe questioned use of "child" in 75.1(15)b, and Walker said it would be changed to "individual" under age 21. Physically handicapped over age 21 would be covered under SSI.

Ch 176

Walker pointed out that rules 77.27, 78.30, and 79.2(2) were legislative mandate and the Department saw no need to Notice them since there were no clients in that area. Review of rules 150.1 to 150.9--Tieden was told that the provider's fiscal year was used to spread the workload. Tieden was informed that provision in 150.3(5)m(2) relative to interest was Revenue and Finance wording. Doyle thought the word "legal" in 150.2(1), second line, was superfluous and the Department agreed to strike it. No comments had been received re 176.1 and 176.15.

TRANSPOR-  
TATION  
DEPARTMENT

Department representatives in attendance were Harry Miller, Air and Transit Division, Tom McElherne, Specification Engineer, Larry R. Jesse, Functional Classification Review Board, Jan Hardy, Assistant Director, Office of Vehicle Registration, Julie Fitzgerald, and Robert Ewald.

TRANSPOR-  
TATION  
DEPARTMENT  
Continued

Also present: Gary Kaufmann, Legislative Service Bureau.

The following agenda was considered:

Aeronautics administration, ch 700	ARC 7943	.....	9/23/87
Iowa airport registration, ch 720	ARC 7944	.....	9/23/87
Functional classification of highways, 100.15(2)	ARC 7898	.....	9/9/87
General requirements and covenants for highway and bridge construction, 125.1	ARC 7892	.....	9/9/87
Vehicle registration and certificate of title, 400.3(13), 400.5	ARC 7942	.....	9/23/87

SPECIAL REVIEW

Authority of Director to adopt rules

Regulations applicable to carriers, 620.11(7)a" ARB 7840, also filed emergency ARC 7841 ..... 8/12/87

Ch 700  
Ch 720

Doyle inquired if provisions in Chapter 720 were creating problems for smaller airports. Miller replied that 22 airports were on waiver originally--two have built new airports, and with new rules, seven will be in compliance, three currently have corrective projects planned, and three more have master plans, leaving seven airports with problems. In some instances, new rules are less restrictive than old rules. Minimum standards are part of the registration procedure. No recommendations for Chapter 700 or 720.

100.15

Jesse explained that with amendment to 100.15(2), the Board would meet only when an appeal was pending.

125.1

According to McElherne, amendment to 125.1 would update specifications for highway and bridge construction. No comments had been received on the proposed change. No questions from ARRC.

Ch 400

Hardy reviewed amendments to Chapter 400 which were mandated by 1987 Acts, HF 527. No recommendations.

520.1(1)a  
Special  
Review

Fitzgerald distributed copies of an Attorney General's opinion requested by the ARRC concerning the specificity required in an administrative rule, violation of which would be, by statute, made a crime. The question arose when DOT adopted, by reference, a provision of the Federal Motor Carrier Safety Regulations. Violation of the rule [520.1(1)a] would constitute a misdemeanor. Fitzgerald described the voluminous material relative to multiple licenses for commercial drivers. Switzer pointed out that all drivers are cognizant of these provisions. He indicated that the Department would be seeking legislation for support of the federal commercial driver license law. Federal law requires compliance by 1992 and sanctions will be imposed against federal highway funds. General discussion.

Doyle preferred an exception to the Department's policy of adoption by reference in this one instance since the rule has criminal penalties. Because of wide applicability, the specific citation from the federal register should be included in the rule. Department officials wanted to confer with their legal counsel. To support his position, Doyle read from the last paragraph of the AG opinion, "...preferred practice, whenever practicable, is to specify the standards rather than incorporate by reference....."



TRANSPOR-  
TATION  
DEPARTMENT  
Continued  
Authority  
of Director

In discussion of rule-making authority of the Department of Transportation, Royce noted that the Commission is still approving rules of the Department.

Kaufmann pointed out in documented material that, in most instances under state reorganization, power to promulgate rules was vested in the Director, not in the Commission.

Fitzgerald contended there were two ways to view the issue and she cited Code chapter 307 which gives the Director authority to adopt rules. That chapter specifically defines Director as including the Director's designee and the Director has designated the Commission to adopt agency rules. Fitzgerald stated that rule-making authority in Chapters 307 and 307A are cited in all of their rules.

