

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 Tuesday and Wednesday, December 5 and 6, 1989, Committee Room 22, State Capitol, Des Moines, Iowa. This meeting was held in lieu of the statutory date of December 12, 1989.

Members Present

Senator Berl E. Priebe, Chairman; Representative Emil S. Pavich, Vice Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representatives David Schrader and Betty Jean Clark. Staff present: Joseph A. Royce, Counsel; Phyllis Barry, Administrative Code Editor; Vivian Haag, Executive Secretary. Also present: Barbara Burnett, Governor's Administrative Rules Coordinator; Evelyn Hawthorne, Democratic Caucus.

Convened

Chairman Priebe convened the meeting at 10:05 a.m., December 5, and called for review of rules of the Human Services Department.

HUMAN SERVICE DEPARTMENT

Mary Ann Walker, C. S. Ballinger, Mary Helen Cogley, Lucinda Wonderlich, Anita Smith, Kathie Kellen and Debborah Ozga were present for consideration of the following:

Fair hearings and appeals, recoupment, 75.6(6), ch 46 title, 46.3, 46.8, Notice ARC 385A 11/15/89
Public records and fair information practices, 9.12(2)b(8), Filed ARC 352A 11/1/89
Conditions of eligibility, 75.1(2), 75.1(16), 75.19, Notice ARC 354A, also Filed Emergency ARC 355A 11/1/89
Conditions of eligibility, 75.1(11), 75.1(19), 75.1(31), 75.1(32), Notice ARC 386A 11/15/89
Administration of Medicaid program, 75.1(15)a, "c," and "e," 75.1(20), 75.1(22), 75.1(26)"e" and "g," 75.1(28)"a" and "g," 75.13(1), 75.11(2), 86.8, Filed ARC 353A 11/1/89
Amount, duration and scope of medical and remedial services, 78.16(6), 78.28(8), 78.28(9), 78.31(4)"a"(8), 78.31(1)"b"(7), 78.31(4)"c"(8), 78.31(4)"d"(10), 78.31(4)"e"(7), 78.31(4)"f"(6), 78.31(4)"g"(7), Filed ARC 357A 11/1/89
Rehabilitation agencies, 78.19, Notice ARC 389A 11/15/89
Intermediate care facilities, 81.1(6), 81.13(7)"j," Notice ARC 388A 11/15/89
Collections, 95.1, 95.3, Notice ARC 359A 11/1/89
Court-ordered care and treatment, ch 151, rescind ch 209, Filed ARC 356A 11/1/89
Elderly waiver services program, 77.33, 78.37, 79.1(2), 80.2(2)"gr," 83.21 to 83.30, Notice ARC 475A 11/29/89

7.5(6)

There was discussion of 7.5(6) et al., which revises procedures by which ADC overpayments are recovered. The client may appeal an overpayment at the time the overpayment is determined. Also, the amendments will provide better coordination of ADC and Food Stamp recovery activities. No comments on 9.12(2)b(8).

9.12

75.1
75.19

Walker stated that amendments to 75.1 and 75.19 were federally mandated. They allow ADC-related Medicaid-only clients to voluntarily exclude certain household members from the Medicaid eligibility determination.

Walker explained that amendments to 75.1(11) et al. address eligibility criteria for the 12 months of extended Medicaid eligibility for persons who lose Aid to Dependent Children (ADC) eligibility--because of increased earnings and loss of the earned income disregards beginning April 1, 1990. The revisions will be more restrictive than the current regulations. Additionally, during the second six months of the extended period, income cannot exceed 185 percent of poverty.

HUMAN
SERVICES
Cont'd
75.1(15)

According to Walker, revisions in 75.1(15) et al. would implement changes to the Medicaid program. Federal regulations mandate that the newborn child of a Medicaid-eligible mother is automatically eligible for Medicaid, without an application, through the month of the child's first birthday as long as the child continues to live with the mother and the mother remains continuously eligible for Medicaid. However, after the year of deemed eligibility has expired, an application must be filed and the child must be determined eligible under an existing Medicaid coverage group. Currently, the Medically Needy Program has a two-month certification period for persons with a spenddown and a six-month certification period for persons with no spenddown. Also, amendments provide that the Department will provide Medicaid for refugees who are required to meet a spenddown in the same manner as eligible nonrefugees.

75.1(28) Priebe asked about the source of 75.1(28)a which provided, "family income shall not exceed 185 percent of the federal poverty level" and Smith responded that it was federal regulation--a family of two at 100 percent of poverty would receive \$668 monthly, and 185 percent of poverty would be \$1191. Walker interjected that the 185 percent was applicable for pregnant women--the children would still be at 100 percent. Walker agreed to provide more information on the program.

78.16 No recommendations were offered for 78.16 et al. Walker
78.19 said that revised 78.19, relative to policies for payment of rehabilitation services, was based on the requirements of the Medicare program with some differences. Ballinger advised Priebe that the Department generally adheres to Medicare policy but lists areas where they depart from federal provisions. No Committee action.

81.10, Discussion of proposed amendments to 81.10(5) and
81.13 81.13(7) which will clarify "supplementation" as applied to intermediate care facilities. These facilities will be required to execute separate written contracts for pharmaceutical vendor services and consultant pharmacist services. Royce advised that an Attorney General's Opinion was pending on this issue. He added that Blaine Donaldson, Care Facility Administrator, had called to voice concern regarding the fiscal impact of the rules.

Priebe thought the Committee should request an Economic Impact Statement. Walker pointed out that current policy was not changing. Kellen reported that many nursing homes are including transportation in their cost report. Department officials had no statistics as to the number of homes involved but would request them from the accounting firm. Priebe discussed the levels of pay in Minnesota and the fact that they are attracting Iowa-trained staff. He concluded that private-pay patients must bear the burden. It was his opinion that Title XIX should pay more.

HUMAN
SERVICES
Cont'd

There was discussion of the fact that increased cost to the facility would also raise the 74 percentile. Walker indicated the Department would wait for the AG Opinion before taking final action and that they would provide statistics.

95.1, 95.3 No recommendation regarding 95.1 and 95.3.

Ch 151
Ch 209

In review of Chapter 151, Walker said the Department received complaints from two counties who contended that salaries should be paid to officials who transport the juveniles. She added that neither the Code nor the previous rules allow for such salaries.

77.33 et al. Walker explained that the elderly waiver service program would be limited to Cerro Gordo, Decatur, Fayette, Keokuk, Linn, Ringgold and Scott Counties which have been operating long-term care coordinating units. No Committee action.

