

MINUTES OF THE REGULAR MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting The meeting of the Administrative Rules Review Committee (ARRC) was held on Tuesday and Wednesday, June 11 and 12, 1991, in Senate Committee Room 22, State Capitol, Des Moines, Iowa.

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 Ruhl Maulsby.

Staff present: Joseph A. Royce, Counsel; Phyllis Barry, Administrative Code Editor; Mary Ann Scott, Administrative Assistant. Also present: Paula S. Dierenfeld, Administrative Rules Coordinator; Stephen Conway and Oliver Ivory, Democratic Caucus Staff.

Convened Chairman Priebe convened the meeting at 10 a.m. and recognized Royce who distributed a letter from William C. Fuller wherein he expressed concern regarding rules of the DEPT. FOR THE BLIND Department for the Blind[111] which were revised in February 1991. Subrule 1.5(1) states that the Commission will hold at least six meetings each year. Previously, the Commission had set a specific date for each of the meetings which were held about every two months. Committee members recalled that Department officials did not anticipate a change in previous policy and they saw no need for action unless the Commission fails to honor the verbal agreement. Royce was requested to communicate this position to the Commission for the Blind.

ECONOMIC DEVELOPMENT Present from the Department were Lane Palmer and Roselyn Wazny. Also present were Kent Sovern, League of Iowa Municipalities, and Jack Kegal, Iowa Association of Municipal Utilities. The following agenda was considered:

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
Rural water system set-aside, 23.2, 23.6(3), 23.15, Notice ARC 1946A, also Fixed Emergency ARC 1945A 5/15/91

Ch 23 Palmer explained that the use of Emergency amendments to 23.2 et al., allowed the Department to utilize federal Farmers' Home Administration funds for water and sewer systems--specifically rural water systems. The program was similar to a set-aside for drought relief two years ago.

Palmer discussed easements from rural water district which are limited to the right of way.

Chairman Priebe recognized Sovern who voiced opposition to a process that abrogates the authority for grant making to a private, nonprofit organization, such as the Rural Water Association. He contended that municipal utilities also serve these areas and apply for the same "pool" of

ECONOMIC
DEVELOPMENT

money. Kegal shared the position taken by Sovern and he declared that it was inappropriate for the Department of Economic Development to effectively give an absolute veto power to a private trade association over state and federal funding. He opined that cities and rural entities should be able to apply for these funds on an equal basis. In conclusion, Kegal urged objection to the "flawed" rules.

Royce advised that objection was the Committee's only option since the rules were filed Emergency. They would need to determine whether the rule making was arbitrary, capricious, unreasonable, or beyond the statutory authority of the agency. He considered the two issues to be: (1) Is it appropriate to delegate any kind of authority to a private, nonprofit association in the grant process, and (2) is it appropriate to have a special category of funds for a specific type of water project.

Royce pointed out that the Committee would have a delay power over the adopted version following the Notice. However, such a delay would still have the effect of leaving the emergency rule intact. Priebe observed that the funding was limited to 1991.

Palmer emphasized that this procedure would not be followed in the future. They had been approached by the Farmers' Home Administration and Rural Water Association on the opportunity to use the funds because of a project that was not completed. Palmer continued that \$1,000,000 of a \$4,000,000 set-aside had been committed. Palmer estimated \$23,000,000 in the Community Development Block Grant Program.

Doyle asked about the match and Palmer said that it exceeds the amount in Farmer Home Loans but he had no specifics. In response to Schrader, Palmer stated that this money came from a set-aside retained for public facility and economic development projects. Southern Warren and Ringgold Counties as well as several small towns in southern Iowa would be the recipients. In order to qualify for the funds, the recipients were required to document that money would be allocated to low income areas in southern Iowa. Three-Mile Lake will supply the area.

Schrader recalled similar circumstances with drought stricken areas last year and took the position that the statement of authority by the Department should be addressed. Palmer stressed that some flexibility for matching funds would be allowed in 1992.

Kegal urged the ARRC to vote objection which would terminate the rules 180 days from the date of objection. An action of that type would block any of the current projects to which Palmer referred and would send a message to the Department as well as other departments that this type of rule making exceeds statutory authority.

ECONOMIC
DEVELOPMENT
Cont'd.

Palmer indicated that the emergency version would be rescinded when the rules were adopted following the Notice procedure.

Motion

Tieden reasoned that the precedent being set was regrettable. He then moved to object to 261--23.6(3) and 23.15(15).

Palmer defended the emergency action taken since Iowa received funds which would have gone to other states if the Department had not acted quickly.

Royce advised that the objection would reverse the burden of proof and that a successful court challenge could jeopardize the money. He continued that this was very theoretical since very few objections have been litigated on grant programs.

Sub. Motion

Schrader could not support the objection and offered as a substitute motion to defer 23.6(3) and 23.15(15) to the Speaker of the House and President of the Senate with ARRC recommendation that intent language be added to the CDBG line item of the appropriation, stating the purposes for which this money should be spent. Motion carried by voice vote. Tieden withdrew his motion.

ALCOHOLIC
BEVERAGES
DIVISION

Representing the Division were Richard Morrell and Janet Galloway. Also present: Russell Laird, Iowa Wholesale Beer Distributors Association. The following agenda was considered:

ALCOHOLIC BEVERAGES DIVISION[185]

COMMERCE DEPARTMENT[181]"umbrella"

Liquor licenses--beer permits--wine permits; license and permit division; advertising; representatives of distillers, rectifiers, manufacturers, brewers and vintners; private wine sales; agency stores; trade practices regulations; trade practices; class "E" liquor control licenses, 4.1(3) to 4.1(5), 4.2(1), 4.2(2), 4.3 to 4.7, 4.10, 5.5, 5.8(8), 5.9(5), 5.9(6), 5.13, ch 6, 7.2(1), 7.2(2), 7.2(4) to 7.2(6), 7.3(1), 14.3, 14.6, ch 15, ch 16, 17.1(2), 17.3, 17.6, 17.7, Filed ARC 1967A

5/15/91

4.1(3)

Morrell gave a brief overview of the amendments which accurately reflect the current role of the Division.

Priebe questioned the lack of a date certain for the CFR reference in 16.1(7) regarding cost adjustment factor. Royce explained that these rules do not adopt the federal rules but use them as a guide. Galloway interjected that the Bureau of Alcohol, Tobacco and Firearms does not make their cost adjustment on a regular basis and so a specific date was not available. Priebe contended that the rules should be amended when the federal regulations change. Royce reasoned that comparison of the federal guidelines in 16.1(7) with the actual dollar limitation in 16.3(2) provided a safeguard. Galloway said the actual dollar limitations were set forth in 16.3(3).

Laird reported that his Association had no objection to this rule. Maulsby agreed with the need for a date certain.

ECONOMIC
DEVELOPMENT
Cont'd.

Chairman Priebe recognized Laird for general comments. Discussion focused on 16.14--rebate coupons for liquor, wine or beer. Laird voiced opposition to a handling charge to a retailer for couponing and he asked that the words "more than the ordinary and customary handling fee" be stricken. He continued that it was illegal, for example, for a beer wholesaler or a brewer to pay a supermarket retailer for shelf space or facings on a shelf or a wholesaler or a brewer could not pay a tavern operator to promote a particular brand of beer to the exclusion of another brand. His association had always construed the law to prohibit couponing. He knew of only two instances where there was a handling fee paid to the retailer. Laird clarified that they were not against couponing but considered the handling fee as creating unfair competition.

Priebe recognized Morrell for his response. Morrell stressed that the rules were not limited to beer wholesalers but were written for the entire industry.