Kaufmann maintained that legislative intent of reorganization was for the Commission to serve in an advisory capacity and for the Director to administer the Department. All references to rule making by the Commission were transferred to the Director. He offered background material on reorganization of DOT and reviewed legislative intent which, in his opinion, was clear.

Fitzgerald took the position that the Director still had the discretion. After further discussion, Parker asked Royce to peruse the pertinent materials and advise the ARRC. It was agreed that the matter should be placed on the November agenda.

ENVIRON-  
MENTAL  
PROTECTION  
COMMISSION

The following agenda was before ARRC and reviewed by Mike Murphy:

NATURAL RESOURCES DEPARTMENT[661] "umbrella"	
Emission standards for contaminants, 23.3(3)"a"(1), (2) and (6)	ARC 7918 .F..... 9/9/87
Maximum contaminant level of fluoride in community drinking water systems, 40.2, 41.3(1)"b," 41.4(3)"f"	ARC 7912 .F..... 9/9/87
Criteria for siting low-level radioactive waste disposal facilities, ch 152	ARC 7917 .N..... 9/9/87

Murphy stated that amendments to 23.3(3) conform to those enforced by EPA. Changes in rule 40.2 et al. were necessary to comply with changes in federal standards.

Ch 152

Re Chapter 152, Tieden was informed that maps show available radioactive sites. Murphy lacked information to respond as to what impact an earthquake might have on Iowa. Clark requested inclusion of a date certain in 152.3(3).

NATURAL  
RESOURCE  
COMMISSION

In addition to Murphy, representatives present for the following were Rexford Walker, Pete Hamlin, Vic Kennedy, Mike Carrier, and Don Cummings.

NATURAL RESOURCES DEPARTMENT[661] "umbrella"	
Keg beer rules, 63.3, 63.7	ARC 7964 .F..... 9/23/87
Pheasant, quail, and gray (Hungarian) partridge hunting seasons, 96.1(1), 96.2, 96.3	ARC 7966 .F..... 9/23/87
Waterfowl and coot hunting, ch 91, filed emergency after notice	ARC 7965 .FEAN..... 9/23/87
Wild turkey spring hunting, ch 98	ARC 7968 .N..... 9/23/87
Groundwater hazard documentation, 9.2(1)	ARC 7919 .N..... 9/9/87

NATURAL  
RESOURCE  
COMMISSION  
Continued

Also present: Dick Hogen, representing Iowa County Recorders.

No questions re 63.3 and 63.7. Brief discussion of 96.1 (1) et al. and Tabor was informed that corn can be planted on conservation reserve acres, limited to no more than 25 per cent of any given field. A state rule to be implemented by ASCS would be forthcoming.

Ch 91 Re Chapter 91, Doyle was informed that detailed maps are available for waterfowl and coot hunters.

Ch 98 Tieden reported on complaints that the statutory \$20 license fee for wild turkey hunting was too high. He voiced opposition to what he considered unfair practices re licenses in zones 7, 11, or 12. Tieden was of the opinion that public hearings should be held in the hunting areas.

9.2(1) Discussion of amendment to 9.2(1). Kennedy briefed the ARRC with respect to the hearing which had been held September 30. Tieden had been contacted by individuals concerning the \$100 civil fine for failure to remedy a well problem. Murphy replied that rules would be required for enforcement. With respect to abandoned wells, Murphy mentioned financial incentives to assist people in closing wells.

Kennedy commented on the impact of groundwater legislation. Hogen, Scott County Recorder, urged simplification of the Form 542-0960. Doyle interjected that one of his recorders had suggested a change of the law to make it available to abstracters with requirement that information be included. Hogen reasoned that it could be placed on the face of the deed, which then becomes part of the permanent record. According to Murphy, that was part of the Department's original proposal but it was changed in the legislative process. He said this was designed to be consumer protection. Kennedy cited problems with including the information on the mortgage or lien since that would create difficulty in secondary mortgage markets. He spoke of the difficulty in meeting all qualifications with a short form.

There was general agreement that the Department and the Recorders should work together for a workable solution. Murphy advised that the Department had no plans to include this subject in any legislative package for next session but he would work with Hogen on the Form. No formal action.

Priebe took the Chair and discussed possibility of holding hearings on Educational Standards in Humboldt and Calmar.

Minutes  
Recess

Doyle moved approval of the September minutes. Motion carried. Committee in recess at 4:20 p.m.