NATURAL
RESOURCES
DEPARTMENT

The following rules of the Natural Resource Department were before the Committee:

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[601] "umbrella"

Wildlife habitat on private lands promotion program, 22.1, 22.3, 22.4(2), 22.5, 22.5(1) to 22.5(3), 22.5(5), 22.5(6), 22.6(1), 22.6(3), 22.6(6), 22.6(7), Notice ARC 409A	11/15/89
Wildlife habitat promotion with local entities program, 23.5(1), 23.6(3), 23.7(3), 23.13, Filed ARC 370A	11/1/89
State migratory waterfowl, trout, and habitat stamp design contests, ch 9, Notice ARC 443A	11/29/89
Recreation/tourism grants to county conservation boards; unique or unusual natural areas, acquisition cost-share program; resource enhancement and protection program; county, city and private open spaces grant programs, rescind chs 24 and 29; new ch 33, Filed Emergency After Notice ARC 439A	11/29/89
Lands and waters conservation fund program, 27.5(1), 27.6(3), 27.6(4), Notice ARC 445A	11/29/89
Resource enhancement and protection program; county, city and private open spaces grant programs, ch 33, Notice ARC 446A	11/29/89
Speed restrictions on the Mississippi River, Jackson County at Spruce Creek County Park, 40.33, Notice ARC 444A	11/29/89
Mussel regulations, 87.1(1), 87.1(2), Filed ARC 442A	11/29/89

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[601] "umbrella"

Controlling pollution, 22.4(1), Notice ARC 412A	11/15/89
Requirements for properly plugging abandoned wells, ch 39, Notice ARC 411A	11/15/89
General requirements relating to solid waste disposal, 101.3, Notice ARC 410A	11/15/89

ENERGY AND GEOLOGICAL RESOURCES DIVISION[565]

NATURAL RESOURCES DEPARTMENT[601] "umbrella"

School energy bank program for school districts, merged area schools and area education agencies, ch 6, Notice ARC 441A	11/29/89
---	----------

Those in attendance were Bernice Hostetler, Arnie Sohn, Stephen Derrmand, Jim Combs, Victor Kennedy, Richard Bishop, Randall Clark, Darrell McAllister, Mark Landa, Pete Hamlin, Terry Jennings, and Paul Erickson, all representing the Department. Also present: Don Brazelton, Executive Secretary, Iowa Association of County Conservation Boards.

NRC

Bishop described amendments to Chapter 22 as procedures by which revenues from the sale of wildlife habitat stamps and the income tax checkoff would be used to assist land-owners in establishing wildlife habitat on private lands and to cost-share these developments with other conservation groups. He stressed the importance of long-term cover and "food plots" for wildlife, especially in northern Iowa. Bishop continued that the Department will reduce financial involvement for the plots and Pheasants Forever will make up the difference.

NATURAL
RESOURCES
Cont'd

Discussion of guidelines for shelter belts and CRP fields. In response to Schrader, Bishop stated that cost share was limited to the "plan"--no payment for the land is taken out. Bishop confirmed that trees around a farmhouse would be a "shelter belt." It was Priebe's opinion that CRP had been very successful in protecting pheasants. Bishop informed Schrader that \$120,000 had been set aside for the habitat program--\$80,000 from the habitat stamp income and \$40,000 from chickadee checkoff. Money will revert to the land acquisition fund. He added that positive action on private land in northern Iowa must be taken in order to hold the pheasant population and to benefit nongame wildlife. The program will benefit farmers.

Sohn briefed the Committee with respect to amendments to Chapter 23 which spell out conditions under which county conservation boards may retain and utilize the income received from programs such as the Conservation Reserve Program on lands acquired with Wildlife Habitat Stamp Fund Assistance. Suggestions from two county directors were incorporated to retain income received from a cost-shared property if that income is invested in approved habitat improvements or additional acquisition on the property. Also, if such improvement plans are not submitted and approved, the county in receipt of income must reimburse the Habitat Stamp Fund only 75 percent of income received in consideration of the fact that the original cost-sharing on the acquisition was 75 percent state funds and 25 percent local funds.

Sohn advised Priebe that none of the money is given to private organizations such as Isaac Walton. Sohn agreed to provide Tieden explanation on the habitat stamp shortage.

- Ch 9 According to Combs, revised Chapter 9 restructures the manner in which state migratory waterfowl, trout and habitat stamp design contests are to be conducted. Hopefully, more interest will be generated.

- Ch 33 Combs provided history on the REAP rule making. Compromise language was being adopted under emergency provisions in order to implement the grant programs in counties, cities and private organizations as quickly as possible.
- 33.40 Clark questioned basis for grant ceilings in 33.40(3). Combs responded that the Economic Development Department provides population lists of various cities in the state and DNR follows basic concepts from other grant programs.

- 33.30(1) Priebe questioned percentages in allocation of the first \$350,000 in the resource enhancement and protection fund --33.30(1). Combs responded that the amounts were taken from the statute.

NATURAL
RESOURCES
Cont'd

Schrader was interested in county reaction as to eligibility phasing in until 1992 and dedicating property tax revenue of 22 cents per thousand of taxable property to conservation purposes, etc.

Brazelton estimated that 40 percent of the counties were not at the 22 cents level. Under the revised rules, there will be two budget cycles to reach that level but some counties will not succeed. A majority of the grantees believe that 22 cents is realistic. There was discussion of 33.11 relative to Commission review and approval.

33.11

27.5, 27.6 In review of proposed amendments to rules 27.5 and 27.6, Hostetler stated that changes focus on the review and scoring system as requested by the National Park Service. Funding of approximately \$250,000 is from the Park Service.

Clark observed use of the acronym "SCORP" priorities and suggested that it be defined in the rules.

40.33

Dermand noted that proposed rule 40.33 was a request from the Jackson County Conservation Board to establish a five-mile-per-hour speed restriction for safety reasons on an area of the Mississippi River just adjacent to the Spruce Creek County Park. Discussion of the fact that water officers find enforcement of an actual speed restriction easier than a "no wake" restriction.

87.1

Jennings explained one change from the Notice of amendments to 87.1. Size limitations were removed from the dead shell of species open to commercial harvest. No Committee action.

ENVIRON-
MENTAL
PROTECTION
22.4

Landa stated that the Department was proposing to adopt the most recent revisions to the EPA "Guideline to Air Quality Models" in 22.4(1). Schrader noted that the subrule stated that certain provisions were not adopted by reference. Landa stated that the Department lacks resources or, in some instances, authority to adopt certain portions referenced. The subrule deals with the program as a whole.

Ch 39

Randy Clark explained that revision of Chapter 39 was made due to statutory changes in the different classes of wells. The overall goal of the Department was the protection of groundwater, by permanently sealing off each contamination to each individual aquifer.

Priebe referred to the definition of "abandoned well" and wondered who would make decision as to the state of disrepair. He favored a provision to allow a well in disrepair to be repaired rather than closed. R. Clark interjected that it was not their intent to require those wells to be closed. Schrader reasoned that these wells would come under the definition of "standby wells" and suggested clarification.

NATURAL
RESOURCES
EPC cont'd
39.8(1)

McAllister explained "static water level." Tieden asked who would decide practicality of removing obstructions before well plugging--39.8(1). McAllister advised that it would be the person filling the well. The filling material varies with the type of well. R. Clark spoke of the difficulty in addressing all possible situations by rule, thus, the broad language.

Priebe questioned definition of "gravel" as meaning "class B stone." McAllister thought this would help to identify the type of gravel and he assumed that the term was used in the industry. However, he agreed to research the matter and make any necessary modification. There was discussion as to the different classes of wells which are spelled out in the statute.

101.3

Landa and Hamlin reviewed amendments to 101.3 which will authorize the onsite disposal of certain farm waste on farm property without a permit.

Priebe had received calls regarding scabies. It was his understanding that rendering works would no longer take these animals. Hamlin recalled a deluge of calls last summer when rendering works at Clinton refused to take dead animals. The Department decided to draft a rule that would allow the onsite burial of farm animals and input was sought from several farm organizations, including the Farm Bureau. The "Noah's Ark" rule was proposed when no workable solution was forthcoming--two species of animals per farm, per month. Hamlin continued that yesterday, the farm organizations submitted a proposal that has a great deal of merit. Basically, the number of animals that can be disposed of would depend upon the nitrogen loadings that would be added to the soil. For instance, they could allow 7 feeder cattle, 44 swine, 73 sheep or 400 poultry carcasses per acre per year. Hamlin added that these animals cannot be legally burned.

