

MINUTES OF THE REGULAR MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting

The regular meeting of the Administrative Rules Review Committee was held Tuesday and Wednesday, June 9 and 10, 1987, State Capitol, Des Moines, Iowa.

Members Present

Senator Berl E. Priebe, Chairman; Representative Edward G. Parker, Vice Chairman; Senators Donald V. Doyle and Dale L. Tieden; Representative Betty Jean Clark. Representative David M. Tabor, excused for both days. Staff present: Joseph Royce, Counsel; Phyllis Barry, Deputy Code Editor; Vivian Haag, Executive Administrator. Also present: Barbara Booker Burnett, Governor's Administrative Rules Coordinator.

Convened

Chairman Priebe convened the meeting and called on James Gulliford, Soil Conservation Division, who had requested time on today's agenda.

SOIL
CONSERVATION
DIVISION
ch 5

Gulliford and Royce explained the need for emergency amendments to rules pertaining to the Financial Incentives Program for Soil Erosion Control--Chapter 5. The cost share appropriation for the program was included in Senate File 511, section 201(5), which the Governor would probably sign today. When the bill is signed, the Division proposes to recommend by teleconference on June 10 that the State Committee emergency adopt and implement necessary amendments to Chapter 5. Copies of the amendments were distributed to the ARRC members with comment that parallel Notice would also be submitted. There was consensus that it would not be appropriate to publish the amendments until the Governor has signed the enabling legislation.

Committee
Business

Chairman Priebe mentioned the possibility of ARRC meetings being held in each Congressional District of the State to provide greater opportunity for public input on controversial rules. He cited school standards as an example. The Education Committees of the House and Senate would be invited to appear in their respective districts. Tieden favored a correlation of effort among all factions with preliminary work at Department level. No formal action taken.

NATURAL
RESOURCE
COMMISSION

Arnold J. Sohn, Vic Kennedy, Attorney, and Richard Bishop were present for review of the following:

Wild turkey fall hunting, 99.1, 99.2, 99.4 ARC 7653	6/3/87
Wildlife habitat on private lands promotion program, 22.4(2)"c," "e," to "g," 22.5(1), 22.5(2)"b," 22.5(6), 22.6(2)"b" ARC 7651	6/3/87
Wildlife refuges, 52.1(2)"a," 52.1(3) ARC 7655	6/3/87
Saylorville mitiuse trail, 66.1"4," 66.2"3" ARC 7656	6/3/87
Recreation & tourism, ch 24 ARC 7402	2/25/87

6/9/87

NATURAL
RESOURCE
COMMISSION
(Cont.)

There was special review of Chapter 24 carried over from previous meetings. Sohn distributed a compromise amendment to rule 24.8 which provided, "... If rankings are altered, the commission will state its reasons for alteration..." The amendment would be submitted as Notice for publication in the 7/1/87 IAB. No ARRC action taken.

Parker arrived.

ch 99

In reviewing Chapter 99 amendments, Bishop predicted a record harvest of wild turkeys this year...probably over 4000 gobblers will be shot. Tieden alluded to crop damage by turkeys in his area. Bishop admitted that certain areas were overpopulated but he contended there was limited crop damage. Tieden had received complaints that the \$20 fee for a turkey license was excessive. He reasoned that the costs to the average sportsman for hunting licenses were prohibitive. Bishop said that federation groups are supportive of the fees.

ch 22

Discussion of amendments to Chapter 22. Tieden was told the Department still had the leased land in most wildlife habitat projects. The program will be evaluated after this year. "Pheasants Forever" receives free seed from Pioneer. Farmers who want to develop habitats are also recipients of seed from Pioneer. Parker thought the program should be subsidized and Bishop said this was not possible because of lack of continuity. The Department will be held accountable for habitat stamp dollars.

52.1

In review of amendments to 52.1, Priebe noted that Lower Gar was removed and he wondered why Upper Gar had remained. Bishop indicated the amendment would make the rule less stringent.

66.1

There was brief discussion of multiuse trails. Tieden asked if local organizations would be precluded from imposing a user fee if there were access to federal lands. Bishop agreed to research the matter.

COLLEGE AID
COMMISSION

Patty Paddock appeared for the Commission to review:

Iowa guaranteed student loans. 10.2(1), 10.3, 10.24, 10.59, 10.62	ARC 7554	5.6.87
Rule making and declaratory rules. 13.3	ARC 7555	5.6.87
Iowa guaranteed student loan program—loan eligibility for interest and special allowance. 10.23	ARC 7556	5.6.87
Iowa guaranteed student loan program—due diligence in collection, claim processing, default claim. 10.23 to 10.35	ARC 7551, also filed emergency ARC 7550	5.6.87
Iowa guaranteed student loan program—bankruptcy claim. 10.26	ARC 7553, also filed emergency ARC 7552	5.6.87

Changes were necessitated because of new federal law and regulations regarding the guaranteed student loan program. Priebe observed references to the Code of Federal Regulations, July 1, 1983, contained new language, "unless specified otherwise" and contended that was "wide open." He reminded the Commission

COLLEGE AID
COMMISSION
(Cont.)

that any changes should be submitted by rules and contain dates certain. Paddock indicated that was their intent and Priebe expressed preference for deletion of the new language.