10-14-87

Reconvened Chairman Priebe reconvened the meeting at 9:10 a.m. Wednesday, October 14, 1987. All members and staff present except for Parker, who was excused.

COLLEGE AID Priebe called on Gary Nichols for rules of College Aid, COMMISSION being Chapter 18 pertaining to Iowa Work-study Program, Ch 18 Noticed as ARC 7881, also filed emergency as ARC 7882, IAB 9-9-87. The rules contain information on institutional agreements, annual applications, board notices, etc. An allocation will be made but, according to Nichols, institutions will receive less than is needed. However, he did not envision problems.

CAMPAIGN Kay Williams presented the following for review:

FINANCE Campaign contributions to state officeholders and candidates for state office. ch 7. amend 190—chs 1 to 6 and  
DISCLOSURE transfer 190—chs 1 to 7 to 121—chs 1 to 7 ARC 7897 .F. 9/9/87

Williams reviewed changes from the Notice which included ARRC recommendations. Doyle questioned 7.4 in that he thought committees were subject to penalty, not officeholders. Williams recalled other provisions provide that candidate and treasurer share equal responsibility. It was pointed out that the law did not provide for an extension of filing time but any person, for good reason, could apply for waiver of a fine. No Committee action.

COMMUNITY The agenda for Community Action Agencies follows:

ACTION HUMAN RIGHTS DEPARTMENT(421) "umbrella"  
AGENCIES Weatherization assistance program, ch 5 ARC 7908 ..... N. 9/9/87  
DIVISION Low-income home energy assistance program, ch 10 ARC 7898,  
also filed emergency ARC 7894 ..... N. r. F. 9/9/87

Walter Pickett, Weatherization, and Sue Downey, Energy Assistance Bureau Chief, were present. In discussion of Chapter 5, qualifying requirements for the weatherization assistance program, ARRC was informed that more homes are eligible for assistance than when the program was implemented but many will never be served.

Tieden expressed concern that potential applicants are unaware of the program. Doyle had heard allegations that slum landlords were receiving free weatherization. Pickett admitted this was possible but that a house was eligible only once.

Ch 10 Downey described the low-income energy assistance program, Chapter 10. She suspected that federal funding would be reduced from \$33.9 million to \$23 million this year. She spoke of the difficulty in designing a program in advance of federal funding guidelines.

10.2(2)&(3) Clark, re 10.2(2)&(3), could envision "cheating" with respect to the definition of household income. Downey was aware of the possibility but pointed out the existence of deterrents.

EDUCATION Dave Bechtel, Acting Director, appeared on behalf of DEPARTMENT Orrin Nearhoof for evaluator approval rules, Chapter 81, ARC 7900, IAB 9-9-87. Doyle in the Chair.

EDUCATION  
DEPARTMENT

Brief discussion of 81.5(3)a(3). There were no committee recommendations.

NURSING  
BOARD

A Nursing Board representative was unable to attend today's meeting, due to illness, and the rules will be placed on the November agenda.

PUBLIC  
DEFENSE  
DEPARTMENT

Jim Taylor was present for review of the following:

State emergency response commission, local emergency planning committees, ch 103 ARC 7889, also filed  
emergency ARC 7890 *N.F.F.* 9/9/87

## Ch 103

Clark observed different dates for submission of plans in 103.4(2) and 103.7. Taylor explained that the two plans pertain to emergency planning and a community's right-to-know. Federal law requires completion of plans by October 1988 and the August 15 deadline allows time for Commission review.

PUBLIC  
HEALTH  
DEPARTMENT

John Eure appeared for Public Health Department and Cheryl Brinkman, for Medical Examiners. The agenda follows.

Radiation machines and radioactive materials, 38.2, 38.13(1), 38.13(6), 38.13(7), 39.3(13), 39.74 f(9), 39.74 v(4), 39.94, 40.20(4), 40.24, 41.1(3)"k" and "n," 41.1(6)"g"(2)"4," 41.1(11), 41.1(13), 41.4, transfer 470—chs 38 to 42 to 641—chs 38 to 42 ARC 7941 *N.F.F.* 9/23/87  
Medical examiners, license fees, reinstatement of lapsed license, renewal of resident physician's license, 470—135.105(1), 135.108(2), 135.108(3), 135.110, 135.110(1)"b" ARC 7945 *N.F.F.* 9/23/87

## Chs 38-42

Eure explained amendments to rules pertaining to radiation machines and radioactive materials. He summarized changes which had been the subject of a hearing held October 13. Priebe referred to the definition of misadministration in 40.20(4) and wondered if there would be liability. Eure responded in the affirmative. The language was copied from the federal nuclear regulations. Priebe and Royce envisioned problems with the language and asked Eure to study the provision. Priebe was concerned about protection for the general public and did not want the physician to be "let off the hook."