Department officials pointed out conflicting statutory authority--open burning restrictions precluded burning the carcasses but a Department of Agriculture law specifically provides for disposal by burning or burial. Priebe mentioned the problem of frozen ground and Hamlin recommended use of some heavy equipment that can break frost. In response to a question from Tieden regarding disposal of dead hogs, Hamlin stated that variances can be granted in catastrophic situations such as a scabies outbreak, etc. However, the Department would be reluctant to grant variances to the open-burning regulations.

Schrader indicated that the proposed rule was acceptable to people with whom he spoke. It seemed preferable to him to stick very close to the "parameters set out in the rules." Landa pointed out that the comments being received from the public would be presented to the Commission.

NATURAL
RESOURCES
EPC cont'd

Priebe read from the introductory language of 101.3 and asked if the Director could approve the disposal of solid waste by signing the permit. Landa responded that the Director has specific rules regarding the permitting of solid waste sanitary disposal projects, and these cover a wide range of projects from the general Metro landfill to those that accept a specific type of waste. Landa advised Priebe that cement was rubble and a permit to dump would not be required.

23.5

Chairman Priebe called up 567--23.5 with respect to permit procedure for anaerobic lagoons and slurry storage basins. McAllister stated that an anaerobic lagoon was used to stabilize the organic waste going into it. Some treatment is expected to reduce the volume. The storage basin is intended as a temporary holding area for waste and should be cleaned out on a regular basis.

It was noted that anaerobic lagoons are subject to siting criteria which includes separation distances from occupied dwellings. Slurry storage basins do not come under the definition of lagoons and distance regulations are not applicable. Priebe had received complaints that basins were creating offensive odors. There was discussion of proper maintenance of the lagoons and basins. Suggestion was made that the statutes and rules be reviewed by the Legislature to determine if anaerobic lagoons and slurry storage basins should have similar controls.

Motion

Pavich so moved and Tieden seconded. Carried unanimously.

Pavich took the Chair.

ENERGY AND
GEOLOGICAL
RESOURCES
565--Ch 6

Erickson told the Committee that proposed Chapter 6 would implement S.F. 419 [Code Supplement, §93.13A]. Erickson concurred with Clark that "and other sources" should read "or..." in 6.6(2)a relative to funding sources. Erickson described "paraprofessional" as being "partial technician and partial professional"--it is a credential.

Schrader and Erickson discussed the program service fee in 6.6(6). Erickson said that the Department has encouraged schools to implement improvements on their own schedule. The DNR fee is determined on a building-by-building basis. If schools lack means to make needed improvements, the Department offers this program and the school district pays them out of energy savings.

REGENTS
BOARD

The following rules of the Board of Regents were presented by R. Wayne Richey, Roger Maxwell, and Marcia Peters:

College bound program, 1.6. Notice ARC 360A 11/1/89
Personnel administration, 3.26, 3.67(1)"b." Notice ARC 406A 11/13/89

REGENTS
BOARD
1.6

Richey stated that the Regents Board was designated by statute to be the lead in offering college-bound programs to minority youth--1.6. He added that students having a voucher would get preference over a student who did not. However, if the circumstances were unequal in terms of needy or academic potential, the college voucher would not necessarily give them preference.

Clark questioned the need for "the equivalent of" in the definition of "part-time student." Richey commented that the Board wanted to avoid defining unusual arrangements relative to time and credit in the rules.

3.26, 3.67

According to Peters, amendments to 3.26 and 3.67 were similar to the federal Civil Service System and would keep their registers flexible. No Committee action.

IOWA
FINANCE
AUTHORITY

The Iowa Finance Authority was represented by Kent Powell, Deputy Director, and Bruce Ray for review of 524--14.3, homeless shelter assistance program, published under Notice as ARC 372A, 11/1/89 IAB. The rule reflects the expansion of available activities eligible for funding. There were no comments.

UTILITIES
DIVISION

The Utilities Division was represented by Diane Munns, Vicki Place, Anne Preziosi, and Cindy Dilley, and the following agenda was considered:

COMMERCE DEPARTMENT (HOT) "umbrella"
Income taxes on construction advances, 19.3(10)"a," 20.3(13)"a," 21.3(5)"a," 22.3(7). Notice ARC 375A 11/1/89
Energy conservation strategies and programs, 19.9, 20.10. Notice ARC 9771 ~~Terminated~~ ARC 415A 11/15/89
Fire protection costs, 21.8. Notice ARC 462A 11/29/89
Filing of annual reports, 23.1(2). Notice ARC 461A 11/29/89
Complaint procedures, 6.5(1), 19.4(1)"i," 20.4(2), 21.4(1)"f," 22.4(1)"b," Notice ARC 460A 11/29/89

No Committee recommendations for amendments to 19.3(10) et al., 19.9 or 20.10.

21.8

Preziosi stated that new rule 21.8 would implement 1989 Iowa Acts, chapter 23, section 29, which allows cities furnished water by a public utility subject to rate regulation to apply to the Utilities Board for the inclusion of all or a part of the costs of fire protection in the utility's rates or charges assessed to consumers covered by the applicant's fire protection service. No questions.

23.1

Preziosi said that amendment to 23.1(2) was suggested by the Iowa Public Service Company and would change the filing date for annual reports of gas and electric utilities from April 1 to April 30.

No Committee recommendations re complaint procedures in 6.5(1), 19.4(1) et al.

Recess
Reconvened

Chairman Priebe recessed the Committee at 12:05 p.m. for lunch. Reconvened at 1:35 p.m.

ATTORNEY
GENERAL

Amy Anderson, Assistant Attorney General, and Marti Anderson, Administrator, Crime Victim Assistance Board, explained the following rules:

ATTORNEY
GENERAL
Cont'd

Crime victim reparation, 9.25 to 9.37, Filed ARC 421A 11/15/89
Claimant's right to appeal, 9.37, Notice ARC 422A 11/15/89

Tieden referred to 9.36 pertaining to right to action against perpetrator in subrogation. He expressed the opinion that various rates throughout the state would "lead to chaos." He wondered if the rule would usurp the Court's authority.

Anderson stated that legislation was planned to clarify the right to restitution when a claim has been paid out to the perpetrator's victim. They have been working with the Association of County Attorneys to set up a uniform system of classification. The Department will seek legislation to allow medical costs associated with simple misdemeanors.

9.37 With respect to the claimant's right to appeal in 9.37, Anderson stated that this rule was not included in the original proposal so was noticed separately to allow additional opportunity for public comment.

CREDIT
UNION
DIVISION

James Forney, Superintendent, and Joan Bolin, Assistant Attorney General, appeared for the following:

COMMERCE DEPARTMENT (1981) "umbrella"
Organization, chartering and field of membership of a credit union, ch 2, rescind ch 5, Notice ARC 413A 11/15/89
Examination and supervision fees, ch 3, Notice ARC 362A 11/14/89
Accounts, ch 8, Notice ARC 414A 11/15/89
Investigations, ch 14, Notice ARC 416A 11/15/89

2.3 Bolin cited Code section 533.1 as the basis for the last sentence of 2.3 regarding applicants for charter. Clark
2.4 wondered if 2.4(1)--types of common bond--went beyond what was intended for credit unions. Forney cited Code section 533.5 as their authority. It was Clark's opinion that a law change was needed.

2.12 Clark raised question in 2.12(13) as to costs of the hearing to be paid by the requester. Bolin thought the point was well taken and she agreed to discuss the matter with the Board.