Galloway pointed out that coupons from a magazine or newspaper are handled by nationwide clearinghouses and the Alcoholic Beverages Division does not regulate the conduct of those clearinghouses. Hardship would be created to require manual separation of the coupons prior to sending them to a clearinghouse for processing and it would be impossible to regulate the operation. Galloway reiterated that rule 16.14 was not directed toward the consumer but to the wholesaler's relationship with the retailer.

Laird contended that the Commission had exceeded its authority. Royce advised the Committee of their options regarding the rule.

Motion Pavich moved to delay rule 185--16.14 for 70 days for further study. Schrader spoke against the delay and the motion failed on a voice vote.

Motion to Refer Pavich then moved that the last sentence of 16.14 be referred to the appropriate legislative committee. The sentence read, "An industry member is prohibited from reimbursing the retailer more than the ordinary and customary handling fee for redeeming the coupons."

Carried Motion carried.

ATTORNEY GENERAL Ch 8 DNA Julie Fleming, legislative liaison from the Department of Justice, presented Chapter 8 pertaining to DNA Profiling. The rules were published in final form as ARC 1947A in 5/15/91 IAB. No questions.

COMMUNITY ACTION AGENCIES Rod Huneman reviewed the following and there were no questions.

COMMUNITY ACTION AGENCIES DIVISION[427]
HUMAN RIGHTS DEPARTMENT[421]"umbrella"
Community services block grant, 22.2, 22.15, Filed ARC 1958A5/15/91

HUMAN
SERVICES

The following rules of the Human Services Department were considered:

HUMAN SERVICES DEPARTMENT[441]

Application for aid, 40.7(2)"a," 40.7(4)"d," 40.8, Notice ARC 2036A5/29/91
 Income and resource exemptions for major disaster and emergency assistance payments and
 certain restitution payments, 41.7(6)"y" and "z," Notice ARC 2035A5/29/91
 Increase in standard utility and telephone allowances, 65.8(1), 65.8(3), 65.8(5), Notice ARC 1953A5/15/91
 Corrections in terminology due to nursing home reform legislation, 75.1(3), 75.1(5), 75.1(6),
 75.25, 76.12(5), 81.13(13)"c"(3), 85.1(1), 85.1(2)"a," 86.15(1), 86.15(3), implementation
 clauses in chs 75, 77 to 79, 81, 82, 86, 88, Notice ARC 2037A5/29/91

Those in attendance included Mary Ann Walker, Kathy Ellithorpe, Cynthia Tracy, Cindy Homan, Maya Krogman, Vivian Thompson, and Daniel Hart, Assistant Attorney General.

40.7, 40.8 Walker presented amendments to 40.7 and 40.8 regarding transfer of questionable ADC cases to the Department of Inspections and Appeals for further investigation. A special unit has been trained for these cases.

Thompson told Tieden that any ADC case receiving food stamps can be referred. Priebe asked who investigated food stamp abuse and Walker said that federal officials would be responsible. Tieden wondered if additional personnel would be needed and Thompson anticipated little change since most ADC recipients receive food stamps.

Priebe was aware of instances where grocery stores allow purchase of beer and cigarettes with food stamps. Department officials spoke of the difficulty in enforcement in this area.

41.7(6) There were no questions regarding amendment to 41.7(6)"y" and "z."

65.8 Walker then provided background information for amendments to 65.8. Tieden and Priebe had concerns regarding automatic increases to standard utility and telephone allowances.

In response to Schrader, Walker said that the state contributes 50 percent of the administration but food stamps are 100 percent funded by the federal government. Tracy added that there are no limits set by federal authorities--they are based on actual utility costs. With respect to annual automatic adjustment, Tracy said the percent increase will be based on the Consumer Price Index Monthly Periodical but they do not indicate a decrease. The Committee had concerns about the automatic increases and preferred rule making by the Department to justify the annual changes.

75.1 et al. There were no questions regarding amendments to 75.1(3) et al. which correct terminology to implement nursing home reform legislation.

Vice Chairman Pavich took the Chair.

PROFESSIONAL Calvin Van Arkel, Chairman, Board of Mortuary Examiners;
 LICENSURE Barbara Charls; Harriet Miller; and Susan Osmann presented

PROFESSIONAL
LICENSURE
Cont'd.

the following rules:

PROFESSIONAL LICENSURE DIVISION[645]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Mortuary science examiners, college requirements, 101.1, Notice ARC 1968A 5/15/91
Mortuary science examiners, 101.2(3), 101.4(3)"c.", 101.4(4), 101.98(6), Filed ARC 1969A 5/15/91
Ophthalmic dispensers--inactive practitioners, reinstatement of inactive and lapsed licenses,
160.4 to 160.9, Notice ARC 2034A 5/29/91
Respiratory care practitioners, 260.4, 260.7(1), 260.7(3), 260.7(4), 260.8(2), 260.10(1), 260.10(2),
260.10(7), Filed ARC 2030A 5/29/91

- 101.1 Van Arkel explained proposed amendments to 101.1 which clarify college requirements.
- 101.2 Osmann briefly commented on amendments to 101.2(3) et al. No questions or comments.
- Ch 160 Charls presented amendments to 160.4 to 160.9 regarding inactive practitioners and their reinstatement. No questions.
- 260.4 Miller gave brief outline of changes in 260.4 et al., respiratory care practitioners. No comments.
- DENTAL EXAMINERS Connie Price, Executive Secretary of the Board, presented the following rules:
- DENTAL EXAMINERS BOARD[650]
PUBLIC HEALTH DEPARTMENT[641]"umbrella"
System of retaking examinations, 12.3, Notice ARC 2021A 5/29/91
Late fee, reinstatement of lapsed license, 14.4, 14.5, Notice ARC 2023A 5/29/91
Fees, 15.1(7) to 15.1(10), 15.3, Notice ARC 2022A 5/29/91
- 12.3 There was discussion of revised rule 12.3 which Price described as clarification of the procedure for retaking examinations for licensure and subsequent remedial education requirements. Price mentioned an applicant who had failed numerous times. Doyle reasoned there should be a point for total rejection of such an applicant.
- 14.4, 14.5 In review of amendments to 14.4 and 14.5, Price cited carelessness and failure to report address changes as reasons for lapsed licenses. No Committee recommendations.
- 15.1 According to Price, the fees for reinstatement of lapsed
15.3 licenses go directly to the general fund--15.1 and 15.3.
- COMMITTEE DOYLE moved to approve the minutes of the May meeting
BUSINESS as submitted. Motion carried.
Minutes
Omaha Royce provided an update on the Midwestern Legislative
Meeting Conference of the Council of State Governments' July meeting on legislative rules review. The conference has been scheduled for Saturday and Sunday, July 13 and 14 in Omaha, Nebraska.
- Motion Doyle moved that the six ARRC members and three staff members be authorized to attend the Conference and be reimbursed for expenses and per diem. Royce agreed to make the necessary reservations. Motion carried.
- Recessed The Committee was recessed for lunch at 11:45 a.m. and
Reconvened was reconvened at 1:30 p.m. with Chairman Priebe presiding.

EDUCATION
DEPARTMENT

Terri Nordgaard submitted proposed amendment to rule 103.2 pertaining to corporal punishment which appeared as ARC 2006A in the 5/29/91 IAB.

103.2

Royce recalled ARRC opposition to the fact that the definition of "corporal punishment" included unprivileged and spontaneous contact. The language will be deleted.

Schrader pointed out that the legislature had defined corporal punishment but the Department chose to redefine it. It was noted that a portion of 103.2 had been delayed into the 1991 General Assembly by the ARRC at their November 13, 1990, meeting.