## 40.20(4)

38.13(1)c

Tieden referred to 38.13(1)c 6, which allowed "other equipment fees to be determined on a case-by-case basis." Royce saw no problem in such a technical area. Doyle recommended a guideline of "not less than \$20, nor more than \$200." Royce wanted assurance that a rule could not change after someone had filed an application. Eure could not envision problems but was willing to incorporate Doyle's suggestion. If problems occur in the future, the Department would submit a rule before making changes. Eure advised Clark that a facility could have three X-ray tubes and he would revise 38.13(1)b to clarify that a fee of \$25 would be imposed for each tube.

Medical  
Examiners

According to Brinkman, fees would be increased to cover the cost of two investigators authorized by the legislature. No action.

PROFESSIONAL  
LICENSURE

Irene Howard presented the following:  
Board of speech pathology and audiology examiners — continuing education requirements, 156.1, 156.2(2), 156.2(6), 156.3(2)"b," 156.4, 156.4(1)"b" to "d," 156.4(2), 156.4(3), 156.5, 156.6, 156.101, 156.103, transfer 470—ch 156 to 645—ch 301 ARC 7910, also filed emergency ARC 7911 *N.F.F.* 9/9/87

PROFESSIONAL  
LICENSURE  
Continued

Doyle questioned the emergency filing and Howard pointed out that the two-year compliance period began September 1, 1987, and the Board meets only every two or three months.

Burnett had discouraged the emergency filing but Royce saw no problem since the process was simplified. Chairman Priebe reiterated Committee opposition to emergency rules, in general. No action.

Recess

Committee was in recess at 10:35 a.m. and reconvened at 10:55 a.m.

PUBLIC  
SAFETY  
DEPARTMENT

Michael R. Coveyou, Lynelle Sanders, Mary Moris, and Wilbur Johnson were present for the following:

Electrical rules and regulations, 16.200 ARC 7946 ..... 9/23/87  
Amend and transfer 680—chs 1 to 19 to 661—chs 1 to 19 and 630—ch 12 to 661—ch 20 ARC 7962 ..... 9/23/87

Coveyou gave brief overview of 16.200. No questions.

Clark recommended consolidation of the definition of "fire marshal" in amendments to Chapter 5 and Johnson agreed to review the matter.

4.1(5)

In re 4.1(5), Doyle was concerned as to whether DOT and parole officers could prove the burden of "convincing evidence." He referred to 3.10--accessories--and asked whether or not electric shocks were being carried. Coveyou agreed to research.

Johnson advised that a list of combustible materials would become effective in 1990 as a result of recent legislation. No formal action.

REVENUE &  
FINANCE  
DEPARTMENT

John Christensen and Ed Henderson represented the Department of Revenue and Finance. The agenda follows.

State board of tax review — administration, 1.2 ARC 7960 ..... 9/23/87  
Administration, taxable and exempt sales determined by method of transaction or usage, 11.2, 18.46  
ARC 7957 ..... 9/23/87  
Rental of mobile homes that are not tangible personal property, 18.40, 26.18(2), 103.1(2) ARC 7914 ..... 9/9/87  
Purchases of food for human consumption subject to tax, 20.1, 20.1(1)"b" to "d," 20.1(3), 20.1(3)"a" and "b," 20.2  
ARC 7915 ..... 9/9/87  
Minimum taxes — corporation income and franchise tax, income from regulated investment companies, 51.1(4),  
52.4(5), 52.6, 53.6, 53.11(4), 57.1(3), 58.5, 59.6, 59.8(4), 59.9, name change ARC 7916 ..... 9/9/87  
Semiannual mobile home tax, 74.4(3), 74.4(4) ARC 7913 ..... 9/9/87  
Tobacco tax audit, assessment, and appeal periods, 81.4, 81.8(2)"c," 81.11(2), 83.7 ARC 7961 ..... 9/23/87

No questions re 1.2, 11.2 or 18.46.