Ch 3 According to Forney, the fees set out in Chapter 3 had not been updated for 15 years. No Committee recommendations.

Ch 8 Discussion of Chapter 8 intended to clarify the types of accounts permitted for state-chartered credit unions. The rules were modeled after the federal regulation.

Ch 14 Forney stated that new Chapter 14 would clarify practices of the Division relative to investigations. Priebe questioned 14.5 pertaining to action following investigation: "After investigation or otherwise, the division may in its discretion..." Bolin was willing to delete "may in its discretion" to avoid inconsistency.

CORRECTIONS DEPARTMENT Corrections Department was represented by Fred Scaletta and the following rules were reviewed:

CORRECTIONS
DEPARTMENT
Cont'd

Iowa medical and classification center - visiting, 27.2, Notice ARC 459A 11/29/89
Riverview release center - visiting, 28.2, Notice ARC 458A, also Filed Emergency ARC 457A 11/29/89

Amendment to 27.2 will clarify inmate visitation times for different programs and security levels. Visiting hours will be reduced in some areas but the total number of visiting days and hours remains the same. Clark asked about a volunteer staff program and Scaletta cited lack of funds to train them.

28.2

Scaletta said that amendments to 28.2 revise visiting hours to accommodate a new 25-bed drug treatment unit. An already overcrowded institution has created staffing problems. One change will allow for some visiting in the evening.

ECONOMIC
DEVELOPMENT
DEPARTMENT

The Economic Development Department was represented by Melanie Johnson, Lane Palmer, Mike Miller and Donna Lowery. The agenda follows.

Iowa corps, 14.5, Filed ARC 426A 11/15/89
Child care grants program, Iowa export finance interest buy-down program, ambassador's program, rescind chs
20, 56, 57, Filed ARC 427A 11/16/89
CDBG program, 23.6(3), Filed Emergency ARC 382A 11/15/89
Targeted small business financial assistance program, ch 27, Notice ARC 429A 11/16/89
Rural main street program, ch 42, Filed ARC 428A 11/15/89
Iowa targeted small business procurement program, ch 54 title, 54.1, 54.2, 54.3(2), 54.3(3), 54.3(6), 54.4, 54.10,
54.11, 54.12(1), 54.13(1), 54.14, 54.15, Notice ARC 425A 11/16/89
Rural enterprise fund, ch 67, Notice ARC 424A 11/15/89

Johnson explained that existing rule 261--14.5(15), entitled "Volunteer component," has been replaced by "Iowa corps," to implement 1989 Acts, chapter 28. Students may earn up to \$500 tuition credit for volunteer work. A public hearing resulted in no comments but ARRC recommendations have been incorporated. The number of project hours was reduced from 130 to 100 and the definition of "project" was changed to provide for a series of smaller ones. Pavich in the Chair.

The weights assigned to the evaluation criteria were redistributed to place more emphasis on certain criteria--14.5(5)a.

Chs 20, 56,
57

No questions on rescission of Chapters 20, 56 and 57. Brief discussion of amendment to 23.6(3) which reinstates specific references to fiscal years 1989 and 1990 to clarify the drought relief provision.

Motion to
Lift
Objection

Schrader moved to lift the objection which the Committee had imposed on 23.6(3) at its October meeting. Motion carried.

Ch 27

Miller explained Chapter 27 which establishes: (1) a rating point system, (2) eligible-ineligible uses of funds, (3) requirements for certification as a targeted small business prior to application for funds, and (4) minimum levels of owner participation in the project.

In response to question by Clark regarding hours for full-time employment, Miller stated that the main purpose for specification of hours had to do with the

ECONOMIC
DEVELOPMENT
Cont'd

number of employees and whether an operation qualifies as a small business. Small business is defined as one having 20 or fewer employees.

Ch 42

No questions on Chapter 42.

Ch 54

Johnson said that Chapter 54 was being amended to comply with a U.S. Supreme Court decision. References to set-asides will be eliminated--they now have to establish targets.

Ch 67

No Committee questions re Chapters 54 or 67.

COMMUNITY
ACTION
AGENCIES
DIVISION

Jim Smith, Division Administrator, submitted proposed amendment to 427--22.3(2) on community services block grant, published as ARC 383A, 11/15/89 IAB. No questions.

AGRICUL-
TURAL
DEVELOPMENT
AUTHORITY

The Agricultural Development Authority was represented by William Greiner, Executive Director, and the following was considered:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT "umbrella"
Individual agricultural development bond program, 2.1, 2.11, rescind 2.13, Notice ARC 363A 11/1/89

No questions.

AGRICULTURE
& LAND
STEWARDSHIP
DEPARTMENT

The following rules of Agriculture were before the Committee:

Rural revitalization program, 10.2 to 10.4, 10.15, Filed Emergency After Notice ARC 358A 11/1/89
Pesticides--applicator certification, 45.1, 45.22, 45.49, Filed ARC 391A 11/15/89
Pesticides--registration fees, 45.3(1) to 45.3(6), Filed ARC 393A 11/15/89
Reporting of pesticide sales, dealer license fees, 46.47, 46.48, Filed ARC 392A 11/15/89
Notification requirements for urban pesticide applications, 46.50, Filed ARC 394A 11/15/89
Organic food production, ch 47, Filed ARC 435A 11/29/89
Pesticide advisory committee, ch 48, Filed ARC 434A 11/29/89

Those in attendance included Darrell Frey, Charles Eckermann and William Greiner.

Ch 10

No recommendations were offered on amendments to Chapter 10. Priebe in the Chair.

Ch 45

Frey provided history on rule making relative to pesticides. He reviewed changes which were a result of numerous public hearings. Frey assured Priebe that the Department has the authority to require six hours of Continuing Education for applicators--45.22(5). Tieden asked who were the providers of CE and Frey mentioned the Iowa State Extension Service, the Fertilizer and Chemical Association which provides some CE for its members, and individual dealers with approved programs. Frey pointed out that 45.49, pesticide use recommendations, was amended to make the employer responsible for employee recommendations which are contrary to label instructions.

Tieden voiced concern for private applicators re notification for renewal. Eckermann explained that the Department was currently providing the County

AGRICULTURE
& LAND
STEWARDSHIP
Cont'd

45.22

Extension offices with a listing of the private applicators whose certifications expire. That list is used to advertise their training program. Frey agreed to study ways to improve the notification system. Priebe and Frey discussed the procedure for oral certification examination--45.22(11). As a prerequisite for an oral exam, the Agriculture Secretary may require the applicant to attend a private applicator training program sponsored by the Iowa State University Cooperative Extension Service. Frey stressed the importance of the applicant being adequately prepared for the oral examination because of the amount of time required to administer it. Priebe wanted to avoid discriminating practice. Royce saw no problem with the rule. Frey clarified that the Department administers the test. The applicator training is done through Iowa State University with the Department of Agriculture contributing \$150,000 to \$200,000 per year. The entire certification training program is through the Environmental Protection Agency.

45.3

The language addressing discontinued pesticides was clarified so that these products in their original containers shall be accepted for return by the manufacturer. It is the manufacturer who registers the product, and if that registration has been discontinued, the manufacturer has a responsibility to take back the pesticide products.

45.47

According to Frye, rule 45.47 was refined as to dealer reporting requirements. The word "type" was deleted after "pesticide."

45.50

Frye summarized changes in notification requirements for urban pesticide applications--45.50. Frey mentioned that changes included deletion of requirement for verbal notification to adjoining landowners that a pesticide was being applied. Clark observed that measurements for the notification signs were not uniform. Frey pointed out that signs in rights-of-way are more visible from the road. No comments re 45.50(7).