10.59

Re 10.59(261), Priebe questioned why a lender would require a "borrower who qualifies to defer repayment of principal." Paddock stated that the lender may set a policy within their institution to require capitalization of interest with motive for profit. There was Committee consensus that clarification was needed. Paddock would take that concern back. According to Paddock, the AG's office had suggested rescission of rule 245--13.3.

No questions re 10.23 and 10.33 to 10.35.

10.36

Paddock gave brief overview of changes in rule 10.36 re bankruptcy claim. Doyle noted use of "must" throughout the rule and took the position that "shall" or "may" was preferable to "should". Royce advised that "shall" imposes a legal duty.

Doyle also questioned use of "...resumes the status..." in the last sentence of 10.36, second paragraph. He saw a problem with the language if the loan were discharged. Paddock was unable to answer the question. Priebe reiterated the Committee's position on use of "shall" and "may" and he recommended that the Commission work with the Governor's Coordinator to develop appropriate language. Doyle asked Paddock to contact the AG's office for guidance in rewording the areas of his concern.

INSURANCE
DIVISION

Fred Haskins represented the Division for proposed financial guaranty insurance rules, Chapter 22, IAB 5/20/87, ARC 7602. The rules set reserve levels for writers of financial guaranty insurance. Previously, there was no reserve regulation.

Tieden was interested in knowing why the federal definition of "industrial development bond" was not used. Haskins responded that the definition was written by the National Association of Insurance Administrators prior to the Tax Reform Act.

Chairman Priebe recognized William E. Timmons, Attorney, representing Financial Security Assurance Company, an Iowa company that writes guaranty insurance. Timmons spoke of their suggestions to the Insurance Division for refining the rules, and Haskins indicated that the technical revisions would be adopted.

ELDER
AFFAIRS
DEPARTMENT

Betty Grandquist, newly appointed Director, Ronald W. Beane, and Mary Ann Hollander were present for new rules 321--chapters 1 to 18, ARC 7610, Filed, IAB

6/9/87

ELDER
AFFAIRS
DEPARTMENT
(Cont.)
chs 1-18

5-20-87. Also present were Blaine Donaldson, Storm Lake, and Larry Breeding, Iowa Health Care Association.

Beane reported that three public hearings had been held since the Notice and adjustments had been made as a result of comments received. Beane continued that most changes were for clarification and he summarized them. Further modification with respect to the resident's advocate program and care review committees was anticipated.

Discussion of possible delay to allow time for further study by the ARRC. This would also provide opportunity for the new Director to become familiar with the rules.

Motion
70-day delay

Clark moved a 70-day delay on rules of Elder Affairs, Chapters 1 to 18. Motion carried.

Recess

Chairman Priebe recessed the Committee at 11:30 a.m. for lunch and reconvened it at 1:30 p.m.

AGRICULTURE
AND LAND
STEWARDSHIP
DEPARTMENT

Walter V. Felker appeared for the following agriculture amendments:

Infectious and contagious diseases, 16.25(1)"a" and "b" ARC 7564	<i>F</i>	5.6.87
Livestock importation, 30-17.5(2)"b" Notice ARC 7546 terminated ARC 7657	<i>N.T.</i>	6.3.87
Livestock importation, 17.5(2)"b." <u>filed emergency</u> ARC 7658	<i>F.F.</i>	6.3.87

Brief discussion of reactors out of Missouri.
No recommendations.

LIVESTOCK
HEALTH
ADVISORY
COUNCIL

Mark Truesdell, Attorney, represented the Council for proposed recommendations for allocation of livestock disease research, Chapter 1, ARC 7563, IAB 5/6/87.

Truesdell reported that the proposal was identical to the one in 1985-86. He highlighted research accomplishments.

Priebe reiterated his concern for lack of research in the area of horses. He also took the position that \$31,200 for pseudorabies was excessive.

CULTURAL
AFFAIRS
DEPARTMENT

The following rules were explained by Mark Peitzman, Executive Assistant for the Department, and Natalie Hala, Executive Director, Iowa Arts Council:

Organization and operation, ch 1; renumber 221—ch 1 as ch 6; rescind 100—chs 1 to 3; arts division—description of organization, policies and procedures, forms, chs 10 to 12 ARC 7647	<i>N.</i>	6.3.87
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Peitzman reviewed the proposal. Hala advised Priebe that the Touring Arts Team (TAT) receives an honorarium for their performance. Peitzman spoke of the local level responsibility. No recommendations.

