MINUTES OF THE REGULAR MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of meeting — The regular meeting of the Administrative Rules Review Committee (ARRC) was held on Tuesday and Wednesday, October 11 and 12, 1994, in Room 22, State Capitol, Des Moines, Iowa.

Members present: — Representative Janet Metcalf and Senator Berl E. Priebe, Co-chairs; Senators H. Kay Hedge, John P. Kibbie, William Palmer and Sheldon Rittmer; Representatives Horace Daggett, Roger Halvorson, and David Schrader. Representative Minnette Doderer was excused for both days and Representative David Schrader was excused for Wednesday.

Also present: — Joseph A. Royce, Legal Counsel; Phyllis Barry, Administrative Code Editor; Kimberly McKnight, Administrative Assistant; Caucus staff and other interested persons.

Convened: — Senator Priebe convened the meeting at 10 a.m. and recognized Ronald Rowland, Director of Regulatory Division, Walter Felker, State Veterinarian, Mary Jane Olney, Administrator of Administrative Division, Pat Paustian, Renewable Fuels Coordinator, and Jake Wakefield, Chief of the Dairy Products Control Bureau, for the following:

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
Renewable fuels and coproducts, ch 12, 85.48(10), Notice **ARC 5112A**, also Filed Emergency **ARC 5109A** 9/28/94
Dairy trade practices, 23.4(2)"b"(9) and (10), 23.4(2)"c"(2) to (5), 23.5(2), Filed **ARC 5082A** 9/14/94
Infectious and contagious diseases — cattle and swine importation, 64.34(2), 64.43(1), 65.5, 65.6(1), 65.6(4), Filed **ARC 5083A** 9/14/94
Acceptable forms of euthanasia, 67.9, Filed **ARC 5089A** 9/14/94
Dairy — milk tests, 68.5, 68.11(1), 68.12, Filed Emergency After Notice **ARC 5097A** 9/14/94
Dairy — antibiotic testing, 68.36, Filed **ARC 5098A** 9/14/94

Ch 12 and 85.48(10) — Rowland stated that Chapter 12 and 85.48(10) were Filed Emergency to set the parameters for the assistance program to aid persons interested in developing renewable fuel. In addition, the Department was working with the Advisory Committee on the replacement decals for labeling ethanol pumps.

In response to Hedge, Rowland stated that most comments on the rule making focused on dates for the decals. Olney advised Hedge that others took the position that the January 1 implementation date for replacement of decals would not allow sufficient time. Allowing use of either seal for a certain amount of time had been considered. Rowland stated that the Department was aware of hardship involved but the statute required the rules to be in place by January 1. No Committee action.

Value-Added Program — Halvorson admonished Rowland that the Department should be more aggressive in developing rules for the Value-added Program. The Department of Economic Development had attributed delay to the Agriculture Department—$400,000 had been diverted to Agriculture to promote, solicit and obtain projects and only nine months remained to implement the law. Rowland responded that he was not responsible for the rules but Olney agreed to report Halvorson's concerns to the Department.

23.4(2)"b"(9) et al. — No Committee action.

64.34(2) et al. Felker stated that the purebred industry has done testing on the change of ownership to maintain the validated free-state status. This could be done at slaughter now and change of ownership testing could be discontinued. In response to Priebe, Felker stated that the last sentence of 64.34(2), relative to market class swine, was deleted because, theoretically, those animals would not be on the premises if they fail to meet brucellosis requirements. Priebe interpreted the rule as precluding the animal from being removed and then held and taken to the state fair, for example. Felker stated that this would occur only if the brucellosis requirements were not met. The animal would have to be declared positive for brucellosis sometime during the exhibition.

67.9 Rowland stated that the Department had always relied on the latest version of the Report of the American Veterinary Medical Association Panel on Euthanasia but had no specific rules until now. No Committee action.

68.5 et al. No questions.

68.36 In review of new rule 68.36, Rowland stated that antibiotic testing requirements would be implemented. Also, primary responsibility for tracing back the drugs was clarified by placing the burden on the individual or the company which first purchased the milk. No Committee action.

LIVESTOCK HEALTH ADVISORY Jeff Schnell represented the Council for the following:

LIVESTOCK HEALTH ADVISORY COUNCIL[521]
Recommendations for fiscal year 1994-1995, ch 1, Filed **ARC 5080A** 9/14/94

Ch 1 Schnell stated the Council had approved a delayed funding mechanism for a contingency fund. No Committee action.

SOIL CONSERVATION Ken Tow and Bill McGill represented the Division for the following:

SOIL CONSERVATION DIVISION[27]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"
Organic nutrient management program, 13.10, 13.20, 13.40, 13.63(2), 13.74,
Filed Emergency After Notice **ARC 5127A** 9/28/94
Soil practices loan program, ch 15, Notice **ARC 4994A** Terminated **ARC 5126A** 9/28/94

13.10 et al. In review of amendments to Chapter 13, McGill responded to questions by Daggett concerning cost sharing for lagoons and eligibility criteria. The Division allocates a certain number of dollars to each of 100 soil conservation districts and the decision is made by five local district commissioners in accordance with the rules.

Halvorson asked about applying for funds the second year and McGill stated that funds could not be used to complement a previous year's project. McGill added that the law would allow expansion of an existing lagoon or holding pit and it would have to be a stand-alone practice, i.e., a recipient could not receive up to $7,500 the first year and receive another $7,500 on the same practice a second year. Halvorson questioned whether the rule really read that way.

There was some discussion about problem lagoons in several areas. McGill indicated that the Division was aware of the problems and would not issue any more permits in those counties. Allamakee County was able to spend funds on organic projects.

Kibbie had observed different definitions for a "family farm" and suggested one applicable to all agencies. McGill responded that these definitions were excerpted from the Iowa Code.

Ch 15 — No Committee action.

EDUCATION — Leland Wolf, Ann Marie Brick and Don Helvick were present from the Department for the following:

EDUCATION DEPARTMENT[281]
General accreditation standards, ch 12 preamble, 12.2(1), 12.2(3), 12.5(5)"b," 12.5(10), Notice **ARC 5119A** .. 9/28/94
Open enrollment, 17.3(2), 17.4, 17.8(1) to 17.8(4), 17.8(10)"b," 17.10(1), 17.10(5), Notice **ARC 5120A** 9/28/94
Extracurricular interscholastic competition — open enrollment transfers, 36.15(4), Notice **ARC 5122A** 9/28/94
Extracurricular interscholastic competition — wrestling coaches, 36.15(6)"a," Filed **ARC 5123A** 9/28/94
Gifted and talented programs, 59.3, Filed **ARC 5124A** 9/28/94
School-based youth services programs, ch 66, Filed **ARC 5125A** 9/28/94

Ch 12 et al. — No questions on Chapter 12.

17.3(2) et al. — Helvick told the Committee that amendments to Chapter 17 addressed the timing of requests and denials and return of students to resident districts. Students may return to a resident district at any time by making written notification to both districts which should provide for smoother transfers. Funds were paid on a quarterly basis.