45.50

45.22

Frye called attention to an incorrect reference in 45.22(2)b--"206.6" should read "206.13." No questions on Chapter 47.

Ch 47

48.1

Frey agreed to add the word "Department" before "office hours" in 48.1(1). Also, he was willing to reword 48.4 to provide that "a majority of those on the advisory committee" would be necessary to pass a motion for any official business to be conducted.

REVENUE AND
FINANCE
DEPARTMENT

The Revenue and Finance Department was represented by Carl Castelda, Deputy Director, and Ed Henderson.

The following agenda was considered:

12-5-89

REVENUE AND
FINANCE
Cont'd

Magnetic tape and diskette reporting, 8.31, 8.32, Notice ARC 418A 11/15/89
Sales tax--irrigation, 18.52, Filed ARC 408A 11/15/89
Corporation and franchise tax--apportionment, 52.1(2), 52.1(3), 52.5(2), 53.1, 53.3(1), 53.13, 53.15(7), 54.2(2),
54.6(3)"b"(3), 54.6(6), 54.7(2), 58.5(2), 59.1, 59.13, Filed ARC 420A 11/15/89
Allocation and apportionment, 59.25 to 59.29, Filed ARC 423A 11/15/89
Property tax, 72.12, 73.21, 74.1, ch 75, 79.5(1), 80.1(1)"a", 80.10, Filed ARC 419A 11/15/89
Estate tax, 87.3(9) to 87.3(12), Filed ARC 373A 11/15/89
Local option sales and service tax, 107.9, 107.10, Filed ARC 407A 11/15/89
Administration, 11.1, Filed ARC 453A 11/29/89
Sale or rental of industrial machinery, equipment or computers used in recycling or reprocessing of waste
products--exemption, 18.45, 18.45(1), 18.45(2)"a", 18.45(8), Notice ARC 456A 11/29/89
Administration of the environmental protection charge imposed upon petroleum diminution, 37.1, 37.8,
forms, Filed ARC 455A 11/29/89
Composite returns, 48.4, 48.6, 48.7, Filed ARC 454A 11/29/89
Determination of net income, 53.2(5), 59.2(5), 59.13, Notice ARC 249A ~~Terminated~~ ARC 450A 11/29/89
Hotel and motel -- imposition of tax, 105.3(1), Filed ARC 451A 11/29/89
Offset of debts owed state agencies, 150.2(3), Notice ARC 452A 11/29/89

No questions on amendments to 8.31, 8.32 or 18.52.

- 52.1 et al. In review of amendments to 52.1 et al., Castelda explained differences between a consolidated return and a composite return. A consolidated return is generally filed when there are a number of separate corporations that have common ownership. The composite return was created by the General Assembly at the Department's request. Partnerships--primarily professional--whose members must file individual income tax returns with the state of Iowa may file a composite return on behalf of their employees. Employees included in the return are usually nonresidents.
- 59.25 to 59.29 Castelda pointed out the only change from Notice of amendments to Chapter 59 was the substitution of "immaterial" for "material."
- 72.12 et al. Amendments to 72.12 et al. were explained by Castelda. Discussion focused on subrule 80.1(1) and the statutory requirement that a person must occupy a homestead for at least six months in order to qualify for homestead tax credit. Priebe mentioned that County Assessors were having problems with the law and he was interested in corrective legislation. Castelda suggested the option of removing the requirement and reinstating the old language. Priebe mentioned notifying the Ways and Means Committees of this problem.
- Motion 80.1(1) Schrader moved that Revenue subrule 80.1(1) and the enabling legislation (425.11(1)a) be referred to the Speaker of the House and the Lieutenant Governor with recommendation that the issue be reviewed by the Ways and Means Committees. Pavich seconded. Motion carried.
- 87.3 Ch 107 No questions re amendments to 87.3. Brief discussion of local option sales and service tax, 107.9 and 107.10. Priebe expressed concern that last year Ames collected over \$270,000 from Iowa State University.
- 11.1 et al. No comments re 11.1, 18.45 et al., 37.1, 37.8 or 48.4 et al.
- 105.3(1) Castelda described amendment to 105.3(1) as providing exemption from the hotel/motel tax rooms used for religious retreats.

12-5-89, 12-6-89

REVENUE & FINANCE
Concluded
150.2(3)
Minutes
Recess

With respect to amendments to 53.2(5) et al., which were terminated, Castelda said the Department would seek statutory change. They also plan to draft new rules based on the use of separate accounting to determine net income or loss of each United Community Bank office. No questions on 150.2(3).

Schrader moved to approve minutes of the November meeting. Clark seconded the motion. Carried.

Chairman Priebe recessed the meeting at 3:40 p.m.

Wednesday--
Meeting
Reconvened

Chairman Priebe reconvened the meeting at 9:05 a.m. All members and staff present. Pavich took the Chair and called on Education Department for the following:

General accreditation standards, 12.1(6), 12.1(7), 12.2(1), 12.2(2), 12.2(3), 12.2(6), 12.4(2) to 12.4(6), 12.4(9), 12.4(10), 12.5(1), 12.5(2), 12.5(3), 12.5(3)"e," 12.5(4), 12.5(4)"e," 12.5(5), 12.5(5)"b," "e," "f," and "i," 12.5(13) to 12.5(19), 12.5(21), 12.5(22), Filed ARC 371A 11/1/89
Child development coordinating council, 64.1, 64.2, 64.5 to 64.9, 64.9"4" and "7," 64.11, 64.13, 64.20, 64.22, Notice ARC 364A 11/1/89
Innovative programs for at-risk early elementary students, ch 65, Notice ARC 365A 11/1/89
Equal employment opportunity and affirmative action in educational agencies, ch 95, Filed ARC 390A 11/15/89

EDUCATION
DEPARTMENT

Dwight Carlson, Bureau Chief, Carol Alexander Phillips and Susan R. Andersen, Early Childhood consultants, and Tom Andersen, Administration, were present.

Ch 12
Ch 64
Ch 65
Ch 95

Carlson gave brief overview of the general accreditation standards, being amendments to Chapter 12. No comments.

Phillips indicated that comments from the hearing on the rules were being evaluated. The original grant was for \$1,175,700 and that will increase to \$4.6 million in July 1990. Phillips did not anticipate major changes in Chapter 64.

In explaining proposed Chapter 65, Phillips stated that the cap was \$60,000 per project. There was public sentiment that the funds are insufficient for an innovative program. The amount available is \$3 million for this year and that will increase to \$4 million next year. General discussion.

Tom Andersen reviewed Chapter 95, which requires equal employment opportunity/affirmative action plans in school districts, area education agencies and merged area schools.

Tieden asked how "relevant labor market" would be defined and pointed out that availability of laborers would be very limited in many areas. Andersen had met with the AG's office which recommended the final wording. He recognized that recruiting would depend upon the job category. Districts would probably search in a wider range for a superintendent than for a custodian, for example. Fifteen training sessions are planned to provide guidance in the area.

12-6-89

EDUCATION
DEPARTMENT
Cont'd

Andersen assured Tieden there was no intent to find districts in noncompliance as long as there was a good faith effort. Pavich estimated that one-third of the Council Bluffs teachers had Nebraska addresses. There was discussion of gender balance.