Committee
Business

No agency representatives were requested to appear for the following:

No Reps.
(Cont.)

ALCOHOLIC BEVERAGES DIVISION[185]
Warehousing of beer and wine. 4.40 ARC 7562 *FE* 5/6/87

EMPLOYMENT SERVICES DEPARTMENT[341]
Administration—organization, division of labor. 1.1(4) ARC 7649 *N* 6/3/87

FAIR BOARD[430]
General rules—returned checks. 1.5 ARC 7559 *N* 5/6/87

IOWA FINANCE AUTHORITY[524]
Targeted small business loan guarantee program. ch 11 ARC 7597 *FE* 5/20/87
Title guaranty division, participation requirements for lenders. 9.15 ARC 7651 *N* 6/3/87

JOB SERVICE DIVISION[345]
Employer records and reports, employer's contribution and charges, claims and benefits, benefit payment control. 2.7(1), 2.8(3), 2.8(4), 3.8(2), 3.31(4), 3.34, 3.35, 3.40(8), 3.40(9), 3.43(4) "a", 3.43(5), 3.43(11) "b", 3.51 to 3.56, 3.69, 3.61, 4.1(134), 5.10(2) ARC 7650 *N* 6/3/87
Employer's contribution and charges, claims and benefits. 3.12, 4.8(4), 4.8(5), 4.8(7), 4.13(1) "a", 4.25(14), 4.25(15), 4.25(35), 4.25(36), 4.26(6), 4.26(7), 4.26(18), 4.26(24), 4.26(26) ARC 7568 *N* 5/6/87

LABOR SERVICES DIVISION[347]
Miscellaneous amendments to reflect name and address changes, amendments to chs 1, 3, 8, 35, 38, 72, 77, 78, 82, 110, 120, 130, and 140, filed emergency ARC 7573 *FE* 5/6/87
Occupational safety and health standards for general industry. 10.20 ARC 7575, also filed emergency ARC 7574 *N* * *FE* 5/6/87
Occupational safety and health standards for general industry. 10.20 ARC 7608, also filed emergency ARC 7607 *N* * *FE* 5/20/87
Occupational safety and health rules for general industry. 10.20 ARC 7642, also filed emergency ARC 7641 *N* * *FE* 5/6/87
Occupational safety and health rules for agriculture. 28.1 ARC 7635, also filed emergency ARC 7634 *N* * *FE* 5/6/87
Occupational safety and health rules for general industry. 10.20 ARC 7633 *FE* 5/6/87

PERSONNEL DEPARTMENT[581]
Iowa public employees retirement system, federal social security, amend and transfer 370—chs 8 and 9 to 581—chs 21 and 22, rescind 370—10.8 and 10.9 ARC 7588 *FE* 5/6/87

PROFESSIONAL LICENSING AND REGULATION DIVISION[193]
Organization and operation, ch 1 ARC 7601 *FE* 5/20/87

SECRETARY OF STATE[721]
Election forms and instructions—local earnings tax. 11.4(3), filed emergency ARC 7591 *FE* 5/20/87
Election forms and instructions—political advertisements. 11.6, filed emergency ARC 7592 *FE* 5/20/87

SUBSTANCE ABUSE DIVISION[805]
Licensure standards for correctional facilities. 6.3(4), filed emergency ARC 7557 *FE* 5/6/87

UTILITIES DIVISION[199]
Confidential records. 19.2(5) "k", 20.2(5) "j", 20.13(1) "c" and "e", 22.2(6) "l", 22.12(4) ARC 7566 *FE* 5/6/87
Telephone customer trouble reports. 22.6(1) "h" ARC 7567 *FE* 5/6/87

Land along
highways

Royce reported on an AG Opinion which was forthcoming with respect to land along highways. The opinion holds that roadside ditches are private property on which the state has easement for transportation purposes.

For hunting and trapping purposes, the adjacent landowner may well have the right to refuse hunters and trappers along the roadside. It was noted that some roads are owned by counties. General discussion.

EXECUTIVE
DEPARTMENT

Walter Johnson represented Executive Department for rules of the State Emergency Response Commission and the Labor Services Division. The agenda follows:

EXECUTIVE DEPARTMENT

State emergency response commission—operations of commission, ch 1 ARC 7617, also filed emergency ARC 7616 *N* * *FE* 5/20/87 /B02

Also present: Ellen M. Gordon, Commission Chairperson and Director of Office of Disaster Services.

1.8(3)
1.7(2)

Priebe questioned the necessity for retaining minutes five years--1.8(3). He and Doyle also challenged "majority voting" in 1.7(2) and recommended a requirement of 2/3 vote of the membership to take formal action.

It was the consensus that deletion of "present" from the end of 1.7(2) would resolve the issue.