Helvick responded to Kibbie that students were not required to reapply for open enrollment every year. They could apply for all 13 years but previously there was a minimum of four years.

36.15(4); 36.15(6)"a" — No questions regarding 36.15(4) or 36.15(6)"a."

59.3 — Wolf stated that no comments were received on 59.3. No Committee action taken.

Ch 66 — Kibbie noted that prior to the statutory revision, about 40 school districts had applied for the youth services program under the old rules. Helvick was unsure whether they would be eligible under the new rules but he would research. Daggett point out use of "consortium" in 66.1(3) which would mean inclusion of more schools and he asked about applications on that. Helvick did not have that information but agreed to refer questions to Raymond Morley who could not be in attendance today.

EPC — Diana Hansen represented the Commission for the following:

ENVIRONMENTAL PROTECTION COMMISSION[567]
NATURAL RESOURCES DEPARTMENT[561]"umbrella"
Effluent and pretreatment standards, updating and corrective amendments, 60.2, 62.4, 62.5, 65.5(9),
Filed Without Notice **ARC 5086A** 9/14/94

60.2 et al. — Priebe questioned 65.5(9) and Hansen explained that the rule pertains to permit conditions and the amendment was intended to update a reference from "63.4(1)" to "63.5(1)".

Hansen responded to Daggett that fines were not addressed in Chapter 63 of the rules.

EPC (Cont.) Priebe suggested that the Commission investigate a situation in Daggett's district where a lagoon built within 800 feet of a home had overflowed. He felt that immediate corrections were needed. Priebe attributed negligence to ASCS office but felt EPC had authority to resolve the matter. Daggett asked about working relationship between EPC and DNR in these situations. Hansen replied that if a situation were referred to a field office, an environmental specialist would make an inspection and file a report to their supervisor. Enforcement action would be referred to the legal counsel in DNR who would consult with the head of the Environmental Protection Commission.

NRC Richard Bishop was present for the following:

NATURAL RESOURCE COMMISSION[571]
NATURAL RESOURCES DEPARTMENT[561]"umbrella"
George Wyth recreation area, 61.2, 61.6(5), Filed **ARC 5116A** 9/28/94
Waterfowl and coot hunting seasons, 91.1, 91.1(1), 91.2, 91.3, 91.4(2)"n" and "o,"
Filed Emergency After Notice **ARC 5115A** 9/28/94
Pheasant, quail and gray (Hungarian) partridge hunting seasons, 96.1(1), 96.2, 96.3,
Filed Emergency After Notice **ARC 5114A** 9/28/94
Wild turkey spring hunting, 98.2(5), 98.3(1), 98.3(3), 98.10(2), 98.12, 98.14, Notice **ARC 5117A** 9/28/94
Deer population management areas, 105.2, 105.3(2), 105.3(3), 105.4(2), 105.4(3),
Filed Emergency After Notice **ARC 5118A** 9/28/94

61.2 and 61.6(5) No questions.

91.1 et al. Bishop spoke of problems this year in determining waterfowl regulation programs. Four Flyway Councils recommended a more liberal duck season than the Fish and Wildlife Service chose. Iowa was the only state other than Alaska with a September all-duck season.

In response to Metcalf, Bishop stated that the number of days were expanded rather than the limits. The Department was given an option from the Secretary of Interior's office for either a 40-day season with the same bag limit as last year or a 30-day season like last year with an expanded bag limit of four ducks. Sportsmen supported a longer season.

Metcalf asked if this were a coordinated effort among states. Bishop stated that 14 states from Minnesota, Wisconsin and Michigan to the Gulf of Mexico comprised part of the Mississippi Flyway and each had one vote on the recommendations for seasons. The Fish and Wildlife Service had the final vote. Representatives from the states travel to Washington to offer input to the Director of the Fish and Wildlife Service which refers it to the Secretary of the Interior. Bishop represented the upper states. He reported that people had called their Congressmen to complain that the Fish and Wildlife Service disregarded the decision of the Flyway states.

96.1(1) et al. No Committee action.

98.2(5) et al. Bishop stated that there was a record turkey harvest of 10,600 last spring which exceeded the expectations from the 1960s when the Department started this program. Although the Department was allowed up to 2,000 nonresident licenses by law, they did not plan to issue the entire number this year. Priebe and Halvorson concurred with this approach. Bishop indicated that the same policy would apply for deer licenses.

105.2 et al. With respect to deer management units in Cedar Falls and the Army Ammunitions Plant, Bishop reported that a majority of people at the hearing favored the rules. Bishop was of the opinion that the city councils would not allow hunting on

private land but might change their ordinances to allow bow hunting in George Wyth State Park and in the Hartman Reserve. The Department would not proceed without council decision.

Halvorson was aware of opposition to hunting on private land. Priebe asked if the private property owners could allow hunting on their ground and Bishop replied that bow hunting was not allowed within the city limits. Those issues were outside of the DNR's jurisdiction—it must be a community decision.

INSURANCE Susan Voss was present for the following:

INSURANCE DIVISION[191]
COMMERCE DEPARTMENT[181]"umbrella"
Insurance producer license renewals, appointments, continuing education, 10.2, 10.15(2), 10.18, 10.22(3), 11.2, 11.3(1), 11.3(2), 11.3(5), 11.6(1), 11.6(2), 11.6(8), Notice **ARC 5079A** 9/14/94
Mental health services — contracts with department of human services, 27.3(4), Filed **ARC 5110A** 9/28/94

10.2 et al. Voss told the Committee that amendments to 10.2 et al. were intended to streamline the heavy amount of paperwork created by 36,000 agents in the state which were licensed on a rotating basis. Comments had been favorable to the rule making. Voss described in detail how the system would function.

Halvorson agreed with the changes except for 11.3(5) which would require producers to inform the provider of allocation of basic credits on the day of completion of the continuing education course. Voss stated that the Department wanted to avoid changes in allocation of hours on the last day of the year creating extra paperwork. Halvorson cited reasons why someone would wait until the last minute. Voss pointed out that insurance producers had three years to earn their hours. Halvorson declared the changes were major and would create problems and he recommended further review by the Department.

27.3(4) No Committee action on 27.3(4).

Committee Business Minutes Kibbie moved to approve the September minutes as submitted and the motion passed. The Christmas party was scheduled for December 13 at Noah's Ark with a $5 gift exchange.

HUMAN SERVICES Mary Ann Walker, Mary Helen Cogley, Alice Fisher, Roberta Harris and Sally Nadolsky represented the Department for the following:

HUMAN SERVICES DEPARTMENT[441]
Effective date for RCF eligibility, 50.3(2), Notice **ARC 5087A** 9/14/94
Elderly waiver service program, 77.33(1), 77.33(1)"a," 77.33(3), 77.33(4), 77.33(6)"a" and "e," 78.37(11), 79.1(2), 83.22(1)"b," 83.27, Notice **ARC 5090A** 9/14/94
EPSDT screening for examinations billed to Medicaid, 78.1(1)"b"(3), (4), (7), and (8), Notice **ARC 5088A** ... 9/14/94
Social services block grant and funding for local services — deletion of family-centered services; allocation formula, 153.35, 153.38, Notice **ARC 5100A** 9/28/94
Foster home insurance fund, 158.1(1), 158.1(1)"c," 158.1(2), 158.2, 158.3, Notice **ARC 5099A** 9/28/94

50.3(2) No questions.