LABOR
SERVICES
DIVISION

Walter Johnson, Deputy Commissioner, and Marcielle Son-nenschein, appeared on behalf of the Division to review:

EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"
Construction contractor registration--bonding, 1.64(3), chapt XI, 150.2, 150.10(1), 150.13, Filed ARC 402A 11/15/89
OSHA rules for general industry, 10.20, Notice ARC 403A 11/15/89
OSHA rules for general industry, 10.20, Filed ARC 397A 11/15/89
OSHA rules for construction, 26.1, Notice ARC 404A 11/15/89
OSHA rules for construction, 26.1, Filed ARC 398A 11/15/89
Employment agency licensing, 38.2(1), 38.6(4), 38.8, 38.9(1)"4", 38.9(3), 38.10(1), 38.10(3), Filed ARC 399A 11/15/89
Asbestos control procedures, licensing and certification, 81.1(2), 81.2(2), 81.4, 82.1, 82.2, 82.3(1), 82.3(1)"a"(10),
82.3(2) to 82.3(4), 82.5, 82.6, 82.7, 82.9 to 82.11, Filed ARC 400A 11/15/89
Construction contractor registration--investigations and revocations, 150.9(1), 150.11(2) to
150.11(6), Filed ARC 401A 11/15/89
Minimum wage and enforcement, chs 216 to 220; renumber ch 200 as ch 300,
Filed Emergency After Notice ARC 438A 11/29/89

Johnson remarked that amendments to 1.64 et al. were the result of 1989 Acts, chapter 254, and problems are anticipated. The Division has been working with the Revenue Department and Job Service to implement the law but corrective legislation will probably be needed.

10.20 et al. No questions posed re 10.20, 26.1, or 38.2 et al.
81.1 et al. According to Johnson, there were no serious problems with the asbestos amendments.

150.9,
150.11 Johnson provided history on amendments to 150.9 and 150.11 which included a 70-day delay to allow time to resolve some problems with construction contractor registration--investigations and revocations. It was noted that an administrative warrant is permitted by law and pertains to civil, not criminal action.

Ch 215 Johnson told the Committee that extensive, nonsubstantive changes were made in the minimum wage rules. No comments were received at the hearing. Discussion of "tipped employee" which was defined as one who customarily receives more than \$30 per month in tips--there is no maximum. Johnson explained that the IRS assumes that a tipped employee receives 10 percent of sales and the employer will automatically deduct that. Priebe in the Chair.

INDUSTRIAL
SERVICES
DIVISION

Clair Cramer, Chief Deputy, presented adopted rules 343--4.39 and 6.1, filing by facsimile transmission (FAX) and compromise settlements, published as ARC 448A, 11/29/89. Priebe questioned language in 4.39: "...A document filed by FAX is presumed to be an accurate reproduction of the original." Cramer said that this language was chosen on the outside chance that somebody could transmit from a source that was not the actual sender. The document itself might be erroneous or submitted in bad faith.

PHARMACY
EXAMINERS

Norman Johnson, Executive Secretary, and Lloyd Jessen, appeared for amendment to rule 657--10.3, Noticed as ARC 440A, 11/29/89 IAB.

PHARMACY
EXAMINERS
Cont'd

Annual registration fee for researchers, analytical laboratories, manufacturers, distributors, and care facilities will increase from \$15 to \$25. Johnson agreed to substitute "or" for "and" before the words "conduct chemical analysis" in the first sentence. He then announced that he would be retiring in January and thanked the Committee for their cooperation and consideration over the years.

PROFES-
SIONAL
LICENSURE
DIVISION

The Professional Licensure Division was represented by Harriett Miller, Carol Barnhill, and Kathy Williams, who reviewed the following agenda:

PUBLIC HEALTH DEPARTMENT(641) "umbrella"
Board of mortuary science examiners, 101.5, 101.212(15). Notice ARC 367A 11/1/89
Board of optometry examiners, 180.12(6). Filed ARC 366A 11/1/89
Chiropractic examiners, 40.11(1), 40.11(2), 40.11(3)"a," 40.13(6), 40.13(12), 40.16(4), 40.24(29), 40.24(30), 40.72.
40.73. Filed ARC 474A 11/29/89
Physical therapy examiners, 200.8(1). Filed ARC 464A 11/29/89
Respiratory care practitioners, 260.5(3)"c." Filed ARC 466A 11/29/89

101.5,
101.212

Miller described amendments to Chapter 101 as addressing reinstatement of a lapsed license and adding as grounds for disciplinary action the failure to comply with the Code requirements, chapter 523A, relative to preneed.

101.5

Priebe referred to 101.5(2) which allowed the board discretion in administering the state examination for reinstatement of a license. It was his opinion that all should be required to take the test. Royce reasoned that the Continuing Education should not be required if the licensee is re-examined. Miller agreed to relay Committee sentiments.

180.12(6)

Williams told the Committee that amendment to 180.12(6) corrects the required number of CE hours from 24 to 25 during the first year of licensure.

40.11,
200.8

No recommendations were offered for amendments to Chapter 40, 200.8(1) or 260.5(3)c.

PUBLIC
HEALTH
DEPARTMENT

The Department was represented by Don Flater, Ken Choquette, Mike Guely, Don Kerns, Jan Rose, Cheryl Christie, Jane Schadle, Gerd Clabaugh, JoAnn Muldoon, and Carolyn Adams. The agenda follows:

Swimming pools, ch 15. Notice ARC 369A 11/1/89
Spas, ch 23. Notice ARC 368A 11/1/89
Office of rural health, ch 110. Notice ARC 405A 11/15/89
Notification and surveillance of reportable diseases, 1.2(1), 1.2(3). Filed ARC 468A 11/29/89
AIDS—direct notification of an identifiable third party, 11.40. Filed ARC 470A 11/29/89
Practice of tattooing, ch 22. Filed ARC 471A 11/29/89
General provisions, minimum requirements for radon mitigation, 38.13(4), 38.13(9), ch 44. Filed Emergency 11/29/89
After Notice ARC 472A 11/29/89
Anesthesia services, 61.14. Filed ARC 477A 11/29/89
Obstetric and neonatal services, 61.30. Notice ARC 473A 11/29/89
Maternal and child health program, 76.4, 76.5(3) to 76.5(6), 76.6(2)"a," "e," and "h," 76.14. Filed ARC 465A 11/29/89
Disinfectant permits, 101.7(1). Filed ARC 467A 11/29/89
Basic emergency medical care, 131.1 to 131.7, 131.10(5) to 131.10(7). Filed ARC 469A 11/29/89

38.18

Flater was present to review amendments to 38.18 et al. pertaining to radon mitigation. He pointed out that no changes were made since the last meeting. No Committee action.

Ch 15,
23

Choquette summarized proposed swimming pool and spa regulations, being Chapters 15 and 23, respectively.

He stated that 1989 Acts, H.F. 373, required registration of all swimming pools in the state and certification and training of operators as well as life guards. The Act set standards for water quality and safety and required the Department to coordinate inspection with local counties. Choquette emphasized that the key to the program was inspection and technical assistance to operators. An ad hoc committee comprised of three subcommittees: (1) Operations, (2) design, and (3) administration were involved in developing the rules. Expertise was gleaned from pool operators, Red Cross members, Country Club Association, Association of Independent School Boards, technicians who provide services to pools, architects and engineers, the state Building Code Commissioner, as well as OSHA representatives. Choquette continued that the law requires the Department to issue a construction permit for a new pool or major reconstruction. He considered well-qualified inspectors as very important to a good state program. Approximately 15 out of 30 people spoke at the November 29 hearing. The rules provide for two levels of training for lifeguards: full-fledged certified and shallow water training.