EXECUTIVE
DEPARTMENT
(Cont.)

Royce expressed the opinion that rules describing the function of the Commission should be added.

Discussion of the Act of Congress which mandates the Rules. Johnson said that representatives from DNR, DOT, Public Defense, Labor, Public Health, Governor's Office, Public Safety, Fire Extension Service in Ames and two public members comprise the 11-member Commission. Priebe observed that mailing agenda upon request could be expensive--1.5(3). Royce advised that the agenda should be "available" but not mailed. Johnson would study the matter.

1.5(3)

LABOR
SERVICES
DIVISION

Occupational safety and health inspections. 3.1(1), 3.1(3), 3.4(2), 3.6(1), 3.6(2), 3.11(1), 3.13(2)re "3.14" ARC 7576 ..F..... 5 6 87
Recording and reporting occupational injuries and illnesses. 4.4, 4.5(2), 4.6, 4.7(1), 4.7(2)b, 4.12(3)re "and c." 5 6 87
4.16 to 4.18 ARC 7577F..... 5 6 87
Procedures for variances from occupational safety and health rules. 5.2, 5.4, 5.6(2), 5.9(1)re "to e." 5.10(2), 5.13, 5.16(3), 5.20(3)a, "c." and "d." 5.21(2), 5.22(1), 5.22(4), 5.22(5) ARC 7578F..... 5 6 87
Consultative services. 8.1 to 8.6 ARC 7579F..... 5 6 87
Discrimination against employees. 9.1(1), 9.2, 9.9(2), 9.12(1), 9.12(3), 9.15(2), 9.18(1) ARC 7580F..... 5 6 87
General industry safety and health rules. 10.1, 10.2(1), 10.3, 10.19(5) to 10.19(7), 10.20 ARC 7581F..... 5 6 87
Construction safety and health rules. 26.1 ARC 7582F..... 5 6 87
Construction safety and health rules. 26.1 ARC 7583F..... 5 6 87
Protective clothing and equipment standards for fire fighters. 27.10(1)a, 27.10(2), 27.10(4) ARC 7585F..... 5 6 87
Occupational safety and health rules for agriculture. 28.1 ARC 7584F..... 5 6 87
Hazardous chemicals risks right to know. 110.1(2), 110.1(3), 110.1(5), 110.1(7)c, 110.2, 130.6 ARC 7586F..... 5 6 87

Johnson stated that the filed amendments were basically cleaned up to reflect government reorganization.

28.1

Johnson described amendments to 347--28.1 as the "potty in the cornfield" rules. Federal OSHA rules require that water be provided to field workers such as corn detassellers, and as of June 30, toilet facilities will also be mandated. Job Service has a rule stating they will not assist any company in the hiring of young people for field work unless they agree to provide water.

ch 110

Re amendments to chapter 110, Johnson said that no comments had been received except for Item 4, amending 110.1(7)e but it was acceptable.

NURSING
BOARD

Ann Mowery, Executive Director, was present for the following:

Administrative and regulatory authority. 1.1, 1.3, 1.3(1) to 1.3(6) ARC 7603F..... 5 20 87
License to practice--RN/LPN. 3.5(3)b(4) ARC 7604F..... 5 20 87
Education programs. 2.6(2)c(3), filed emergency ARC 7560FE..... 5 6 87

No recommendations re amendments to Chapter 1.

3.5(3)

The length of time allowed to practice under a temporary license has been extended because of difficulty in obtaining information from other states, e.g. Illinois.

2.6(2)c(3)

Mowery explained that amendment 2.6(2)c(3) would correct an inadvertent omission in rules which were under delay into the next GA. She indicated that the normal rule-making process would also be followed.

Mowery apologized to Committee members with respect to the federal express billing sent to some in error for a May mailing.

6/9/87

EDUCATION
DEPARTMENT

Charles Moench and John Hartwig appeared for the following:

EDUCATION DEPARTMENT[670]
State area school funding plan, 5.46 ARC 7548N..... 5/6/87

Moench pointed out that no rules had existed previously even though the Instructional Manual has been updated annually for 20 years. He was hopeful the process could be simplified.

GENERAL
SERVICES
DEPARTMENT

Robert Soldat appeared on behalf of General Services for the following:

GENERAL SERVICES DEPARTMENT[450]
Centralized purchasing—set aside for contracts with female and minority small businesses, 6.8(1)
to 6.8(8) ARC 7615N..... 5/20/87

He provided brief overview of rules updated as a result of reorganization legislation enacted in 1986.

6.8(2)

In response to Clark, Soldat said that the definition of "minority small business" in 6.8(2) was taken from the Code. Parker observed that there was no definition for "minority" and Soldat responded that the Economic Development Department had one. Clark suggested removal of "one or more" both times it appears in the definition.