77.33(1) et al. In review of amendments to 77.33 et al., Rittmer asked about the current rate for homemakers. Walker replied that it was at $12 per hour and the Department has received four letters requesting an increase to the maximum that public health allows which was $22. However, the Department wanted to stay with the proposed $18—79.1(2)"4".

Rittmer was interested in the impact on the budget and Walker said that the waivers were supposed to be cost neutral. Cogley added that if the service costs more, less service would be provided but it should not have an impact on the budget.

78.1(1)"b"(3); 153.35 et al.; 158.1(1) et al.

There were no recommendations on the remaining agenda items.

Recess

Priebe recessed the Committee at 11:40 a.m. for lunch and reconvened it at 1:45 p.m.

PETROLEUM UST BOARD

Pat Rounds, Board Administrator, and Bob Galbraith, Assistant Attorney General, were present for the Board. Also present were other interested persons for the following:

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
Prioritization of remedial account claims, 11.7(1)"c," 11.7(1)"f," Filed **ARC 5077A** 9/14/94
Definition of small business for purposes of prioritization, 11.7(1)"g," Notice **ARC 5078A**, also Filed Without Notice **ARC 5076A** 9/14/94
Installers and inspectors, ch 15, Filed **ARC 5084A** 9/14/94

11.7(1)"c" et al.

Halvorson asked how many sites between now and the first of the year would be affected if a delay were voted on 11.7(1)"c" and "f." Rounds did not have an exact number but explained that the Board was in the Site Contamination Reports (SCR) phase (assessment) and these prioritization rules would not affect it. The next phase (corrective action) must have SCRs approved by the Department of Natural Resources. Out of 1,600 SCRs submitted or resubmitted, approximately 900 had been approved in the state. About 60 percent of these were Petroleum UST Board SCRs. Approximately 50 percent of the sites were big business and about 40 percent of all of the sites would be high-risk and require Corrective Action Design Reports (CADR) work. The Department may incur up to $10 million that would go to nonsmall business between now and June 1, 1995. Rounds referred to a handout and estimated current spending to be $22 million per year with the greatest share for SCR work—average cost $18,000. That amount would increase for corrective action.

Rounds informed Halvorson that approximately 780 sites were governmental and he estimated that 40 percent of that number would be high-risk requiring corrective action. Rounds suspected that a majority would be claimants between now and June 1995. Governmental sites not covered would be prioritized—possibly 300. The Board attempts to minimize the cost of cleanup but it would depend on what was requested by the regulatory agency. Risk-based corrective action was one method to reduce costs—less cleanup assuming there was less damage to the environment than was anticipated. The Board's estimates were made with the assumption there would be no additional funds. Halvorson was concerned that these rules would place unfair burden on property tax for local governmental units, including schools. Rounds concurred there would be a shortfall. Halvorson voiced support for delay of implementation of the rules.

Rounds stated that the statute provided for prioritization in case of lack of funds. Based on reserves and estimated costs, the Board had determined there was about half the money needed to pay all claims. In 1993, the Board considered ten mechanisms for prioritization and "first-in, first-out" was selected. The Board looked at big versus small, high-risk versus low-risk, governmental versus nongovernmental and a number of other areas. They determined that based on the

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legislative intent which referred to small businesses, they would protect the environment first and the first level of prioritization was high-risk versus low-risk. When the Board realized there was not enough money, the next level was small business versus others which the fund would cover. The Board did not specifically exclude governmental agencies but gave priority to small businesses.

Kibbie questioned the $400,000 figure versus other numbers. Galbraith explained that when small business became a top priority the Board took the legislatively defined term that says, "$400,000 net worth, 2 or fewer sites, 12 or fewer tanks."

Schrader recalled an earlier argument by Galbraith about a de facto prioritization that would occur if a prioritization plan were not enacted. Schrader stated that many of those governmental entities would have been prioritized out under that de facto prioritization as they were under these proposed rules. Rounds replied this was correct—without prioritization, it was first-in, first-out. He added that many local governments lack the staff or resources to address these issues and probably would not be the first in line. Galbraith agreed that many would fall at the end of the line when, in the next phase, the claimant must pay a copayment deductible, Government entities would have trouble with meeting copayment obligation.

Schrader saw a need for legislative action to solidify the fund to provide funding for people who have not moved ahead as quickly. Galbraith could foresee this same problem for small businesses which these rules seek to place as a first priority. Many of the top priority cases may lack financial resources for the copayment. Schrader was concerned that many do not realize all of the implications and it was his position they should be made aware of the risk of being shut out of the program because SCRs were not completed.

Rounds commented that at the time these rules were drafted, the Board determined that 491 claims would be affected. There was still about $2 million in SCR costs associated with those claims. There was approximately $29,630,000 worth of corrective action work which could be prioritized by the rules and this amount could fall back on governmental agencies.

Schrader wondered if they could be prioritized out of the $29 million due to the fact that they were not at the front of the line under the de facto prioritization. Rounds responded in the affirmative and added that some of the larger owners had a policy of doing upgrades and addressing contamination on a much faster basis than most of the owner/operators and would be at the front of the line. Schrader asked for an estimate of the number of claims if these rules did not go into effect. He was unclear if that was between November 1 and the end of the Session or the first of the Session. Rounds stated that the $10 million figure was a very "loose number" arrived at by deciding to continue paying as people move forward. The process could not be speeded up because an owner/operator must first have an SCR and CADR accepted and get proposals. Rounds was confident there would not be a run on the fund between now and the end of the legislative session.

Palmer recalled rationale that the consumer should be participating in the cost of the cleanup because of concern for clean water. When prioritization was passed, he did not realize that local governmental entities would be excluded. Palmer reasoned that these sites were property of the taxpayers. He concluded there was ample time for the legislature to address this issue and the question of $400,000.

Galbraith reminded that the Board first made its strategic planning decisions on prioritization in February of 1993 and it was his understanding that the legislature was aware of the plan. The Board waited through both the 1993 and 1994

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Sessions and finally felt compelled to move ahead. His point on the $400,000 was that any line drawn would be difficult for someone and he cited Code section 455G.9—remedial provisions.

Palmer was not faulting the Board, but he was sure that many were not aware of the economic impact on various cities.

Rittmer was uncomfortable with shifting part of the responsibility to property taxes and he encouraged review of the whole program.