CORRECTIONS

1.6(1)

Fred Scaletta, Corrections Department, presented the Filed Emergency amendment to 1.6(1)"g," published in IAB 5/29/91 as ARC 2032A.

The amendment was intended to correct an oversight when the Department's rules were reorganized this year. No questions.

REVENUE
AND
FINANCE

Carl Castelda, Deputy Director, presented the following rules:

REVENUE AND FINANCE DEPARTMENT[701]

Exempt sales by excursion boat licensees, computation of local option tax due from mixed sales on
excursion boats, 17.25, 107.12, Filed ARC 1997A 5/29/91
Drop shipment sales, 18.55, Notice ARC 1998A 5/29/91

17.25,
107.12

Castelda explained the adopted rules 17.25 and 107.12 regarding exempt sales tax by excursion boat licensees and computation of local option tax due from mixed sales on these boats. He indicated it was the Department's intent to confer with all the licensees as well as the Illinois Department of Revenue and Finance in an attempt to reach reciprocal agreements based on the courses followed by the boats.

With respect to local option tax, Castelda referred to two formulas in the rule: mileage basis or a percentage of gross receipts. The local option tax could not be collected on the Illinois side of the river. It was his understanding that the gambling boats set a fixed course as far as navigation. The burden of proof is on Revenue to show that the tax is owed. Priebe could foresee courses being altered to circumvent the tax but Castelda stated that boat operators had been extremely cooperative. Licensees prefer to collect tax when there is any doubt to avoid penalties and interest later. Castelda concluded that local option tax was difficult to administer because of many jurisdictional issues.

18.55

In review of proposed new rule 18.55, Castelda described drop shipment sales as an area of sales tax where confusion prevails. The Department saw a need for examples as to when sales tax is due, who has responsibility for collecting the tax, and the types of transactions which are not subject to tax because

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delivery did not occur in the state of Iowa. Rule 18.55 will provide guidance and education in the area.

In response to Tieden, Castelda explained that the general definition of "nexus" means there is minimum contact with the state of Iowa, thereby allowing the state taxing power. He further explained how it applies to corporate taxes as opposed to sales tax. Castelda continued that "nexus" was a very factual situation and the Department devotes much time in attempting to prove nexus and they rely heavily on Iowa court cases. Castelda estimated that the Department has collected \$200,000 to \$300,000. No Committee action.

PUBLIC
BROADCASTING

Representing the Division were David Bolender and Molly Phillips who reviewed the following:

PUBLIC BROADCASTING DIVISION[225]
CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"
Communications network educational site selection, ch 10 title, 10.1, 10.1(3)"a" and "c,"
Filed Emergency ARC 1939A5/15/91

Ch 10

Bolender stated that the emergency filing was utilized to clarify that criteria for communication sites and the technical and handicapped accessibility pertain only to educational sites. An Attorney General's Opinion established the Board as the rule making authority to promulgate the criteria.

There was discussion of the provision in 10.1(3)"a" which required the teaching classroom to be of sufficient size to seat a minimum of 20 students. No formal action.

PUBLIC
SAFETY

The following agenda was before the Committee:

PUBLIC SAFETY DEPARTMENT[661]
Fire marshal, flammable liquids and fees for underground storage tank certification inspections, 5.301(9),
5.314, Filed ARC 2001A5/29/91
Devices and methods to test body fluids for alcohol or drug content, 7.3, Notice ARC 1940A5/15/91
State of Iowa building code, 16.140(1)"e" to "k," 16.500(1)"e," 16.701, 16.706, Filed ARC 2002A5/29/91

Representing the Department were Don Appell; Mike Coveyou; Sandra Stoltenow, Crime Laboratory; Roy Marshall, State Fire Marshal and Chris Odell, Counsel.

5.301

Coveyou explained amendments to 5.301(9) and 5.314 which set a fee for certification inspections for underground storage tanks and set criteria for disposition of waste oil in the form of crank case drainings.

16.140 et al.

There was discussion of 16.140(1) et al. regarding the building code. Coveyou said that the amendments would modify existing requirements for egress windows or other emergency exits in sleeping rooms and dwelling unit basements with habitable rooms. In addition, they modify the handicapped accessibility and adaptability of rules regarding apartment units to conform with the Federal Fair Housing Accessibility Guidelines.

In response to Tieden, Marshall clarified that the inspection fee was for replacement tanks or new installations. Maulsby interprets the charge as so

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SAFETY
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much per tank and wondered if a charge per site would be more equitable.

Coveyou and Marshall explained that a fee would be imposed only if the inspection were performed by the Fire Marshal's office. Discussion followed and Marshall was willing to consider Maulsby's suggestion.

7.3

Coveyou summarized amendment to 7.3 intended to clarify requirements for collection of urine samples by peace officers for testing of alcohol or drug content. A recent District Court decision in Bremer County (Woodin V. Department of Transportation) suggested that current wording was confusing. No formal action.

UTILITIES

Present from the Division were Vicki Place, Allan Kniep, Gary Stump and Eric Neu who reviewed the following:

UTILITIES DIVISION[199]
COMMERCE DEPARTMENT[141]"umbrella"
Alternate energy production, 15.1, 15.2(1)"a" and "c," 15.2(2), 15.4, 15.11, 15.11(1)"c," 15.11(4),
15.11(6), 15.12 to 15.16, 20.9(2)"b," Filed ARC 1950A5/15/91
Disconnection prohibition for 9XX charges and 9XX blocking tariffs, 22.4(7)"b," 22.5(13), 22.5(14),
Filed Emergency After Notice ARC 1949A5/15/91
Information services--access blocking, 22.5(14) options, Notice ARC 2018A5/29/91
Electric plant siting, 24.2(9), 24.2(19)"b," 24.11(2)"f" to "h," 24.16, Filed ARC 2038A5/29/91

Also present were Diane Kolmer, Lobbyist for US West and Jack Clark, Executive Assistant for Iowa Utility Association.

Ch 15

There were no questions on amendments to rules 15.1 et al.

22.4, 22.5

Kniep presented emergency after Notice amendments to 22.4 (7) and 22.5(14) which will prohibit disconnection of basic telephone service for failure to pay information services charges which are not regulated by the Board. In addition, local service customers will have the option of blocking 900 and 976 prefix numbers without charge for the first block. Semiannual reports will be required for utilities which lack blocking facilities.

In response to Pavich, Kniep replied it would be questionable if the Department has authority to block all the services. Discussion focused on misuse of 900 services by children and teenagers.

Kniep pointed out that the Board will regulate the exchange company not the 900 service. Maulsby commented on groups affected by the rules. Kniep was aware of the Board's limited authority over local telephone companies, but stressed the importance of protection for the customer.

22.5(14)

Kniep reviewed the Notice for 22.5(14) which sets out three blocking service options.

Priebe referred to 22.5(14)d and questioned notification by mail when the utility learns that a customer has incurred \$150 in outstanding charges for 900 service. Kniep reiterated that the local phone company does not

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provide the service, and if it does not do the billing, it will not be aware of the charges. Priebe favored notification by telephone to eliminate the possibility of larger bills. Schrader expressed a preference for Option 2. He observed that Option 3 "a" did not require a response card and it was his opinion that the card was unnecessary. No formal action taken.

Ch 24

Stump summarized amendments to Chapter 24. No questions.

AUDITOR
OF STATE
Ch 21

Chapter 21 pertaining to filing fees charged for reports of examinations conducted by the Auditor of State was before the Committee. The Notice was published in 3/20/91 IAB as ARC 1828A and was carried over from the April ARRC meeting.