In response to Parker's suggestion that money be set aside for certain projects, Soldat cited a problem of few businesses in many small areas and the competitive bidding process would be lost. No other comments.

MANAGEMENT
DEPARTMENT

Lawrence T. Bryant, Sara Maltby, and Ray Peterson represented the Department of Management for review of:

Organization and operation petitions for rule making, petition for declaratory rulings, agency procedure for rule making, chs 1.5 to 7 ARC 7619N..... 5/20/87
Contract compliance, ch 4 ARC 7587N..... 5/6/87

1.3(8)

Maltby gave brief overview of Department's intention with respect to the rules. Priebe referred to the waiver provisions in 1.3(8) and asked if they were consistent with other departments. Maltby said the director would make the determination. Royce and Burnett saw no problem. Maltby advised Tieden that

1.8(2)

1.8(2) was intended to preclude telephone requests for salary information. Tieden inquired as to costs when a department requests a copy. Maltby was unsure but thought it was determined by policy in Data Processing. Parker was advised that information about a personnel situation would have to be requested from the department head. He expressed his opposition.

1.7(2)

Doyle raised question as to "appropriate administrative charge" for records in 1.7(2). He favored a fixed amount.

MANAGEMENT
DEPARTMENT
(Cont.)

Royce advised that charges and prices were not subject to the rules process--only fees. Burnett suggested that policies of other agencies be reviewed.

Discussion of "management director" definition with Petersen explaining that five management directors assist agencies with budgeting, etc. but no policy-making.

In 1.8(2), Parker suggested substituting "director" for "administrator" and the Department was amenable.

ch 4

According to Bryant, Chapter 4 was intended to implement Code section 19B.7. Clark, in 4.5, pertaining to sanctions, questioned need for the words "aforementioned program". Doyle was informed that no conclusion had been made as to what would be "appropriate" sanctions in 4.5. The question had been posed to the AG office and the language was used in the law. Doyle and Clark took the position that sanctions should be specified by rule. No formal action.

Recess

Chairman Priebe recessed the Committee at 3:10 p.m. to be reconvened at 9 a.m., June 10.

Reconvened

Chairman Priebe reconvened the meeting, Wednesday, June 10, 1987. All members and staff present except Rep. David Tabor, who was excused.

HUMAN
SERVICES
DEPARTMENT

Mary Ann Walker, Cindy Dobson, Heidi Rosenbaum, Dan McKeever, Bob Lipman, Stan Monroe, Barb Momberg, Dan Gilbert, and Chuck Ballinger were present from the Department to review the following:

ADC--granting assistance--WIN program. 41.111c	ARC 7598	5 20 87
Medical assistance--conditions of eligibility. 75.2(5)	ARC 7599	5 20 87
Medical and remedial care services. 75.2(1) d.	78.2(2); 79.1 79.9(1) ARC 7600	5 29 87
Agency procedure for rule making. 1.5. ch 3	ARC 7561	5 6 87
Aid-to-dependent children eligibility under the grant diversion program. grant diversion program. chs 47 and 91	ARC 7569	5 6 87
Food stamp program--administration, homeless meal providers. 65.3 65.31	ARC 7594 also filed	5 20 87
emergency	ARC 7593	5 6 87
Medical and remedial services--physician's assistant. 75.113c	ARC 7558	5 6 87
Medical and remedial services--hospitals. 78.2 78.3(1) 78.3(5) 78.3(6) 78.3(12) b.	78.3(19) 79.1(3) ARC 7609	5 20 87

41.4

After brief overview of WIN program subrule 41.4(1)c, Walker said no comments had been received and no changes were made since the Notice. Federal policy will be paralleled.

75.2(5)

No questions re 75.2(5).

78.2

According to Walker, no one attended the hearing on amendments to 78.2.

ch 3

Discussion of amendments to Chapter 3. No recommendations.

HUMAN
SERVICES
DEPARTMENT
(Cont.)

chs 47,91

Walker explained that chapters 47 and 91 address the Work Incentive Program and establish rules applicable to ADC recipients who choose to participate in the grant diversion program. The two-year pilot program will benefit those who participated in the WIN Program but did not find jobs. Incentives will be offered to employers who will be paid to hire the recipients.

Priebe had problems with the rules. In response to Clark, Hennessey described Iowa's program as being superior to that of other states. Doyle quoted from 91.9(1) as to use of "half month" and reasoned that costs would be more. He cited an example of an individual who was hired on the 10th and quit on the 20th which would involve two half-months. Hennessey said that the language was proposed for ease of administration with existing staff. He mentioned a safeguard whereby gross wages must equal \$200 before an employer could receive payment. A reporting system tracks each client. The process has been utilized for child care payments without problems.

Priebe was told that only private, for profit businesses were eligible to participate in the program. He was hopeful that a progress report would be forthcoming after implementation of the program.