According to Rounds, the Board tried to estimate reserves based on the best facts to date. An estimated $315 million was needed currently, leaving a balance of $188 million. The difference between the two figures would widen as more SCRs were received. The cost of cleanup was higher than anticipated and, in many cases, the $1 million limit on some sites would be reached. The number of sites needing cleaning exceeded 40 percent. If it were 15 percent there would be enough money. Rounds saw 2 options: Fewer sites to fund or more money. On a national basis, the costs were comparable to other states. The number of leaking sites could not be controlled. Approximately 550 high-risk sites could be funded with $200,000. Determining which 550 to fund would be difficult, Rounds reiterated that the Board interpreted legislative intent to first assist those with the least ability to get the money—the small owners. Galbraith pointed out that regulations, not the Board, determine what needs to be done at the sites.

Priebe questioned potential ramifications of delaying the rules. Rounds responded that those at the front of the line could receive money under existing rules. Priebe faulted the legislature for failing to adopt a one-cent tax to be used for the program. He supported the rules but would work to ensure that schools and the counties were funded. Priebe saw no benefit in delaying the rules.

Dave Smitherman, Iowa Petroleum Council, disagreed with the contention that a delay of the rules would result in a "stampede for claims." Companies could not get their SCRs approved and the CADRs were far from being completed. One of Smitherman's clients had 93 sites and less than five were under remediation. In his opinion, there would not be a drain because the most that could be spent between now and May was $10 million. He reiterated that cleanup of a site was contingent upon the report being approved. Smitherman declared that schools and cities were aware of the program since tanks had to be registered. Smitherman noted conflict with the statute in use of "all claims"—the Code states "all current claims." He was confident that all claims could be paid between now and the end of 1995.

However, with prioritization Smitherman suspected that environmental work would be slowed if dollars were not available. His industry, along with the groundwater engineers and professionals in this state, had laid the preliminary steps for meeting to draft more realistic cleanup standards. He recommended that owners/operators be required to pay at least an additional one cent "environmental" tax into the fund. The industry had agreed to a percentage of copayment in 1992 and 1993 which would probably ruin more small business than anything else. Smitherman concluded that Coops were the biggest marketers in the state of Iowa. Amoco was budgeted to draw $12 million and with current sales, they would pay into the fund over its lifetime three times the amount they would draw out. They own 93 properties which they lease to small businesses—they do not operate a single company store in the state of Iowa. Smitherman concluded that every entity which owns a tank should be lobbying in January to change the standards and to increase the fee. He agreed to provide

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Priebe with figures on how much Amoco paid out of their own funds—they were responsible for remediation sites which they lease since they own the tanks.

In response to Kibbie, Smitherman and Rounds reviewed the approval process which could be delayed for various reasons, e.g., SCR was missing information or mistakes had been made by DNR. Rounds stated that in using the DNR's numbers about 40 percent would be ready for payment by January. As of July 1 there were 900 SCRs approved and the next step was the CADR.

Tim Zisoff, City Manager of Indianola and member of the executive board for the League of Iowa Municipalities, distributed a memo wherein he provided figures to indicate the economic impact of the rules on the city of Indianola. He voiced opposition to remediation through property tax and urged delay of the prioritization rule.

Bob Ermer, Cerro Gordo County Supervisor, stated that his county had two high-risk sites where they had spent $70,000 so far in removing underground tanks. The cost would revert to the taxpayers. They had done SCRs and completed a CADR but lacked funds. He urged legislation to address the issue.

Bob Scott, Mayor of Sioux City, and a member of the Executive Board of the League of Municipalities, was concerned about small cities and did not want to lose sight of the fact that this was an environmental issue. Scott noted problems with DOT failure to clean up their fuel tanks. He cautioned against acting in haste.

Dave Ehler, City Administrator of Holstein and Secretary of the Northwest Iowa Municipal League, spoke on behalf of small cities and cited Holstein's financial difficulties. He requested a delay of the rules until the legislature could act and he supported a one-cent increase on the gas tax to fund the program.

Dave Hibbard, Assistant County Attorney for Polk County, requested delay of the rules for as long as possible. He declared that being last on the list was preferable to not being on it at all. Hibbard understood that counties were supposed to be remediated 100 percent of the cost of cleaning up all property that they own by the tax deed process. Polk County had been told by Rounds that they had until the end of the year to submit claims for these 200 properties. Hibbard spoke of the work involved in determining the county's potential for liability and pollution that would be covered by this program. Old, obscure records must be used and none were easily accessible or indexed. It would be impossible for the county to prepare everything by the end of the year. Without a delay on these rules, at the end of this year, none of those properties will be eligible for this program. Hibbard added that under the Code these properties were exempt from the cleanup requirement, but the purpose of the legislation was to eliminate pollution. Because of a current tax freeze, Polk County would have to cut other programs in order to implement the cleanup. Time would be needed to determine which of the properties actually posed a risk. Hibbard favored delay of the rules. In conclusion he asked that direction by given to DNR and the Board to pursue the risk assessment methodologies.

Terrence Timmins, City of Des Moines Legal Department, spoke in opposition to the rules which would have a negative impact on the public improvements program.

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Rounds clarified what these rules would accomplish. They would not affect county-acquired properties. The first level of prioritization in effect today states that the Board would pay for high-risk costs not low-risk costs. This level of prioritization would now distinguish between small business and large businesses. If a small business proceeds, it would receive funding as usual. They submit an invoice to the program and would get paid in approximately 30 days. Similar programs throughout the country reimburse 60 to 700 days later, if at all. Until there is enough money in the reserves to pay for nonsmall businesses or until all small businesses were paid, the Board would proceed with the process of cleanup and wait for reimbursement. Large businesses and governmental entities which have moved the furthest along would be affected the most. If nothing happens next year and the prioritization rules were in effect, those people would probably never get any money. If the rules do not go into effect, everybody would be on a first-come, first-served basis. Under this circumstance there could be 50 small businesses that would receive nothing. Rounds continued that the program was very well designed originally by putting EPC money into the fund and agreeing that past acceptable practices at UST sites should not carry culpability. By having to incur additional costs, people believe they are being held culpable for a practice that was acceptable. Without full funding for every site, this would happen.

In response to Palmer, Rounds said that DOT had the majority of state claims and could become the largest drawer from the fund. His figures showed a total of 260 state-owned sites but Rounds did not know what percentage of those were DOT.

Motion to Delay

Palmer felt strongly that the legislature had a responsibility to address this issue and he moved a 70-day delay on 11.7(1)"c" and "f." In 70 days, the Committee could impose a Session delay.

Priebe concurred with Palmer and explained that the 70-day delay would extend to January 9. Since the Committee always meets prior to the Session opening, they could vote at the January meeting to delay the amendments until the end of the Session.

Substitute Motion

Halvorson was in agreement with Palmer except on the length of the delay. He felt that implementation of the rules must be delayed for the simple fact that the legislature would not convene until January 10. He opined that whether or not it was small or large operators was irrelevant since there was a pollution issue which must be dealt with by the legislature. Halvorson moved a substitute motion to delay 11.7(1)"c" and "f" until the end of the 1995 General Assembly.