Warren Jenkins was present for the Auditor. Also present were: M.J. Dolan, Iowa Association of School Boards; Keith Luechtel, Attorney, and Stan Bonta, Executive Director, Iowa Society of CPAs; James Lynch, Dallas County Auditor; Karen Strawn, Buena Vista County Auditor; and Kent Sovern, League of Iowa Municipalities.

Jenkins provided background on the filing fees which are intended to pay for services provided by the office of Auditor of State. The rules which will implement Iowa Code section 11.6(10) will benefit CPA firms, local governments and citizens. Jenkins cited increase in the number of reaudits as having an impact on the fees--two this year conducted at Lincoln High School in Des Moines and in the Charles City schools cost approximately \$50,000. Jenkins emphasized that the Auditor was aware of the economics involved but that citizens were appreciative of the reaudit provision in the law. Many inquiries are received by the Auditor's Office as to how to utilize a reaudit.

Chairman Priebe recognized Luechtel who referred to a letter written to Jenkins after the April meeting of the ARRC. The Iowa Society of CPAs was concerned about disposition of the money generated from these fees over the past two years. Luechtel voiced opposition to the fees being used to support other functions of the Auditor's Office. He concluded that the statute should be reviewed for possible modification.

Schrader had received letters from school boards, AEAs, cities, counties and a professional society who complained of doubling or nearly tripling of last year's fees. Jenkins addressed Luechtel's concern of surplus from fees stating that the 28E Organizations added under HF 451 [Ch 264, 1989 Acts] were required to have audits filed with the Auditor's Office and pay a filing fee. There was no exact count on the number and the \$80,000 collected exceeded the amount anticipated. That has enabled the Auditor's Office to cut the fee in half for the second year. Reaudits have been paid out of it and

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they anticipate, after cutting the fee in half for 1990, that \$25,000 to \$30,000 will be carried forward into the next year. This system will enable the Auditor to work with the firms, review during June, July and August, before fees are collected again, and to fulfill statutory responsibilities.

Jenkins stressed that price competition was between major firms--the state was not among the "players."

Schrader observed that the fee schedule in 21.1(2) contained maximums and letters which he had received assumed that the maximum fee would be charged. He had researched the Code and was confident that section 11.6 mandated the Auditor to collect these fees. Schrader continued that any grounds for objection or delay would be limited to reasonableness of these fees. This seemed unlikely since the fees compared closely to the level of two years ago.

Priebe questioned Jenkins about their workload in comparison to two years ago. Jenkins responded that his mail was generated largely from municipalities and boards of supervisors. It was Fiscal Year 1990 when they first started work paper reviews on entities other than counties. It was also the first time that they were required to provide audit programs and sample reports not only for the same types of entities that they audited, but for CPA firms utilizing these programs and reports. Thus, in the first year, the Auditor did few audits but was working to distribute programs and reports to firms for their use and benefit. Jenkins continued that the filing fee schedule for 1990 was based upon no reaudits. The \$50,000 plus that was spent for reaudits would have been used for reports and work paper reviews. According to Jenkins, the Auditor plans to determine a fee based upon anticipated volume of work--there is \$200,000 in their FY 92 budget. Jenkins admitted that potential exists for the fees to triple but this would occur only due to a substantial number of reaudits.

Responding to Tieden, Jenkins cited circumstances when the Auditor would consider reaudit: (1) An elected or appointed official of the entity that was audited requested a reaudit with supporting evidence; (2) a direct and valid request by petition by a specific number of citizens; (3) conditions revealing the need for reaudit during the course of a work paper review.

In response to Tieden, Jenkins spoke of the time involved in an audit. Not only are financial transactions reviewed from a financial standpoint but also for legal compliance.

Committee members reiterated their concerns about escalating fees and Jenkins assured them that the

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Auditor's Office has no intention of charging the maximum fee at this time. Maulsby had heard a different message from constituents. Jenkins pointed out that this was the first year for the fee structure to go through administrative rules procedure.

Luechtel recalled that complaints had resulted in the legislature acting to move the process from the Executive Council to rules review, which then resulted in fifty percent reduction.

Maulsby wondered about penalties for improper audits by private CPA firms. He reasoned that some penalty should be imposed on wrongdoers. He suspected that small schools would ultimately bear the brunt. Jenkins stated that the smallest entity covered would pay 1/10 the fee of Des Moines schools, for example. With respect to enforcement powers, Jenkins said there were none. However, the Auditor may refer firms to the Iowa Accountancy Examining Board. Review and reports of the Des Moines school situation must be completed before any further action would be taken. Jenkins indicated that Des Moines and Charles City schools have engaged private CPA firms for many years.

Sovern suspected that part of the problem stemmed from an expectation that was included in the original bill setting the filing fee at \$50 and also a communication barrier. The League had supported the administrative rules process. The League took no position on the appropriateness of the proposed maximums but maintained that a superior approach would be to annually propose and justify actual fees with public input.

There was discussion of the pros and cons of hourly fees and whether reaudit costs should be shared. Jenkins clarified that if reaudits were charged back to the entity it would have a reducing impact on filing fees.

Priebe suggested possible referral of the rule to the appropriate legislative committees.

Luechtel recounted the type of information they want under the rules process: Number of reports filed in each category so that the amount of money generated will be known; dollar expenditure for reaudits and work reviews and how it is calculated. Other questions: Are the auditors doing 50 or 500 work paper reviews; are 10 or 50 receiving salaries?

There was lengthy discussion of the chain of events surrounding the Lincoln High embezzlement and subsequent audits by private firms and the state.

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Jenkins called attention to a public hearing scheduled for July 2 on the rules. He reviewed the fee policy and declared that filing fees were not used as loss leaders nor was the Department escalating costs to recover as much as possible. As to the reasonableness of the fee, Jenkins said it would depend upon the amount of oversight and assurance needed and opinions vary greatly--the Auditor is in the middle. Jenkins continued that ideally, every three to five years they would review work papers from every firm and look at each report at least every other year. That is the basic premise under which they are operating.

Schrader urged the Department to focus on the reasonableness of the fee and provide clarification. He suggested further categorization since \$5 million to \$25 million gross was quite a jump.

Priebe recognized Dolan who shared positions taken by the League of Municipalities and the Society of CPAs. She spoke of the problem confronted by school districts with fees being set following their budgeting. Dolan favored annual review of the fees.

Lynch and Stawm presented position statements from 39 county auditors. They contended that uncertainty of the fees would impose hardship on county budgets. The group was supportive of the checks and balance system but wanted justification for increased fees.

Lynch saw the State Auditor's Office as becoming more competitive with the private sector and maintained that it was conflict of interest for that office to sit on the state appeal board, perform the audit, and ask for filing fees.

Jenkins disagreed that conflict existed and cited statutory authority.

Strawm praised Jenkins for his assistance to her county (Buena Vista) recently but she urged clarification of fee structure.

It was Committee consensus that the Auditor's Office should provide them with the supporting information to make a decision regarding fees. They had no criticism of the audit process, however. No formal action taken.

Recess and
Reconvened

Chairman Priebe recessed the meeting at 4 p.m. to be reconvened at 9 a.m. Wednesday, June 12, 1991.

Chairman Priebe reconvened the meeting at 9 a.m., Wednesday, June 12, 1991. All Members and Staff were in attendance.