65.3
65.31

Amendments to 65.3 and 65.31 were required by federal regulations, according to Walker. No recommendations.

78.1

No questions re 78.1(13)c.

78.3
79.1

Rosenbaum reviewed amendments to 78.3 and 79.1 which will change hospital payments from average daily rate to per diem each day patient is hospitalized regardless of illness. Comments have been received on provision to allow payment for substance abuse once in a two-year period. Another comment was relative to in-facility transfers, e.g., a patient transferred from a stroke unit to a rehabilitation unit. The transferring hospital would be paid 60 per cent of the average daily rate for the days the patient remained in that hospital up to the full diagnosis related group (DRG) payment system.

78.2(19)

Discussion of substance abuse payment which could reach \$6000. Patients drop out early and the hospital receives the whole payment. Department officials explained that limiting substance abuse treatment to once in a 24-month period was intended to discourage numerous admissions and early discharges. Also, the trend of third-party payers is to limit payment for substance abuse rehabilitation.

Clark reasoned that from the standpoint of rehabilitation of a person, they might not be ready to stay with the

HUMAN
SERVICES
DEPARTMENT
(Cont.)

program the first time but would be receptive a second time. Priebe suggested providing "X number of dollars for X number of days" and Clark was supportive.

General discussion. Clark suggested allowing a patient to return to the same hospital during a two-year period. Parker wondered about a per diem basis as opposed to two years. Rosenbaum stressed the importance of a flat payment system.

Discussion of ultimate success by patients who have gone through treatment three or four times. Priebe favored referring the issue to the appropriate legislative committees since success of the rehabilitation program is so important.

Royce asked if the DRGs consider the recuperative powers of individual classes of patients, such as those over 65 requiring more time than a younger person. Rosenbaum said that length of stay is based on Medicaid population for the last two or three years.

ENVIRON-
MENTAL
PROTECTION
COMMISSION

Mark Landa, Morris Preston, and Pete Hamlin were present for the following:

Underground storage tanks, 135.9(4) ARC 7613	F	5/20/87
Economic impact statement—underground storage tanks, amendments to ch 135	N	5/20/87
Standards for construction, operation and maintenance of hydrologic monitoring systems in sanitary landfills, 100.2, 103.2(2) and "k," 103.2(3), 103.2(4), ch 110 ARC 7614	N	5/20/87

135.9(4)

Mark Landa explained that amendment to 135.9(4) was adopted following public comments. A definition of "company engineer" was added for clarification. Those who can certify plans will include full-time employees in a company or another person with a bachelor's degree hired to prepare those plans.

Priebe brought up the fact that some would not have a degree. Preston indicated that an equipment supplier may have someone on their staff who can do the work.

Royce saw a problem since a bachelor's degree is not required to be licensed in Iowa. Education and experience are considered. Landa stated that the rule does not require a licensed engineer and he referred to Code chapter 114 which addresses company engineers.

Preston responded to Priebe that they are not required to do construction inspection. The owner of a tank is responsible for testing and monitoring. Priebe wondered if the new groundwater protection bill addressed the area and Landa was unaware of anything. Landa thought Royce's concern was legitimate and he emphasized they preferred that the Board of Engineers make the decision.

ENVIRONMENTAL
PROTECTION
COMMISSION

Parker interpreted the new language as being pertinent only to plans and specifications and Preston concurred. Parker contended that from a practical standpoint, the rule was meaningless if the Department does not inspect the sites. Hamlin said that intent was to spot check where federal grants are used. He added that it was impossible to inspect every tank. Parker thought county sanitarians could perform the task.

135.9(4)
Delay

Doyle wondered if the Engineering Licensing Board should be consulted. Landa saw the major question as being the definition of "engineer". Doyle noted a 7-15 effective date for the amendment. Doyle moved a 70-day delay of 135.9(4) for further study. Landa had no trouble with a delay. Priebe wanted to avoid excessive costs and wanted assurance that "an average person" could install tanks since this would be a major item in the next ten years. Motion carried.

Motion
Carried

ch 135

Review of the Economic Impact State prepared for amendments to chapter 135. Preston spoke of the difficulty in providing estimates of costs for installation of underground storage tanks. Priebe asked about total cost. Preston said that approximately 29,000 tanks were registered at about 10,000 locations. Some will be removed and wells will not be installed. This would reduce the estimate to 20,000 or so. Priebe requested specifics as to cost.

Discussion of availability of insurance. Landa indicated that policies are being narrowly written. Hamlin mentioned two companies where premiums are accelerating at a rapid pace. Hamlin was aware of a tank leak in Denver which cost Conoco \$14,000,000. Some in Iowa run in the \$250,000 to \$400,000 range. He was hopeful of some kind of pool to provide reduced costs.