Schrader spoke against the substitute motion. He did not find any of the solutions offered by Rounds to be attractive. One of the problems that had not yet been brought up was the inappropriateness of the definition of "small business" as it related to tank owners. Schrader opined that many small businesses had given up in this area and those who had not might when they got involved in copayments. He felt the $400,000 net worth threshold was inappropriate in this case. He was concerned that the fund could be used up based only on being at the front of the line. Schrader reasoned that a 70-day delay would give the Committee the opportunity to monitor the impact and was a conservative way to attack the problem. He expressed support for the Palmer motion and would not support the Halvorson motion.

Motion

The Halvorson motion failed.

Motion to Delay

The Palmer motion for the 70-day delay carried.

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11.7(1)"g"

Galbraith pointed out that amendments to 11.7(1)"g" in ARC 5076A was designed to provide a mechanism to implement the rules which had been delayed.

Motion to Delay

Halvorson moved to delay 11.7(1)"g" for 70 days. Motion passed.

Ch 15

No Committee action.

Related Questions.

Kibbie and Rounds discussed guidelines for monitoring and the cost of soil burning which had doubled.

Kibbie asked about the January 1 deadline for independent operators and the risk of their insurance rising because of uncompleted work. Rounds responded that the deadline had been extended three times and the Board lacked authority to extend it again. Out of the 2,300 sites that the Board insures, 1,700 had been upgraded as of last month. The Board anticipated that about 2,000 of the 2,300 sites to be upgraded would meet the deadline.

Halvorson wondered if the Board was looking into new practices or policies of other states rather than massive excavation, burning and hauling. Round replied in the affirmative—the State Fund Administrators Conference was attended on a yearly basis and there were good contacts with others throughout the country. Iowa was selected out of all 50 states to participate in a project where innovative technologies would be used on specific sites in the state. The federal government has provided $1 million and DNR will be allocating this at equal sites in Council Bluffs and Shenandoah. The Board would contribute a 65 percent cleanup copayment and oil companies plan to experiment with lab technology on sites at their expense. There was continued discussion of ways to address the issue and make the program cost effective.

Halvorson raised question about the complexity of the SCR document. According to Rounds, the Board has hired and paid for outside reviewers to assist DNR in keeping up with the load and they plan to fund an educational program for consultants. Rounds explained "net worth determination' where the Board considers the value of the contamination.

In response to Priebe, Rounds stated that most renewal deadlines were October 26. Tanks not upgraded by their deadline would have to pay double premium plus a $400 surcharge which totals $1,000 per tank. Failure to upgrade by January 1 would result in termination of their insurance and loss of eligibility for other funding.

Galbraith stated that the Board had proposed a rule to allow waiver of the January date for 60 to 90 days if the owner/operator were not at fault. However, there was no statutory authority for this approach.

Kibbie cited problems experienced when seeking loans to proceed with the cleanup. He equated the issue with farm foreclosures in the '80s where those who waited seemed to fare better.

In response to Rittmer, Rounds stated that "upgrade" was a term used with the federal requirements which state that a tank must have appropriate leak detection monitoring, and spill and overfill protection. Upgrades have nothing to do with site cleanup. Rittmer suggested seeking ways to spend less or otherwise provide necessary funding.

Ch 15 — No questions regarding Chapter 15.

Recess — Priebe recessed the Committee at 4:10 p.m.

10-12-94

Reconvened — Priebe reconvened the meeting at 9 a.m. on Wednesday, October 12, 1994. All members and staff were present with the exception of Representatives Doderer and Schrader who had been excused.

ARTS — Mark Peitzman from Cultural Affairs was present for the following:

ARTS DIVISION[222]
CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"
Organization, 1.1 to 1.4, 2.1 to 2.3, 4.4 to 4.16, 5.1, 5.4 to 5.7, 5.11 to 5.13, 6.1 to 6.5, 6.7, 6.8, 6.11, 6.14, 7.6(3), 7.7, 8.3, 8.4(2), 8.6(1), 8.6(2), 8.8, 8.11 to 8.13, 11.1, 11.2, 11.4(3), 11.4(4), 11.4(12), 11.5 to 11.11, 12.2 to 12.4, 12.6 to 12.9, 12.11, 12.12, 13.1, 13.2, 13.6, 13.8 to 13.10, 14.2, 14.5 to 14.7, 14.9, 14.10, 14.12, new ch 18, 20.2, 20.7, 20.11, 20.12, 20.14, 20.16, 21.1, 21.3, 21.5 to 21.15, 22.1, 22.3, 22.5 to 22.19, 23.2 to 23.5, 25.1, 25.3, 25.4, 25.6 to 25.8, 25.12, 30.4, 30.6, 30.7, 30.11, 30.12; rescind chs 9, 10, 15 to 19, 24, 26 to 29, Filed **ARC 5085A, See text IAB 7-20-94** 9/14/94

1.1 et al. — No Committee action.

INDUSTRIAL SERVICES — Clair Cramer represented the Division for the following:

INDUSTRIAL SERVICES DIVISION[343]
EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"
General amendments, 1.2, 2.2, 2.4, 2.5, 3.1(1) to 3.1(3), 3.1(7) to 3.1(14), 4.1, 4.4, 4.6, 4.8(1), 4.9(7), 4.9(8), 4.10, 4.15, 4.17, 4.18, 4.20, 4.23 to 4.25, 4.27, 4.40(5), 4.41, 4.42(5), 4.42(6), 4.43, 4.48(9), 4.48(12), 6.2, 6.2(1), 6.2(6), 10.1, 10.1(4), 10.2(7), Filed **ARC 5095A** 9/14/94

1.2 et al. — Cramer stated that the Division had extensive interaction with agencies which practiced before them prior to the time of amendments. As a result some written comments about the operations of the forms in contested case proceedings were incorporated in the final rules. Cramer indicated that most of the forms were created in the Division and they had not yet adopted a standard reporting form that was being used nationally. No Committee action.

Committee Business — Daggett brought up the vote taken yesterday on Halvorson's motion to delay UST Board rules and asked for clarification. After the vote, Chairman Priebe had announced that the motion failed. He felt it was less controversial if it were not announced who voted for or against. Priebe emphasized that any member could request to be recorded on a vote. Metcalf interjected that seven affirmative votes were needed to pass a delay. Discussion followed in regard to complex statutory voting provisions in Chapter 17A which resulted when the legislature increased the Committee membership from 6 to 10. Priebe took the position that 6 votes would be sufficient to carry a motion. He reminded that the ARRC had always concurred that a majority of the members was necessary to take formal action. Royce stated that this would require a statutory change and Kibbie requested that a bill be drafted. After further discussion, there was consensus that six affirmative votes should be required for any action.

Motion 17A — Kibbie moved that Royce draft a bill to change the appropriate statute to a "majority vote of the entire membership."

National Conference — Chairman Priebe recognized Royce who requested permission to attend the National Association of Administrative Rules Conference to be held in Pinehurst, North Carolina, December 3 to 6, 1994. There was unanimous consent to authorize expenses for Royce's trip.