PUBLIC
HEALTH

Present for the Public Health Department were Mike Guely, Carolyn Jacobson, David Fries, Don Flater, Carolyn Caquelin, William Maurer, and Carolyn Adams. The following rules were before the Committee:

PUBLIC HEALTH DEPARTMENT[641]

Required immunizations--rubella and rubola, 7.4(4)"c" and "d," Filed ARC 2024A5/29/91
 HIV drug reimbursement, 11.7(6)"b," Appendix I, Filed Emergency ARC 2031A5/29/91
 Community water fluoridation grant program, ch 20, Filed ARC 2027A5/29/91
 Fee schedule--radiation machines, diagnostic radiographers, returned check and late fees,5/29/91
 38.13(1), 38.13(5), 38.13(6), Filed ARC 2025A5/29/91
 Protection against radiation--personnel monitoring, 40.9(2), Filed ARC 2026A5/29/91
 Corrective amendments to delete references to radon measurement technicians,5/29/91
 43.1, 43.2, 43.6(3), 43.10, Filed Emergency ARC 2033A5/29/91
 Maternal and child health, 76.3, Filed ARC 2029A5/29/91
 Financial assistance to eligible end-stage renal disease patients, 111.6(2), Appendix 2, Filed Emergency ARC 2020A5/29/91

- 7.4 Guely presented amendments to 7.4(4)c and d which will require measles immunization for children four to six years of age entering school for the first time. Guely advised Maulsby that exemptions are allowed for religious reasons--it must be contained in the tenets of the religion--and for medical reasons. Any school system would be subject to the rules.
- 11.7(6) Jacobson explained the emergency adoption of amendments to 11.7(6)b, Appendix I, relative to HIV drug reimbursement. Financial status categories were set out based on the 1991 federal poverty income guidelines. The program is totally financed by the federal government. According to Jacobson, those in the \$0 yp \$16,550 status are fully funded--32 individuals are in the drug reimbursement program.
- Tieden and Priebe expressed opposition to funding for families with the higher incomes. Jacobson advised that the federal government demands that no one be excluded. No Committee action.
- Ch 20 Fries summarized Chapter 20 regarding community water fluoridation grant program which was rewritten to comply with the availability of funds from the federal government. Tieden was concerned about duplication of effort by the Department of Natural Resources and Health Department. No formal action.
- 38.13 Flater outlined the changes made in rule 38.13 regarding fee schedules for radiation machines and diagnostic radiographers. There were no questions.
- 40.9(2) There were no questions on amendment to 40.9(2).
- Ch 43 Corrective amendments to remove obsolete references to radon measurement technicians in 43.1 et al. were brought before the Committee by Flater.
- Tieden wondered if radon was a serious threat. Flater mentioned a study being done by the University of Iowa Agricultural Medicine Group to directly relate lung cancer and exposure to radon relative to facilities in Iowa.

PUBLIC
HEALTH
Cont'd.

Maulsby questioned the accuracy of the home radon tests and Flater admitted that conditions may vary resulting in different readings. He stressed the need for a balance of energy efficiency and proper ventilation within the home to prevent the problem.

76.3

No questions re 76.3.

111.6(2)

There was brief review of amendments to 111.6(2), Appendix 2, which were emergency adopted due to a reduction in program funds for the remainder of this fiscal year. Fries stated that reimbursable services were being eliminated but they will continue to reimburse at the present rate of 85% for the three which the Department believes to be absolutely essential. It was noted that service cannot be denied to patients who cannot make the copayment.

Committee
Business

There was discussion regarding changing the dates of the July ARRC meeting so that it would coincide with the Omaha meeting. The Committee agreed to schedule a one day meeting on Friday, July 12 beginning at 9 a.m.

Royce was directed to make reservations for Committee and Staff who plan to attend the Omaha meeting on July 13 and 14.

INSPECTIONS
AND APPEALS

The following agenda was before the Committee:

INSPECTIONS AND APPEALS DEPARTMENT[481]

Address correction to request hearing for involuntary discharge or transfer from a care facility,

57.36(1)"d"(3), 57.36(1)"m," 58.40(1)"d"(3), 58.40(1)"a," 59.45(1)"d"(3), 59.45(1)"a,"

63.34(1)"d"(3), 63.34(1)"m," Filed Emergency ARC 2028A 5/29/91

Bingo, 103.3(3), Filed ARC 1951A 5/15/91

Present from the Department were Mary Oliver, Rebecca Walsh and Don Mendenhall.

57.36 et al. Walsh gave an overview of amendments to 57.36(1) et al. which update addresses. No questions.

103.3

Walsh said that amendments to 103.3(3) concerning senior citizen organizations conducting bingo without restrictions established by the Code would conform to the Elder Iowans Act. Anyone 60 years of age is considered a senior citizen for purposes of these rules.

PHARMACY

Lloyd Jessen, Executive Secretary of the Pharmacy Examiners Board, presented the following agenda:

PHARMACY EXAMINERS BOARD[657]

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Corrective and updating amendments to chs 1, 5 to 10, 14, 15, Filed Emergency ARC 1985A 5/29/91

Purpose and organization, 1.1(1), 1.1(3)"d" and "f," 1.2(1), 1.2(3) to 1.2(7), Notice ARC 1986A 5/29/91

Limited use pharmacy license application, log of licensed pharmacists temporarily employed by a pharmacy, 3.4, 3.4(7), Notice ARC 1987A 5/29/91

Pharmacist-intern, 1500-hour requirement, 4.1, 4.3, Filed ARC 1979A 5/15/91

General pharmacy reference library, 6.3"5," Notice ARC 1988A 5/29/91

Hospital pharmacy reference library, 7.3"5," Notice ARC 1989A 5/29/91

PHARMACY
Cont'd.

PHARMACY EXAMINERS BOARD(657)(CONT'D)

Continuing education program attendance certificates, active license status, 8.7(3)"a""6,"

8.7(7)"a," <u>Filed</u> ARC 1978A	5/15/91	2033
Patient medication record system, 8.16(1), <u>Notice</u> ARC 1990A	5/29/91	2072
Report of theft or loss of controlled substances, excluded substances, 10.10(5), 10.19, <u>Filed</u> ARC 1977A	5/15/91	2033
Who can administer controlled substances, 10.16"3" to "6," <u>Notice</u> ARC 1991A	5/29/91	2073
Controlled substances, 10.20(1), <u>Notice</u> ARC 1709A <u>Terminated</u> ARC 1981A	5/15/91	2001
Correctional facility pharmacy reference library, 15.3"5," <u>Notice</u> ARC 1992A	5/29/91	2073
Nuclear pharmacy reference library, 16.5, <u>Notice</u> ARC 1993A	5/29/91	2073
Anabolic steroids, ch 18, <u>Notice</u> ARC 1737A <u>Terminated</u> ARC 1980A	5/15/91	2001

Ch 1, 5 to 10, 14, 15 There were no recommendations for amendments to Chapter 1 et al. (ARC 1985A and 1986A).

3.4 Priebe raised question in 3.4(7) as to whether names of temporary or relief pharmacists would have to be sent to the board office. Jessen replied that only full-time or part-time pharmacists must be reported.

4.1, 4.3 No questions re 4.1 or 4.3.

Jessen summarized amendments to 6.3 "5," 7.3 "5," 8.7, 8.16(1), 10.10, 10.16, 10.19, 10.20 and Chapter 18. There were no recommendations.

15.3 "5" In review of 15.3 "5" pertaining to reference libraries for correctional facility pharmacies, Jessen informed Doyle that there were six correctional facilities equipped with pharmacies.