Choquette discussed chlorination and testing, handrails on diving boards, use of competitive diving boards and diving well depths, lifeguard chairs, fencing around public pools to protect toddlers, and pool depth markings. He indicated that Red Cross standards would be followed for lifeguard training. However, at the request of the YMCA, they will compare the two standards. Schrader took the Chair.

Choquette indicated that revision of the rules will be needed with respect to ventilation for chlorine protection. He mentioned the danger factor since chlorine is heavier than air and hangs low. He continued that the Department would place emphasis on how to operate air packets which would be available at all pools for the protection of employees. They will monitor the inspection process. Choquette stated that fee schedules for water slides and water parks would be clarified.

In conclusion, Choquette stressed the importance of a pool filter system, water temperature control and waste disposal. Clark suggested elimination of duplicate language and use of references to shorten the rules. She cited identical tables in 15.4(5) and 15.5(13) as examples. She also recommended substituting "The" for "Said" before "28E Agreements" in 15.12. Tieden questioned age of children who must be accompanied by an adult in a pool--15.4(7)e. Choquette agreed that the provision should be clarified as to specific age. Tieden asked about training costs for pool managers. Choquette quoted \$300 initially and \$20 to \$30 for biennial refresher courses.

PUBLIC
HEALTH
Cont'd

23.7

In response to Schrader, Choquette stated that they had very few comments on rules for spas. Choquette cited safety factor for young children in location of spa from the pool--23.5(3)d. Clark questioned use of "enforce spas" in 23.7. There was discussion of the fact that many communities do not have ordinances governing backyard pools where most drownings occur. Clark reiterated her request for condensing the rules to remove duplication. No formal action taken.

Ch 110

Pavich in the Chair. No questions re Chapter 110 or 1.2.

11.40

Guely and Christie presented the final version of 11.40. The rule establishes the notification procedure wherein a physician or the Health Department may directly contact an identifiable third party who is a sexual partner or who shares intravenous equipment with a person who has tested positive for the human immunodeficiency virus.

Schrader spoke in support of the changes and thought the rule "reflected well on the legislation." He suggested an additional improvement would be to require the notification of an infected individual when a doctor intends to notify a third party. If a direct contact cannot be made, then a five-day-waiting period should exist. Guely was amenable to Schrader's request and there was no Committee opposition to an emergency amendment.

Ch 22

According to Guely, a public hearing on Chapter 22 resulted in a number of comments for clarification purposes. Clark questioned language in 22.5(6) and was advised that tattoo artists had recommended it.

51.14 et al. No questions were posed re 51.14, 51.30, 76.4 et al., 101.7(1) and 131.1-131.7 et al.

HEALTH DATA
COMMISSION

The Commission was represented by Pierce Wilson who explained Filed amendments to uniform hospital billing form, submission of data, 5.5, 5.5(1), 5.5(6) and 6.3(6) published as ARC 437A, 11/29/89 IAB. Wilson said that the Task Force which makes recommendations regarding the implementation of the severity and outcome systems has recommended that the Commission delay implementation until July 1, 1990, so emergency rules will be adopted this week.

LIVESTOCK
HEALTH
ADVISORY
COUNCIL

Mark Truesdell, Attorney, represented the Advisory Council for adopted recommendation for fiscal year 1989-1990, being Chapter 1, published as ARC 349A, 11/01/89 IAB. The recommendation is for allocating a \$300,000 standing appropriation among various livestock disease research projects at the Iowa State University College of Veterinary Medicine. Truesdell reviewed extensive changes from the Noticed version, including funding of two new projects:

LIVESTOCK
HEALTH
ADVISORY

Johne's disease, \$30,000, and dairy reproductive research, \$11,535. Priebe voiced opposition to major changes from the Notice, which precluded public input. Truesdell explained the procedure followed by the Council which is a volunteer group and indicated he would advise them to revise their meeting dates and review process.

Schrader supported Truesdell's idea. Another alternative would be to have Committee staff communicate with the Council. Schrader also supported Priebe's position and moved to object to 521--Chapter 1 on the grounds that there was inadequate public participation to the major changes. Tieden seconded the motion. Carried. The following language was prepared by Royce:

At its December 6th meeting the committee voted to object to the procedure used to adopt ARC 349A. It was the opinion of the committee that the procedure was beyond the authority of the Council in that the adopted version of the rule was radically different from the original notice of intended action. This rule appears in XII IAB 9 (11-01-89) and is codified as 521 IAC rule 1.1.

The committee notes that two new funding programs were added to the adopted rule, with over \$41,000 dollars of funding dedicated to them. Funding for the remaining programs was reduced to obtain this funding. It is the opinion of the committee that the text of an adopted rule must be within the scope of the notice of intended action, as measured by the following three factors:

- 1) THE EXTENT TO WHICH AN INDIVIDUAL CONCERNED WITH THE ADOPTED RULE SHOULD HAVE UNDERSTOOD THAT THE PROPOSED RULE COULD HAVE AFFECTED THEIR INTERESTS.
- 2) THE EXTENT TO WHICH THE SUBJECT MATTER OR ISSUES INVOLVED IN THE ADOPTED RULE DIFFERED FROM THOSE OF THE PROPOSED RULE, AND,
- 3) THE EXTENT TO WHICH THE EFFECTS OF THE ADOPTED RULE DIFFERED FROM THE EFFECTS THAT WOULD HAVE OCCURRED IF THE PROPOSED RULE HAD BEEN ADOPTED.

The committee believes that ARC 349A exceeds each of these criteria in that the adopted rule contained two new programs not even published in the notice and the funding levels specified in the notice were significantly reduced in the adopted rule.

NARCOTICS
ENFORCEMENT

Martha Crist, on behalf of the Narcotics Enforcement Council, explained the following rules and there were no recommendations:

Organization and operation, uniform rules, chs 1 to 5. Notice ARC 351A 11/1/89

TRANSPOR-
TATION
DEPARTMENT

The following persons were in attendance for rules of the Transportation Department: Dennis Ehlert, Al Chrystal, Julie Fitzgerald, Dwight Stevens and Neil Volmer. The agenda follows.

Vehicle registration and certificate of title, 400.3(12)"b" and "c," 400.3(13), 400.4, 400.4(2), 400.4(12)"d"(2), 400.4(14)"b,"	Filed ARC 350A	11/1/89
Essential air service terminal improvement program, 715.7(5).	Filed ARC 380A	11/15/89
Public records and fair information practices; contested cases; procurement of equipment, materials, supplies and services, 4.1(1)"a," 4.1(4)"b," 13.3(3), 13.7(2), 13.7(9), 20.3(4), 20.4(6)"c," 20.8(1)"a," "c," "e,"	"f," Filed ARC 430A	11/29/89
Signing manual, 130.1, 130.1(2).	Filed ARC 433A	11/29/89
Vehicle registration and certificate of title, handicapped identification devices, 400.4(12)"b," 400.4(15), 411.1 to 411.7, 411.9, 411.10.	Filed ARC 432A	11/29/89
Types of motor vehicle licenses, 602.17(1)"a" and "b," 602.17(2)"c," 602.17(3).	Filed ARC 431A	11/29/89
Reporting of railroad accidents/incidents, railroad safety standards, guidelines for safety evaluation of rural railroad-highway grade crossings, highway grade crossing safety fund, 802.1, 810.1, ch 812 implementations, 820.3(3)"a,"	Notice ARC 436A	11/29/89

No questions on amendments to Chapter 400, 715.7(5), 4.1 et al., or 130.1.