JOB SERVICE — Joe Bervid and Bill Yost were present for the following:

JOB SERVICE DIVISION[345]
EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"
Employer records and reports, claims and benefits, benefit payment control, 2.1(1), 2.17, 3.40, 4.2(2)"a," 4.6, 4.13(2)"e," 4.23(23), 4.39, 4.40, 5.10, Notice **ARC 5094A** 9/14/94

2.1(1) et al. — Priebe requested clarification of 3.40(2)"b." Yost stated that historically the tax on wages paid by employers was referred to throughout the statutes as contributions. It was a contributory tax and contributory employer versus reimbursable employer and was standard nomenclature for the particular tax. The surcharge was the additional tax imposed to fund the agency that was not otherwise appropriated by the federal government.

Metcalf referred to 4.2(2)"a" relative to mailing of a form and asked if there would be any value in including fax as an alternative and they saw no problem in adding fax.

Hedge asked about the change in Item 7, 14.23(23), which removed 40-hour work week as a definition of claimant being out of the labor market and wondered if this were controversial. Yost spoke of many factors in availability that must be considered: Some have 55-hour work weeks and others have only 32 hours; for purposes of meeting the Social Security Act—were they available for work. Yost pointed out that a fixed 40 hours was an inflexible standard. An individual could have availability for work restricted to 18 hours because their normal work week was 20 hours. The Division was trying to become more realistic to the varying work ethics throughout the state and examine each individual case on it's merits. Yost stated that there had not been a problem with availability. Rittmer preferred a policy to a judgment call to eliminate any prejudice. Bervid said the rules were specific with three pages defining availability and covering many situations. Yost added that the agency needed some flexibility. He cited an example of a full-time student who might be available for full-time work. Yost described the rule as an attempt to reach a common sense decision. Yost disagreed with Rittmer's assessment of the rule being wide open. No Committee action.

ECONOMIC DEVELOPMENT — David Lyons, Director, Mike Miller, Joe Jones, Melanie Johnson, Roselyn McKee Wazny and Ken Boyd represented the Department for the following:

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
Community economic betterment program — quality jobs enterprise zone, 22.6(1)"j,"
Filed Emergency **ARC 5104A** 9/28/94
CDBG program guidelines, 23.2, 23.6(1) to 23.6(6), 23.6(9)"b" and "c," 23.7(1)"a," 23.7(2), 23.8(1)"d" and "e," 23.11(1)"c" and "e," 23.11(5), 23.13(1), 23.13(3)"c" to "g," 23.13(4),
Filed **ARC 5074A** 9/14/94
Value-added agricultural products and processes financial assistance program, ch 29,
Filed Emergency After Notice **ARC 5073A** 9/14/94

22.6(1)"j" et al. — Lyons stated that 22.6(1) provided a "grandfather clause" for companies. No Committee action.

23.2 et al. — No questions on 23.2 et al.

DED (Cont.)
Ch 29

In review of revised Chapter 29, Lyons stated there was $3.6 million in funding for the program—half to value-added agricultural processing and production and half for renewable fuels activity. The most significant changes were to the definitions of "farming," "livestock production operations" and "rural regions" and the 50-50 allocations. The funding was split equally for the first nine months and then within each of those programs, half of those funds were made available for projects of $100,000 or less and half could be any size. A formula for ranking projects for qualification was devised and emergency rule making was necessary to be in operation for the legislature.

Lyons continued that the Department was accepting applications and have hired a program coordinator, Joe Jones, who was introduced to the Committee. Jones gave a history of his background—graduate of ISU in Agronomy, farmed in southeast Iowa for 17 years, worked in Illinois for a seed supply company as a sales manager and with the Small Business Development center.

Halvorson stressed the importance of cooperation of all concerned for a successful program. He expressed disappointment in the Agriculture Department's effort and their failure to adopt rules for the program. Halvorson reminded that if the funds were not spent, the money would revert and there were only nine months remaining. Priebe agreed with Halvorson.

Lyons informed the Committee that the Department was moving to a loan program as opposed to grants based on need. The Department was also considering the concept of the higher the amount of money requested, the more likely it would be a loan program rather than a grant program requiring the support of the company. Based on need the appropriate amount would be loaned or granted. This approach was well received by the ARRC. No Committee action.

DOT

Dwight Stevens, Barbara Meeks, Carol Crouse, Peter Hallock, Ian MacGillivray, Valerie Hunter and Tom Sever were present for the following:

TRANSPORTATION DEPARTMENT[761]
Signing manual — uniform traffic control devices, 130.1, Notice **ARC 5101A** 9/28/94
Safety lighting for continuous movement of overdimensional vehicles and loads between sunset and sunrise, roadway widths, 511.3(7), Filed **ARC 5107A** 9/28/94
Motor carrier safety and hazardous materials regulations, 520.1(1)"a" and "b," Filed **ARC 5106A** 9/28/94
Carriers — tariff rate changes, 523.8(1), 523.8(3), 523.8(6), 523.8(10), 523.8(12), 525.14(1), 525.14(3), 525.14(6)"a" to "e," 525.14(9), 525.14(11), 528.11(1), 528.11(3), 528.11(8), 528.11(10), Notice **ARC 5071A** 9/14/94
Disadvantaged business enterprise; state transit funding; capital match revolving loan fund, rescind ch 900; amend 920.5(2)"a," 923.4(1)"d" and "e," 923.5(1), 923.5(2)"b," 923.5(3), 923.5(4), Filed **ARC 5108A** 9/28/94
Public transit liability insurance, 910.1, 910.4(1), 910.4(3), 910.4(3)"a," 910.5(1), 910.4 Appendix, Filed **ARC 5105A** 9/28/94

130.1

Stevens explained proposed revisions in Chapter 130 relative to signs. To avoid duplication, "Road Work Ahead" signs will apply to both construction and work. "Road Construction" signs will be phased out in a three- to five-year period. Cities and counties will be responsible for the costs. Stevens clarified that the Signing Manual was developed by the federal highway administration to provide uniformity nationwide. The Iowa Code requires DOT to adopt the manual of standards for traffic control and they adopted the federal mandates. The state was imposing the rules on counties because this manual must apply to all road and streets within the state. In response to Rittmer, Stevens stated that the state had the option of adopting another plan but selected the federal manual for uniformity reasons.

DOT (Cont.)

Kibbie asked if all the subdivisions throughout the state had been apprised of this rule and public hearings. Stevens cited the IAB and a County Engineer's Conference scheduled for December each year as means of notification. Stevens would speak at the conference specifically about Part VI of the manual. DOT distributes copies of this part to every city and county in the state when it is adopted. Priebe was concerned that once a rule was adopted, those affected would have no input. Kibbie recommended additional hearings to the one in Ames.

With respect to metric signs, Stevens said this revision did not address metrics but it would be an issue in approximately two years. An entirely new manual will contain both metric and English as a conversion manual and after five years it will be all metric. DOT had not decided whether the messages on signs would be metric. Kibbie speculated that the attitude of the public would not be favorable to a metric system. There was further discussion of avenues for notifying all concerned of the public hearing. MacGillivray pointed out that both the League of Municipalities and the ISAC group normally monitors the Bulletin for that very purpose on a routine basis and he believed that Kibbie's objective was met.