16.5 Library requirements will be updated in 16.5.

In a matter not before the Committee, Schrader and Jessen discussed prescribing authority for narcotics. Jessen recalled rules adopted in 1987 to implement the federal Drug Enforcement Administration law on this subject. That law states that the patient must be examined before drugs such as Demurøl or morphine can be dispensed or administered. Schrader asked Jessen to communicate this to him with documentation.

Human Services Medicaid copayment There was discussion of potentially controversial rules of the Human Services Department which will provide general copayments for Medicaid services. Consensus was to place the issue on the June agenda even though the rules would not be published until July.

INSURANCE The following rules of the Insurance Division were presented by Dan Winegarden and Deborah West.

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]"umbrella"	5/29/91
Annual audited financial reports, 5.25, <u>Notice</u> ARC 1996A	5/29/91
Participation in the NAIC insurance regulatory information system, 5.26, <u>Notice</u> ARC 1995A	5/15/91
Preferred provider arrangements, ch 27, <u>Filed</u> ARC 1954A	
Individual accident and health—minimum standards, 36.3, 36.4(3), 36.4(6), 36.5(3), 36.5(7), 36.5(8), 36.5(10), 36.6, 36.6(1)"g," 36.6(9), 36.6(10), 36.7(1)"g," 36.7(1)"j," 36.7(2), 36.7(11), 36.10(4), <u>Notice</u> ARC 1959A	5/15/91
Medicare supplement insurance minimum standards, 37.11(1)"a," 37.12(3), <u>Notice</u> ARC 1959A	5/15/91
Appendix A, <u>Filed</u> ARC 1960A	

5.25 No questions on 5.25.

INSURANCE
Cont'd.

5.26

West summarized intent of new rule 5.26 which addresses the requirement that insurers must provide a copy of their financial statements to the National Association of Insurance Commissioners (NAIC). This will provide solvency oversight. Winegarden reported that Iowa was one of six states with solvency legislation and 11 others are expected to take similar action this year. Iowa will be in the first group of states accredited. Priebe inquired about the words "substantially similar" in the second paragraph of 5.26(2). He opined that it seemed very broad. Winegarden spoke of the difficulty in requiring identical laws since, in spite of being part of a national market, insurance is regulated at the state level. The NAIC model provides much similarity. Winegarden agreed to convey Priebe's comment to the Commission.

Ch 27

West explained new Chapter 27 which sets standards to which health care providers must conform. She clarified that the rules would not govern HMOs--only preferred provider organizations (PPO). Blue Cross/Blue Shield is a PPO and Share is an HMO, for example. The corporate structure is the distinguishing factor.

36.3

West gave a brief overview of amendments to 36.3 et al. which eliminate duplications or contradictions to Chapter 37 of their rules.

Tieden questioned 36.5(3) and West stated that if there were no original underwriting, a preexisting condition could not be excluded.

37.11,
37.12

No questions on 37.11 or 37.12.

Royce asked if Labor Services could be placed on the agenda at 11:30 this morning due to a conflict with the Director's scheduling. There was unanimous consent.

LIVESTOCK
HEALTH
ADVISORY
COUNCIL

Ch 1

Mark Truesdell appeared to answer questions on the annual recommendations for funding of livestock disease research at Iowa State University. Chapter 1 was published under Notice in 5/29/92 IAB as ARC 1983A. Truesdell pointed out approximately \$30,000 was allocated for three new projects for FY '92--paragraphs "19" to "21." Other projects were reduced accordingly.

Priebe took the position that TGE in swine and the pseudorabies virus was essentially under control with federal funding. He recommended that \$15,000 to \$25,000 be held in reserve for unexpected problems.

NATURAL
RESOURCES
DEPARTMENT

The following rules of the Department were before the Committee:

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Contracts for public improvements and professional services, ch 8, Filed ARC 1972A 5/15/91
Effluent toxicity testing requirements in permits, 60.2, 63.4 to 63.11, Filed ARC 1973A 5/15/91
Criteria for award of grants, 91.2(1) to 91.2(3), 91.5(2)"a," 91.5(3)"a," 91.5(4), 91.5(4)"a," 5/15/91
91.6(1), 91.6(2), 91.10, Notice ARC 1976A 5/15/91
State revolving fund loans for wastewater treatment, 92.3, 92.5(2), 92.5(3), 92.8(2), 92.9(2), 5/15/91
Notice ARC 1975A 5/15/91
Requirements for waste tire facilities, 100.1, 102.15(4), ch 117, Filed ARC 1974A 5/15/91

NATURAL RESOURCE COMMISSION[571]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Contracts for public improvements and professional services, ch 8, Filed ARC 1971A 5/15/91
Water recreation access cost-share program, 30.1 to 30.3, 30.5, 30.7, 30.9, 30.12(2), 30.12(3), 5/29/91
30.13, Notice ARC 2017A 5/29/91
Resource enhancement and protection program: county, city, and private open spaces grant programs, 5/29/91
33.5(2), Notice ARC 2016A 5/29/91
Boat motor regulations--Beeds Lake, 45.4(1)"b," Filed ARC 2014A 5/29/91
Nursery stock prices, 71.3, Filed ARC 2015A 5/29/91
Nonresident deer hunting, 94.1, 94.2, 94.6, 94.8, Filed ARC 2013A 5/29/91
Common snipe, Virginia rail and sora, woodcock and ruffed grouse hunting seasons, 5/29/91
97.1 to 97.4, Filed ARC 2011A 5/29/91
Wild turkey fall hunting, ch 99, Filed ARC 2012A 5/29/91
Deer hunting regulations, 106.1, 106.2, 106.3(2), 106.4, 106.5(1), 106.5(2)"g," 5/29/91
106.5(3), 106.5(4), 106.6(1) to 106.6(3), 106.7(2), 106.7(4), 106.8, Filed ARC 2008A 5/29/91
Rabbit and squirrel hunting season, 107.1 to 107.3, Filed ARC 2009A 5/29/91
Mink, muskrat, raccoon, badger, opossum, weasel, striped skunk, fox (red and gray), beaver, coyote, 5/29/91
otter and spotted skunk seasons, 108.1, 108.1(2), 108.2 to 108.5, Filed ARC 2010A 5/29/91

NATURAL RESOURCES DEPARTMENT[561]

Contracts for public improvements and professional services, 8.7, Filed ARC 1970A 5/15/91

Present from the Department were Diana Hansen, Kevin Szcodronski, Michael Murphy, Wayne Farrand, Lavoy Haage, Stephen Dermand, William Farris, James Zohrer, Terry Little, Victor Kennedy, James Bulman and Peter Hamlin.

ENVIRONMENTAL
PROTECTION
COMMISSION

Chairman Priebe called up rules of the Environmental Protection Commission and Murphy explained that amendment to 567--8.1 merely updated the reference to the uniform rules of the Department of Natural Resources. No questions.

60.2 et al. Hansen presented amendments to Chapters 60 and 63. Maulsby referred to language in the fifth paragraph of the preamble which stated that nothing in the rules would preclude the Department from taking enforcement action beyond that described in the rules.

Hansen quoted from Code section 455B.175 which authorizes the DNR Director to issue an order for corrective action to ensure that a violation will cease. She added that after the first violation, the Department will require quarterly samples of water. Murphy stressed that there was no intent to expand the Department's authority but they do not want to restrict it either. After further discussion there was Committee consensus that the questionable language should have been omitted. It was noted that numerous changes had been made in the Notice version of the rules following public comment but general agreement was that the revisions were technical in nature on the subject. Royce advised that the Department had acted within their authority. No formal action.

EPC Cont'd. There were no questions on amendments to Chapters 91 and 92.