Landa informed Doyle that aboveground tanks were under the jurisdiction of the fire marshal and EPA requirements govern. Proposed federal rules require liability coverage. Doyle was concerned about possible liability of the State and suggested seeking further information from the Insurance Commissioner's office.

Hamlin indicated that the State is working on an agreement with EPA to utilize federal funds. A \$5 tank registration fee also generates some money. Department officials agreed to submit an amended Economic Impact Statement which would include total costs as requested by Priebe.

6/10/87

ENVIRONMENTAL
PROTECTION
COMMISSION
(Cont.)
100.2 et al

Discussion of 100.2, 103.2(2)j and chapter 110 et al.
Hamlin briefed the Committee on amendments to existing
rules and a new Chapter 110.

Parker reiterated his continuing frustration with the
landfill east of Des Moines and there was lengthy
discussion which included various techniques to treat
leachate. Department officials readily admitted they
lacked solutions for many of the landfill problems.
Drastic changes were needed. Priebe envisioned waste
disposal as being one of the biggest problems of the
future. Hamlin volunteered to accompany Parker to the
Pleasant Hill landfill to discuss issues which he
raised. No action taken on the rules.

ENERGY AND
GEOLOGICAL
RESOURCES

Chris Hansen, Environmental Engineer, and Roya Stanley
represented the agency for the following:

Energy measures and energy audits grant programs for schools and hospitals and buildings
owned by units of local government and public care institutions. 7.1(1), 7.1(2), 7.5(3) ARC 7622 6/3/87
Technical assistance and energy conservation grant programs for schools and hospitals and for buildings owned by
units of local government and public care institutions. 8.1, 8.2(2)rc, 8.3(1)rf, 8.4, 8.6(3), 8.6(4), 8.6(7),
8.7(1)fa, 8.8 ARC 7623 6/3/87

Stanley described the amendments relating to the energy
conservation program for institutions which are feder-
ally funded. Cost-sharing grants are provided for
Iowa's schools and hospitals. However, funds have
been reduced the last several years. Doyle asked for
clarification as to qualification for management
technicians and energy auditors.

Priebe questioned need for amendment of conversion
factors--8.2(2)c. Hansen replied that four states
coordinate the program through the Kansas City office
of the Federal Department of Energy. Hypothetical
figures were rounded for simplification. She informed
the Committee that residual fuel oil is seldom used in
Iowa.

Priebe was told that Iowa coal would look better under
the new conversion factors--should be a benefit. It
is not tested--these are used for hypothetical calcul-
ations.

Doyle was interested in knowing if the factors were
relevant to average BTUs for gas companies and Hansen
responded in the negative. To avoid unfair advantage,
numbers are used to rank applications, according to
Stanley. No action taken.

Recess

Chairman Priebe announced a 15-minute break.

ECONOMIC
DEVELOPMENT
DEPARTMENT

Michael Miller was present for the following agenda:

Community economic betterment program, ch 22 ARC 7571 5/6/87
Community economic betterment program--board and committee, 22.3, 22.9(2)rc, filed emergency ARC 7572 P.E. 5/6/87

ECONOMIC
DEVELOPMENT
DEPARTMENT
(Cont.)
ch 22

Miller said that revised Chapter 22 was in response to the Legislative Oversight Committee. The rules were simplified for the advantage of cities and counties as well as for businesses. Detailed rating and ranking systems were included. Parker recalled that last year, the ARRC had been quite nervous about the integrity of the program in place at that time as it related to the public. It was Parker's opinion that 261--22.7(1)d was beyond statutory requirements which he quoted. He added that he had drafted portions of the legislation. He discussed the maximum score for rating system in 22.7(2), last paragraph. Parker reasoned that the statute was quite clear that a local political subdivision is not the state. He declared, "I don't think a condition of the grant could be that the applicant must repay if it recaptures it back to department." Parker wondered if the Department were operating under these rules as a matter of policy. Miller said that to some extent, the rules are simply expanded and clarified.

Parker requested that applications on award schedules received during the next two months be forwarded to Royce for distribution to ARRC members.

22.10(3)

Doyle viewed 22.10(3) on appeals as being too limited -- it should provide a way to appeal on the point score. Miller thought the point was reasonable.

Doyle suggested that Miller review rules of other agencies on contested case proceeding.

In response to Clark, Miller said that in-kind, as regular staff time, and conventional financing would not be considered local contributions.

Rules
deferred
to p.m.

Chairman Priebe announced that Revenue and Finance and Public Health rules would be considered at 1:15 p.m. and 1:30 p.m., respectively.

22.3

The ARRC recommended that rule 22.3 be modified to provide that 2/3 of the membership of the Project Review Committee would be required to take formal action.

Motion

Doyle interpreted the second paragraph of 22.3 to delegate two people to do the job of nine without approval of the full board. Doyle moved to object to 22.3 and the following objection was prepared by Royce:

Objection

At its June 1987 meeting the committee voted an objection to the provisions of rule 261 IAC 22.3, on the grounds that they exceed the authority of the department. This rule appears as part of ARC 7572 and is published in the May 6th, 1987 issue of the Iowa Administrative Bulletin.