Stevens cited typical cost of a 48" × 48" sign as $40. Some larger cities may make their own signs, some are made by prison industries and others are bought from commercial companies. Rittmer pondered whether a strictly federal mandate would have been more acceptable than a state option. MacGillivray advised that DOT had a continuing working relationship with federal officials on technical issues. One of the advantages for a local jurisdiction to adopt these standards was that to adopt any other standard would also require a defense in court as to the reasonable and practical technical practice. City and County Engineers were very familiar with the manual and the practice and will support it. Many of the costs were also the "up-front costs" of something that must be replaced over time.

It was noted that the National Association of Counties had three representatives on the Committee that developed the manual, several county-related people served on the technical committees. Priebe favored a phase-in for replacement of signs. Stevens saw the need for a cutoff at some point but DOT could allow the maximum flexibility. No Committee action.

511.3(7)

In response to Priebe, Crouse stated that the requirements in 511.3(7) for an overdimensional load were in addition to after sunset requirements. No Committee action.

520.1(1)"a" and "b"

No questions.

523.8(1) et al.

In review of amendments to 523.8(1) et al., Meeks stated that the Motor Carrier Advisory Group, Iowa Motor Truck Association, asked the Department to allow carriers to change their tariff rates on 7 days' notice. Existing rules require 30 days. This change would be comparable to other states and interstate regulations. The change would have no adverse effect on anyone.

Meeks advised Kibbie over-the-road truckers were currently allowed to change rates on 7 days' notice because those tariffs were filed with the Interstate Commerce Commission. The proposed amendments would apply only to intrastate carriers.

Ch 900 et al.

Hallock described amendments to Chapter 900 as essentially "cleanup." No Committee action.

DOT (Cont.)
910.1 et al.

Hallock reviewed final revisions in Chapter 910 which would remove the requirement for uninsured and underinsured motorist coverage for publicly funded transportation. The change had been recommended by the Iowa Transportation Coordinating Council, a group composed of Iowa DOT, Human Services, Elder Affairs, Education and Iowa Association of Counties. A number of providers, including the State of Iowa, do not provide this type of coverage because of the financial burden.

In response to Rittmer, Hallock stated that there was a requirement for $1 million in liability coverage. City buses have only the liability coverage. The Department of General Services had indicated they would not purchase any coverage since the law allowed self-insurance.

Halvorson was concerned that the DOT was unwittingly leading an agency into a very serious situation. Hallock emphasized that the DOT was very strongly recommending that the transit systems continue to carry the coverage. The requirement was removed because of the statements made by General Services. Halvorson cited an example of those who would be losers: The elderly person riding the transit unit at their own risk. Hallock replied that it could reach that point. The DOT was recommending and expecting that most of the transit systems would keep the coverage to protect their own assets. Halvorson declared that when this rule goes through it would be unlikely that anyone would carry the insurance. Hallock replied that most of the transit systems were interested in entering into contracts, particularly with social services agencies, and most contracts do require at least $1 to $3 million in coverage and many exceed the minimums set here.

Halvorson concluded an attorney would seek the deepest pocket available in the event of an uninsured loss and any "recommendation not to carry the insurance develops a deep pocket."

Palmer concurred and expressed the opinion that there was no great need for the rule change.

Motion to Refer

Palmer moved to refer ARC 5105A to the Speaker and President of the Senate for review by the appropriate committee. Motion carried.

PUBLIC SAFETY

Michael Coveyou, Calvin Rayburn and Michael Rehberg, Crime Laboratory, represented the Department. Also present were Gerard Stanton, Jr., President, Ignition Interlock Systems of Iowa and Kevin Doyle and Tim Moran, Consumer Safety Technology. The following was considered:

PUBLIC SAFETY DEPARTMENT[661]
Ignition interlock devices, 7.8(1)"d," 7.8(2), 7.8(5), 7.8(8), Notice **ARC 5072A** 9/14/94

7.8(1)"d" et al.

Rehberg told the Committee that ignition interlock devices were available through four distributors who were listed in the telephone book. Defense attorneys were also aware of installers. Rehberg continued that the individual could petition the judge for a device, the judge could approve it and provide a court order for the individual to go to a distributor. Coveyou explained that the device had to be approved to be eligible. Rehberg assured Metcalf there was always personal contact at the initial installation of the device. The new rules provide for subsequent exchanges to be made by mail. He added that if the individual fails to take the retest they would have to return to the site of installation within five days. Any tampering with the unit would be recorded which would require face-to-face contact with the installer.

PUBLIC SAFETY (CONT.)

According to Reyburn, new technology was being phased in but cost to the client would be virtually the same. Approximately 600 and 800 devices were in use around the state. The DOT office maintains records.

Priebe favored retention of the face-to-face provisions. Limited dealers and travel distance were cited as reasons for revision of the rules. With the direct exchange program, clients would be required to go to an installation site. Metcalf understood that some companies would go to the client and Rehberg replied that this was allowed under the rules and was being done.

Stanton stated that Interlock Ignition Systems of Iowa had been a provider of interlock devices in the state since 1988 and they offer home service. The 60-day calibration would be done on a demand basis. They also have the capability for the mail-in program. Stanton favored face-to-face contact as a deterrent to any temptation by the client to be dishonest. Costs between face-to-face and mail in depended on what the market would bear, according to Stanton. In a competitive environment if a company decides to lower the price by using mail ins, other companies could follow. Stanton replied that there were three providers for approximately 600 units. Stanton replied that an average cost was $2 per day on a $60 per month lease. The average license suspension was between 12 and 13 months and this would cost between $700 to $800 per year. Because technology was changing so rapidly, it would not be cost effective to purchase the device.

Doyle concurred with Stanton about the value of interfacing directly with the user on calibration. Between 12 and 15 clients a month violate the rules. With the amendments, violators would be pulled in within five days, otherwise they were not found for 60 days. The direct exchange program was much more effective in making the program available in rural areas. The Iowa Supreme Court restricts the individual to driving to and from work and prohibits them from driving to get the unit calibrated.

Coveyou stated that the Department was considering a suggestion from suppliers of the devices to require the suppliers to carry general liability insurance. No Committee action.

VOTER REGISTRATION

Doug Lovitt, Director of Voter Registration, and LaVonne Short and Norris Davis, Transportation Department, were present for the following:

VOTER REGISTRATION COMMISSION[821]
Operation of commission, definitions, registered voter lists, NCOA records, procedures for DOT employees, chs 1 to 3, 4.3(1)"a"(4) and (6), chs 6 to 11, Notice **ARC 5111A** 9/28/94

Ch 1 et al.

Lovitt described proposed amendments to Chapter 1 et al. which were intended to update rules in place since 1975. He discussed registration time frames. In response to Rittmer, Lovitt stated that the Department had received an opinion from the Federal Department of Justice which stated that retention of the declination form was required. Rittmer was concerned with the amount of bureaucracy in the government and felt this was just another layer but did not fault the Department. Lovitt stated that agencies may adopt electronic forms and make paperless file transfers but the records, electronic in this case, still must be kept. No agencies have expressed an interest at this time.