100.1 et al. Murphy provided an update 100.1 et al. rule making relative to waste tire facilities. Because of extensive comments during the hearing process, the rules will be modified and renoticed. Rules 100.1, 102.15(4) and 117.2 were adopted to ensure that the definition of processed tires for landfilling is effective by July 1, 1991, land ban on tires.

NATURAL No questions on 571--8.1
RESOURCE
COMMISSION

Ch 30 Zohrer explained the changes in 30.1 et al. regarding water recreation access cost-share program. Priebe questioned addition of the word "normally" before "be cost shared at a 75 percent state/25 percent local ratio"... Zohrer responded that they may fund at 100 percent level for a state-owned property. City of county projects may ask for only 50 percent of the funding, if the chance of receiving the grant were greater. The Commission asked for \$200,000 funding for the grant program.

Priebe brought up the problem of commercial gambling boats which are monopolizing dock space used by recreational boaters. According to Zohrer this was never intended and the Department is attempting to resolve the matter. Zohrer pointed out that the Dubuque area was unique in that it is not funded by marine fuel tax. No action.

33.5 No questions regarding proposed amendment to 33.5(2) pertaining to the REAP program.

45.4, 71.3 No questions on 45.4(1) or 71.3

Little of the Wildlife Bureau presented the remainder of the agenda, ARCS 2013A, 2011A, 2012A, 2008A, 2009A, 2010A pertaining to hunting seasons. There was discussion of the impact on the deer and turkey population because of flooding. Little reminded the Committee that most of the state would be closed to fall wild turkey hunting.

There were no questions on 560--8.7.

UST BOARD The following agenda was presented by Robb Hubbard, Administrator of the UST Program, and Bob Galbert:

PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]
General, petitions for rule making, declaratory rulings, board procedure for rule making,
determination or adjustment of cost factor, chs 1 to 4, 5.1, Filed Emergency ARC 1962A 5/15/91
Installers and inspectors, ch 15, Filed Emergency After Notice ARC 1961A 5/15/91

Hubbard provided a summary of the rule making in Chapters 1 to 4, 5.1 and Chapter 15. He indicated that Chapter 15 was revised substantially based on over 100 pages of comments received during the hearings. In response to Priebe, Hubbard stated

UST BOARD
Cont'd.

that the definition of "underground liquid storage system" was from the American Petroleum Institute. No action taken.

LABOR
SERVICES
DIVISION

Walter Johnson, Deputy Commissioner, presented the following agenda:

LABOR SERVICES DIVISION [347]

EMPLOYMENT SERVICES DEPARTMENT[41] "umbrella"

OSHA rules for general industry relating to hazardous waste operations and emergency response,

10.20, Notice ARC 1944A5/15/91

OSHA rules for general industry relating to air contaminants and occupational exposure to asbestos,

tremolite, anthophyllite and actinolite, 10.20, Filed ARC 1942A5/15/91

OSHA rules for construction relating to stairways and ladders and occupational exposure to asbestos, tremolite,

anthophyllite and actinolite, 26.1, Filed ARC 1943A5/15/91

Asbestos removal and encapsulation licensing, 82.3(2), 82.6(1) to 82.6(5), Filed ARC 1941A5/15/91

Professional boxing, judges, Code chapter correction, ch 97, 97.20, 97.53, Filed Emergency ARC 1982A5/29/91

10.20,
26.1

There were no questions regarding the amendments to 10.20 and 26.1 in ARCS 1944A, 1942A and 1943A which update references to federal regulations.

82.3, 82.6

Johnson said that amendments to 82.3(2) and 82.6 were combined from two Notices which address the nonrefundable and application fee and the annual refresher courses required for project designers involved with asbestos abatement. No recommendations.

Ch 97

There were no questions on amendments to Chapter 97.

REAL
ESTATE

Priebe announced that he would not be present this afternoon for review of real estate rules. He voiced support of the rules.

Schrader noted that in the past, 24 of the required 36 hours of continuing education could be made up of correspondence courses. Under the proposed rules, 12 of the 36 hours could be correspondence courses. Comments from realtors had prompted the increase to 24 hours some years ago. Schrader suggested that the issue should be placed on the July agenda of the ARRC. He favored a middle ground approach. No formal action.

Recess

Priebe recessed the meeting for lunch at 11:40 a.m. until 1 p.m.

Convened

Vice chairman Pavich convened the meeting at 1:05 p.m. and called on Tom Swartz for the following:

INTERNET

INTERNATIONAL NETWORK ON TRADE (INTERNET)[497]

Organization and operation, ch 1, Filed ARC 1952A5/15/91

Swartz told the Committee that INTERNET was a non-profit market research organization and he distributed material regarding global market research, market trends for U. S. and Iowa companies. Emphasis is on assistance to smaller businesses.

TRANSPORTATION DEPARTMENT Present from the Department were Mike Krohn, Ralph Ager, Shirley Andre and Sharon Green and the following agenda was discussed:

TRANSPORTATION DEPARTMENT[761]

Regulations applicable to carriers, 520.1(1)"a" and "b," 520.1(2)"a," 520.2, Notice ARC 1938A5/15/91
Commercial driver licensing, 520.4, 605.1(2), 605.3, 605.4, 605.5(1), 605.5(3), 605.5(4), ch 607,
Filed ARC 1984A5/29/91

Krohn explained that amendments to 520.1 and 520.2 will comply with federal motor carrier safety regulations. Changes are incorporated through October 1990. Doyle was interested in the impact of these rules on small businesses. Krohn had no indication that a regulatory flexibility analysis would be requested.

Defer

Rules 520.4 et al. temporarily deferred.

SOIL
CONSERVATION
DIVISION

Ken Tow gave a brief explanation of the following:

SOIL CONSERVATION DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

Minerals program, 60.70, 60.75(2), 60.75(3)"a," 60.75(3)"d" to "f," 60.80(8), 60.85, 60.90,

Filed ARC 2019A5/29/91

He called attention to modification of subrule 60.75(3) relative to setback variance.

Although Schrader would not object to the rules, he reiterated his concern about basic property rights and placing another's land at risk. Tow stated that the Division lacked statutory authority to require a setback but can protect adjacent property. He viewed the purpose of rules was to alert mine operators of their responsibility. Tow declared that there would be no carte blanche approval by the Department.

Pavich spoke of unsightly mine operations and suggested the possibility of legislation to require beautification of these areas. According to Tow, current law allows open pits. No formal action.

ACCOUNTANCY

The following agenda was presented by K. Marie Thayer and Glenda Loving:

ACCOUNTANCY EXAMINING BOARD[193A]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Updating and corrective amendments to chs 1 to 11 and 13 to 15, Notice ARC 1964A5/15/91

No questions..

REAL ESTATE
COMMISSION

K. Marie Thayer, Administrator, Professional Licensing, introduced Roger Hansen and Susan Griffel for the following:

REAL ESTATE COMMISSION[193E]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Administrative procedure, prelicense education and continuing education, discipline and hearing procedure,

2.1(5) to 2.1(7), 2.10(1), 2.10(2), 2.14(4), 2.15(7), 2.15(8), 2.16, 3.1, 3.2(1) to 3.2(4), 3.3(2) to

3.3(9), 3.4"4" to "9," 3.4(1)"15," 3.4(4)"8," 3.5, 3.6, 4.40(4)"e" and "f," 4.40(17) to 4.40(19),

Notice ARC 1963A5/15/91

Requirements for mandatory errors and omissions insurance, ch 6, Filed ARC 1965A5/15/91

REAL ESTATE
COMMISSION
Cont'd.