18.40

There was general discussion of sales tax liability and the fact that many people may not be aware of all circumstances when permits are necessary. Clark referred to 18.40--renting of rooms--and posed a question re sales tax. If an organization, for fund raising, provided bed and breakfast throughout the U.S., would they file? Christensen was not sure there was sales tax for bed and breakfast operation. Clark requested interpretation when the operation would be a fund raiser. Department officials indicated they were considering revision of amendments to Chapter 20 as a result of written comments from

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REVENUE &  
FINANCE

retailers who use automatic scanners. Additional information is being gathered.

51.1 et al.

No questions were posed re 51.1 et al., 74.4 or 81.4 et al.

SOIL  
CONSERVATION

Bill McGill was present for review of Iowa financial incentive for soil erosion control, 5.41, ARC 7952, Filed, IAB 9-23-87. There was brief discussion but no action re history of the rule.

AGRICULTURE  
& LAND  
STEWARDSHIP

John Whipple represented the Department for groundwater protection fee, 8.7, ARC 7956, Filed, IAB 9-23-87. He noted there had been no comments or complaints. No action.

UTILITIES  
DIVISION OF  
COMMERCE

Ray Vawter and Diane Munns represented Utilities Division for review of:

COMMERCE DEPARTMENT(161)"umbrella"  
Rates for purchases from qualifying alternate energy and small hydro facilities, 15.12(2)"b." filed emergency  
ARC 7954 ..... 9/23/87

Munns indicated that 15.12(2)b removed rate which was held invalid by the Iowa Supreme Court. Tabor was told there would be rule making to set rates for alternate energy producers.

ELDER  
AFFAIRS

Betty Grandquist appeared for Elder Affairs to review the following:

Amendments to chs 1, 2, 3, 5, 6, 8, and 9 ARC 7895, also  
filed emergency ARC 7896 ..... 9/9/87

Also present: Blaine Donaldson.

Priebe viewed new language to allow waiver of membership restrictions in 9.2(3) to be "wide open." He thought the procedures should be spelled out. Grandquist responded that these would need to be adopted by the Commission on Elder Affairs but she was amenable to the suggestion.

Donaldson thought the provision was relative to Care Review Committee membership in 9.1(2). Grandquist expressed the importance of local residents serving on Care Review Committees.

No Agency  
Reps

No recommendations were offered for the following:

ATTORNEY GENERAL(61)  
Regulation of membership campground operators, ch 25 ARC 7899 ..... 9/9/87  
LABOR SERVICES DIVISION(347)  
EMPLOYMENT SERVICES DEPARTMENT(341)"umbrella"  
Fees, ch 42 ARC 7920 ..... 9/9/87  
Hazardous chemicals risks right to know, 110.1(1), 110.1(7), 110.1(8), 110.2, 110.3(3), 110.3(5)"d.", 110.4(2),  
110.4(3), 110.5(2)"a"(3)"2" and "3.", 110.5(2)"g.", 110.5(2)"j.", 110.5(5) to 110.5(7), 110.6(3), 110.6(3)"b"(3),  
110.6(3)"c"(2), 110.6(11), 110.7, 120.3, 120.6(2)"b.", 120.6(5), 120.10 to 120.12, 130.1, 130.11, 140.9 ARC 7925 ..... 9/9/87  
RACING AND GAMING DIVISION(195)  
COMMERCE DEPARTMENT(161)"umbrella"  
Practice and procedure before the department of commerce, division of racing and gaming, procedure for rule  
making, chs 18 and 19 ARC 7902 ..... 9/9/87  
Amendments to 195—chs 18 to 24, transfer 195—chs 1 to 25 to 491—chs 1 to 25 ARC 7883 ..... 9/9/87

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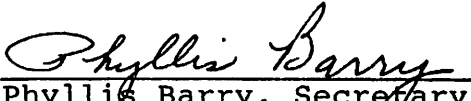
Next  
Meeting

The next meeting was scheduled for November 17 and  
18, 1987.

Adjourned

Chairman Priebe adjourned the meeting at 1:25 p.m.

Respectfully submitted,

  
Phyllis Barry, Secretary  
Assisted by Vivian Haag

APPROVED:

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CHAIRMAN