TRANSPOR-
TATION
DEPARTMENT
Cont'd

400.41 et al. Ehlert summarized changes from the Notice pertaining to parking for the handicapped. He reported that the Department has received many calls and letters in opposition to the new law. [1989 Acts, chapters 27 and 247] In response to question by Priebe, Ehlert said that the podiatrists are identified as physicians. Ehlert offered to refer Clark's suggestion for painting the handicapped signs to the Department of Public Safety. No Committee action.

602.17 Chrystal stated that amendments to rule 602.17 would implement 1989 Acts, chapter 266, in defining "hardship" with respect to obtaining a minor's school license without completion of driver education training. Chrystal discussed 602.17(3)b addressing the required affidavit to be signed by the school superintendent or school board president. No questions re 802.1 et al.

PUBLIC
DEFENSE
DEPARTMENT

Ellen Gordon, Director, David Miller, and Christie Scase, Assistant Attorney General, appeared for the following:

Iowa emergency response commission, chs 100-103, rescind 650--chs 100 to 103, Notice ARC 396A 11/15/89

There was brief discussion of 650--Chapters 100 to 103 which will be transferred to agency number 601 to comply with government reorganization.

E911 Service
Special

Chairman Priebe announced a special review of rules on Enhanced 911 Telephone Systems, being 601--Chapter 10. Ken Hartman, President, Hartman and Associates, Boone, appeared before the Committee with complaints that the Department of Public Defense was establishing rules regarding 911 outside the rule-making process. He mentioned correspondence with Royce, David Miller, the State 911 Manager, and the office of Attorney General. Hartman disagreed with new surcharge agreements for overlapped areas. He urged the Committee to require uniform application of the rules to avoid "preferential" treatment of some segment. Hartman contended that counties had met the requirements for implementation of the surcharge as provided in Code chapter 477B and section 601.10(4)2. Gordon, for the record, said that the Department had shown no preferential treatment.

Schrader interjected that since this item of business was not on the published agenda, he would withhold any comment. It seemed obvious to him that Mr. Hartman was asking the Committee to put pressure on the agency. He resented the fact that Hartman's letter was directed to the Legal Counsel rather than the Committee. He concluded that interested parties would not be limited to those at today's meeting.

Priebe commented that the special review was a last-minute request and could be included on the January agenda. Schrader asked that, out of fairness, the Committee also withhold comments.

PUBLIC
DEFENSE
Cont'd

Scase pointed out that the Department was not provided a copy of the letter directed to Royce and they had not read it. She continued that the uniform application concept was first included in a September 20 memorandum sent to all 911 Boards across the state. The Department pointed out the difficulties in developing 911 programs where the telephone exchanges in particular counties overlap county lines. The exchanges also overlap state lines as well. Scase continued that there are in excess of 168 telephone companies operating in the state. Also, there are over 900 telephone exchanges which are not developed along uniform lines. In an attempt to get 911 programs implemented, several counties have submitted plans to the Department and have held referendums to enact a 25-cent surcharge, assuming that their service area would follow county boundaries. Since the exchanges do not cover county boundaries, in order to collect the surcharge, it is necessary for the joint 911 Board of a particular county to determine how that overlapping telephone exchange is going to be handled. Scase added that Code chapter 477B and the existing administrative rules require each joint 911 Board to cooperate with boards in neighboring counties to develop their service plans. They also require that the service plans include a list of the telephone exchanges and the number of telephone access lines within each exchange, which will be a part of the counties' 911 Plan. The development of this plan is a prerequisite to implementation of the surcharge.

The department has requested that the joint boards of the counties submit the agreements, letters of understanding, or written assurances that the neighboring counties have considered these overlapped districts and have come to some understanding as to how these districts are going to be handled on a practical basis. They see no need for counties to execute a "full-blown 28E Agreement" in order to satisfy the requirement.

Chairman Priebe recommended that Hartman and Department representatives appear before the State Government Committees to resolve differences and effectuate law change, if necessary.

PUBLIC
SAFETY
DEPARTMENT

The Department was represented by Michael Coveyou and Carroll Bidler who presented the following:

Private investigation and private security business, 2.4(2)"b," 2.4(2)"j," 2.4(3)"f," 2.4(3)"g," 2.4(5)"b" to 2.4(5)"e,"	
2.5(3), 2.6, 2.9, 2.11, 2.11(1), 2.12, 2.17, <u>Filed</u> ARC 377A	11/1/89
State of Iowa building code, 16.140(1)"L," <u>Filed</u> ARC 378A	11/1/89
Fire Marshal-Special Review, 661-5.652(10), 5.655(2) <u>b</u>	IAC

No questions on 2.4(2) et al. or 16.140(1).

Special
Review
5.652,
5.655

Roy Marshall, State Fire Marshal, was present for special review of 661--5.652(10), 5.655(2)b.

Priebe had heard complaints from schools that the rules would place hardship on them. Also, day care providers

PUBLIC had expressed concern about impact of the rules. Marshall
SAFETY described the issue as one of school fire safety directed
Cont'd toward escape windows and location of rooms occupied by
preschool, kindergarten, and first grade pupils. The rules
in effect now for new buildings will be applicable to existing
structures July 1, 1993. Marshall explained that the rules do
not preclude day care in a basement, but if it were conducted
in a school, the rule would apply.

Clark cited a situation where a Rockford school was burned
and classes moved into other buildings, including churches.
Marshall reiterated that the rule does not go into effect
until 1993 but existing rules regarding fire safety in schools
would apply. He agreed to review the Rockford situation.
Marshall reported that a Notice would be published in the
12/13/89 IAB [ARC 510A] to define the "level of exist dis-
charge."

No No agency representatives were requested to appear for the
Reps following:

BLIND, DEPARTMENT FOR THE[111]
Iowa Code citations updated, chs 1, 2, 6 and 9 to 13. Notice ARC 395A 11/15/89

GENERAL SERVICES DEPARTMENT[401]
Amend, renumber and transfer 450--chs 1 to 11 to 401--chs 1 to 11. Filed ARC 387A 11/15/89

INSPECTIONS AND APPEALS DEPARTMENT[481]
Field survey administration, food establishment inspections, food service establishment inspections, 30.3(1), 31.2,
32.3(4). Filed ARC 417A 11/15/89

INSURANCE DIVISION[191]
COMMERCE DEPARTMENT[181]"umbrella"
Long-term care insurance, 39.6(1)"d," Notice ARC 447A 11/29/89

LAW ENFORCEMENT ACADEMY[501]
Organization and administration, jailer training, 1.1, ch 9, Filed ARC 381A 11/15/89

MEDICAL EXAMINERS BOARD[653]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Physician assistants, rescind ch 20, Notice ARC 379A 11/15/89


PERSONNEL DEPARTMENT[581]
Classification, 3.1(3), Filed Emergency ARC 449A 11/29/89

SECRETARY OF STATE[721]
Election forms and instructions--facsimile documents, 21.9, Notice ARC 374A 11/1/89
Voter registration in state offices--quarterly reports, 23.5, Notice ARC 384A 11/15/89
Benefited recreational lake district elections, 21.10, Filed ARC 476A 11/29/89

Ad- The meeting was adjourned at 12:30 p.m.
journed

Next The next meeting was scheduled for Thursday and Friday,
Meeting January 4 and 5, 1990.

Respectfully submitted,


Phyllis Barry
Assisted by Vivian Haag

APPROVED:

CHAIRMAN