Hansen explained Chapter 6 setting requirements for mandatory errors and omissions insurance. Changes from the Notice included the addition of subrule 6.2(7) to provide a transition period and to set minimum aggregate requirements which will be more reasonable than the Noticed version.

Deferred

ARC 1963A was temporarily deferred.

TRANSPORTA-
TION

520.4 et
al.

Pavich called up Transportation rules on commercial driver licensing which had been deferred to await arrival of Agency representatives.

Sharon Green explained minor changes from the original rules that were emergency adopted.

Maulsby and Green discussed applicability of the rules to full-time school bus drivers. Pavich inquired as to the percentage of Iowa drivers who passed their CDL test the first time. Green had no records on this but stated that overall they had an 80 percent pass rate. Doyle and Green discussed age requirements. Green clarified that for interstate purposes the driver must be 21 but an 18-year-old may drive intrastate. The Department takes the position that a CDL may be issued for a hazardous materials endorsement for intrastate use by an 18-year-old. The license would not be valid outside of Iowa.

REAL ESTATE
Chs 2, 3
and 4

Vice chairman Pavich called on Roger Hansen and Susan Griffel to conclude the Real Estate agenda. Hansen summarized amendments to 2.1(5) et al. Discussion focused on continuing education requirements in Chapter 3. Griffel explained that the Commission has proposed to reduce the allowable number of study hours from 36 to 12 for a three-year period.

Schrader wondered why the home study would not meet the needs of the licensees. He was aware that many people prefer not to travel to conferences and classrooms. He questioned Griffel as to the quality of the home courses offered. It was Griffel's experience that students retain more information and learn more quickly when they are actively involved in the learning process. Education directors in every state concur with her position. Griffel continued that 55 percent of the states do not allow correspondence under any circumstances. Of the 45 percent that do, half of them allow only universities and colleges to develop the courses. She cited the difficulty of ensuring that licensees actually participate in required courses.

REAL ESTATE
Cont'd.

According to Griffel, licensees have indicated they favor retention of 36 hours for convenience and economic reasons.

Griffel did not disagree with Schrader that negatives exist in the classroom situation but she was concerned about complex issues facing the real estate industry. Schrader wondered if the Commission could consider allowing 24 hours of correspondence courses and 12 hours of classroom time. No formal action taken.

REAL ESTATE
APPRAISERS

Bill Schroeder, Executive Secretary, was present for the following.

REAL ESTATE APPRAISER EXAMINING BOARD[193F]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Definitions; organization and administration; examinations—certified licensed and associate real property appraisers; certificates, licenses and associate registration; reciprocity; continuing education; disciplinary actions against certificates, licenses and associates; investigations and disciplinary procedures; public records and fair information practices; fees, chs 1 to 10, Notice ARC 2000A5/29/91

Schroeder summarized the rule making which set out uniform appraisal standards and certification requirements. Federal criteria will be followed and they hope to begin testing in August.

No Rep

No agency representation was requested for the following rules and there were no questions.

ATTORNEY GENERAL[61]

Additional charges, ch 13, Notice ARC 1449A Terminated ARC 2003A5/29/91 2057
Consumer credit insurance, ch 21, Notice ARC 1446A Terminated ARC 2005A5/29/91 2057
Motor vehicle advertising and sales practices, ch 27, Notice ARC 1387A Terminated ARC 1957A5/15/91 1991
Retail advertising and sales, contests, games, giveaways and sweepstakes, ch 28,
Notice ARC 1390A Terminated ARC 1956A5/15/91 1991

CITY FINANCE COMMITTEE[545]

MANAGEMENT DEPARTMENT[541]"umbrella"

Reimbursement of subcommittee members, 1.4, Filed ARC 1948A5/15/91 2024

EDUCATION DEPARTMENT[281]

Course for drinking drivers—fee increase, 21.31, Notice ARC 2007A5/29/91 2059
Advisory committees, rescind ch 76, Notice ARC 1994A5/29/91 2060

EGG COUNCIL[301]

Organization and purpose—officers, 1.2, Notice ARC 2004A5/29/91 2060

LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Examinations and registration—fee schedule, 2.10, Notice ARC 1966A5/15/91 2000

REGENTS BOARD[681]

College-bound program, 1.6(2)"c," Notice ARC 1955A5/15/91 2007

Adjourn

Vice chairman Pavich adjourned the meeting at 2:05 p.m. The next meeting was scheduled for Friday, July 12, 1991.

Respectfully submitted,

Phyllis Barry
Phyllis Barry, Secretary

Mary Ann Scott, Admin. Asst.

Bob E. Fuchs

Chairman

BILL HUTCHINS
Forty-Eighth District
Carroll, Crawford, Shelby
and Audubon Counties

HOME ADDRESS
306 S. Division
AUDUBON, IOWA 50025



The Senate
STATE OF IOWA
Seventy-Fourth General Assembly
CAPITOL
Des Moines, Iowa 50319

MAJORITY LEADER
—
COMMITTEES
RULES AND ADMINISTRATION, CHAIR
—
LEGISLATIVE COUNCIL, VICE CHAIR

ANNOUNCEMENT OF STATUTORY APPOINTMENTS
BY THE SENATE MAJORITY LEADER
JULY 1, 1991

ADMINISTRATIVE RULES REVIEW COMMITTEE (CODE 17A.8)

Senator Donald V. Doyle
Senator John P. Kibbie
Senator Berl E. Priebe
Senator H. Kay Hedge
Senator Dale L. Tieden

SESQUICENTENNIAL COMMISSION (HF 710, 1991 SESSION)

Senator William W. Dieleman
Senator Donald V. Doyle
Senator Beverly A. Hannon
Senator Jean Lloyd-Jones
Senator John A. Peterson

JACK RIFE
STATE SENATOR
Twenty-Ninth District
Muscatine—Scott Counties

HOME ADDRESS
Moscow, Iowa 52760



The Senate
STATE OF IOWA
Seventy-Fourth General Assembly
STATE HOUSE
Des Moines, Iowa 50319

MINORITY LEADER
—
LEGISLATIVE COUNCIL
—
COMMITTEES
RULES AND ADMINISTRATION
RANKING MEMBER
STATE GOVERNMENT

MEMORANDUM FOR SENATE MAJORITY LEADER HUTCHINS

FROM: Sen. Jack Rife
Senate Minority Leader

RE: Administrative Rules Appointments

DATE: June 26, 1991

Pursuant to Sec. 21 of House File 198, effective July 1, 1991, I am appointing Sen. Dale Tieden and Sen. Kay Hedge to the Administrative Rules Review.

cc: President of the Senate
Speaker of the House
House Majority Leader
House Minority Leader
Secretary of the Senate
Chief Clerk
Administrative Rules Coordinator

STATE OF IOWA
OFFICE OF THE SPEAKER

HOUSE OF REPRESENTATIVES
STATE CAPITOL
DES MOINES, IOWA 50319

BOB ARNOULD
SPEAKER

June 28, 1991

PLEASE BE ADVISED THAT THE SPEAKER OF THE IOWA HOUSE OF
REPRESENTATIVES HAS MADE THE FOLLOWING APPOINTMENTS:

ADMINISTRATIVE RULES REVIEW COMMITTEE

Rep. Emil Pavich	to a term beginning July 1, 1991 and ending April 30, 1995
Rep. David Schrader	to a term beginning July 1, 1991 and ending April 30, 1995
Rep. Jane Teafor	to a term beginning July 1, 1991 and ending April 30, 1995
Rep. Ruhl Maulsby	to a term beginning July 1, 1991 and ending April 30, 1995
Rep. Janet Metcalf	to a term beginning July 1, 1991 and ending April 30, 1995