Kibbie wondered about a registration on a Friday afternoon and the commissioner's office closes at 4 p.m. Lovitt replied that it would be forwarded at the end of that day—put in the mail. The application, assuming it was acceptable, was deemed to have been received by the commissioner at the time it is received

VOTER REGIS. (Cont.)

by the agency. The person would be entitled to vote in the election held 10 days later even though the county commissioner had not received the application until Tuesday or Wednesday of the day before the election. Kibbie asked if this could be disputed by the judges of the election and Lovitt replied that the judges have the right and the duty to challenge the qualification of any elector regardless of the duration of the registration. Lovitt recognized the concern and commented that the weakest link in the election process was the precinct election officials. He reasoned this was largely a training and recruiting issue.

Short indicated that Driver Services would express concerns on these rules at the public hearing. Driver Services plans on accessing the voter registration files when a person comes in to the Driver License Station and at that point they would ask the applicant if they were interested in registering to vote in the state that day. If the person declines, the Department does not want to pull up their file and tie up computer lines. However, rules state that the Department must pull up that information on every applicant. This could unnecessarily prolong the issuance process to individuals served in the stations. Lovitt believed a compromise was possible. He stressed that this law was not effective until January 1 so would not affect this November's elections.

Metcalf expressed concern with the time it takes to get a driver's license renewed and with the confidentiality issue. In response to Priebe, Lovitt stated that there was an existing law that required most state agencies to offer voter registration services in a passive way such as having the forms available and to accept completed forms. Priebe asked if the Treasurer's Office which handles renewal of drivers' licenses in one of his counties would have access to the voter records and Short replied that they would have the same capability as the Driver License teams. No Committee action.

SECRETARY OF STATE

Sandy Steinbach was present for the following:

SECRETARY OF STATE[721]
Voter registration in state agencies, ch 23, Notice **ARC 5121A** 9/28/94

Ch 23

Steinbach stated that these rules contained procedures for voter registration to be followed by agencies in carrying out the National Voter Registration Act. The Act was directed to states with a more obstructionist view than Iowa. Iowa has had most of the programs in place for many years. Chapter 23 spells out the procedures for providing voter registration services along with applications for social services.

Beginning at the first of the year, the voter registration form will list, in large type, the requirements to legally register to vote. The current mail-in system has been in place for nearly 20 years and the state does not have widespread massive voter fraud. The Clerk of Court will notify the state Registrar of Voters of a convicted felon and keep a record of people convicted and those declared mentally incompetent. Political parties have an ongoing relationship with the voter registration records and do keep track of who is registered to vote and do offer challenges.

Steinbach pointed out that the purging requirements would change after January 1. Currently, the registration would be canceled if there had been no activity in four years. Under the National Act, the name would be placed on an inactive list and then removed if an individual had not voted for two general elections. The National Change of Address Program would be used to track people when they move and update their records.

SECRETARY OF STATE (Cont.)

Lovitt noted that under state law if a person does not vote for four consecutive years, register, report a change of address, or notify that they would still be a qualified elector, the county commissioner would send a card notice to the person and attempt to confirm qualification. If the card were not returned, that record would remain on the file indefinitely unless there was affirmative evidence that a voter was no longer eligible. Hedge asked if anyone was notified of deaths. Steinbach replied that this was done automatically. Lovitt added that records on the voter registration list were compared to death records from the Department of Health. No Committee action.

UTILITIES

Cindy Dilley, Don Stursma and Vicki Place were present for the following:

UTILITIES DIVISION[199]
COMMERCE DEPARTMENT[181]"umbrella"
Pipeline permits and safety, ch 10 title, 10.1(6), 10.1(7), 10.1(10), 10.2(1), 10.2(1)"b" and "h" to "j," 10.3, 10.4, 10.12, 10.16, 10.17, 19.5(2), 19.8(3), Notice **ARC 5102A** 9/28/94

Ch 10 et al, 19.5, 19.8

Dilley presented the amendments to Chapters 10 and 19 which would be applicable to intrastate gas pipeline systems. There was brief discussion but no recommendations.

PROFESSIONAL LICENSURE

Carolyn Adams represented the Division for the following and there were no questions:

PROFESSIONAL LICENSURE DIVISION[645]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Behavioral science — marital and family therapists and mental health counselors, 30.3(1)"c," 30.4(1)"b"(12), 30.4(1)"c," 30.6 to 30.9, 30.10(3) to 30.10(5), 31.1 to 31.6, Notice **ARC 5096A** 9/14/94

NO REPS

No agency representative was requested to appear for the following:

COMMUNITY ACTION AGENCIES DIVISION[427]
HUMAN RIGHTS DEPARTMENT[421]"umbrella"
Community services block grant, 22.3(2), 22.3(4), 22.4(3), Notice **ARC 4135A** Terminated **ARC 5103A** .. 9/28/94

INSPECTIONS AND APPEALS DEPARTMENT[481]
Nutrition sites for the elderly, labeling of food, reduced oxygen packaging of food, 30.3(4), 30.14, 31.11, Notice **ARC 5081A** 9/14/94

LABOR SERVICES DIVISION[347]
EMPLOYMENT SERVICES DEPARTMENT[341]"umbrella"
General industry — permit-required confined spaces, 10.20, Filed Emergency After Notice **ARC 5091A** 9/14/94
General industry — fall protection in construction, exposure to asbestos, 10.20, Notice **ARC 5092A** 9/14/94
General industry — electric power generation, transmission, and distribution; electrical and personal protective equipment, 10.20, Filed Emergency After Notice **ARC 5130A** 9/28/94
General industry — hazardous waste operations, emergency response, 10.20, Notice **ARC 5128A** 9/28/94
Construction — fall protection, exposure to asbestos, 26.1, Notice **ARC 5093A** 9/14/94
Construction — hazardous waste operations, emergency response, 26.1, Notice **ARC 5129A** 9/28/94

MEDICAL EXAMINERS BOARD[653]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
Discipline — updating amendments, 12.50(12), 12.50(26), 12.50(31), 12.50(33), 12.50(36)"d," Notice **ARC 5113A** 9/28/94

PUBLIC BROADCASTING DIVISION[288]
EDUCATION DEPARTMENT[281]"umbrella"
Transfer 225—chs 1 to 10 to 288—chs 1 to 10, amend 1.1, 1.2, 2.1, 2.1(3)"a," "b," and "e," 3.1, Filed **ARC 5075A** 9/14/94

Meeting Dates — Priebe announced that the November meeting would be held on the 15th and 16th and December's meeting would be held on the 13th and 14th.

Adjournment — The meeting was adjourned at 12:10 p.m.

Respectfully submitted,

Phyllis Barry

Phyllis Barry, Secretary
Assisted by Kimberly McKnight

APPROVED:

Senator Berl E. Priebe, Co-chair