ECONOMIC
DEVELOPMENT
DEPARTMENT
(Cont.)

The review committee created by this rule functions to screen CEBA applications for the D.E.D. board. The rules review committee is particularly concerned with the sentence: "...Alternatively, the board may authorize the committee or the director to make final funding decisions on behalf of the board [emphasis added]". The authority to commit CEBA funds to a particular project has been vested by statute in the board itself. The rules review committee believes that it is unlawful for the board to delegate final decision making to a subcommittee without ratification or approval of the board as a whole.

The committee is also concerned with the voting requirements set out in the first paragraph; "A majority of those voting is necessary for action by the committee." The rules review committee has consistently demanded that a majority of the entire committee be required to take any action.

Carried

Motion carried.

BOARD OF
PHARMACY

The following proposals were presented by Norman Johnson:

Licensure by reciprocity, 5.4	ARC 7590	N	5 6 87
Drug name and strength on prescription label, 6.16	ARC 7589	N	5 6 87
Licensure, reexamination and fees, 1.5	ARC 7636	N	6 3 87
Controlled substances, refilling of prescriptions, 8.13(9)	ARC 7637	N	6 3 87

6.16

No questions re 5.4. New rule 620--6.16 reflects the statute on generics which are now branded generics. Both brand and generic name are to be used.

Doyle observed that the text of 6.16 did not mention "strength" even though the word appeared in the catch-words. He suggested addition of "strength" in line 4 following "generic name." General agreement.

1.5

Amendment to 1.5 was clarification of the Board's intent to charge an administrative fee for re-examination. Tieden inquired as to the per cent of applicants who retake the test and Johnson stated that the statute offers one re-examination but individuals are not denied. Some have taken it as many as 12 times.

8.13(9)

No questions re 8.13(9). No formal action on the amendments.

RACING AND
GAMING

Jack Ketterer and Don Mendenhall appeared for the following:

Greyhound racing, 7.9(1)"b" and "c," 7.9(2)"d"	ARC 7605	F	5 20 87
Games of skill, chance, bingo and raffles, 20.1, 20.4(3), 20.5, 20.5(3), 20.5(4), 20.6(1)"f" to "k," 21.2"2," 21.4, 21.8, 22.1, 22.3, 23.1, 23.2(1), 23.3"5," 23.4, 23.5, 23.7 to 23.9, 23.10(3), 23.10(5), 25.3	ARC 7595	F	5 20 87
Contested case proceedings, 4.14	ARC 7549	N	5/6/87

ch 7

Ketterer briefed the ARRC with respect to Chapter 7 amendments. Don Mendenhall reported that changes made in rules governing games of skill, chance, bingo and raffles reflect 1986 legislation.

Tieden pointed out that eventually the rules would be transferred to the Department of Inspections and Appeals.

RACING AND
GAMING
(Cont.)
4.14

Doyle was happy to see rule 195--20.1(99B) re local option taxes. In review of 4.14, Ketterer said the Commission had been authorized to delegate to a hearing officer the authority granted to the Commission under these procedures. Doyle took the position that 4.14 failed to clarify that the same hearing officer could not hear a proceeding delegated for appeal. Ketterer responded that the hearing officer would need to be someone independent from the staff and they would ask Inspections and Appeals to assign one.

Royce said that although some agencies are independent, most are part of the "pool." He concluded that the Code is specific as to hearing officers. Doyle reminded that all aspects of the law on Inspections and Appeals would be considered at the August 20 meeting.

PUBLIC
SAFETY
DEPARTMENT
16.200

Don Appell briefed the Committee re 16.200, which updates the electrical code to the 1987 Edition. Public hearings will be held June 24 and 25 on the clarifying changes.

RAILWAY
FINANCE
AUTHORITY

Les Holland and Craig Severance represented the Authority. The agenda follows.

Organization, financial assistance, projects, 1.1, 1.1(7), 1.1(7), 1.5(1), 3.1, 3.1(1)(e), 3.1(4), 4.3(2), 4.4(1);
renumber agency number 695 to 765 ARC 7626

6/3/87

After brief explanation of the technical updates by Severance, there were no questions.

TRANSPORTATION
DEPARTMENT

The following agenda was presented by Will Zitterich, Leland D. Smithson, Grey Howat, Jan Hardy, Gordon Sweitzer, Terry Dillinger, James E. Graham, Steve Westvold, Larry R. Jesse and Julie Fitzgerald.

Amend, renumber, and transfer all rules from agency number 820 to 761 ARC 7625	6/3/87
Real property acquisition and relocation assistance, 761--ch 111; rescinds 820--(06.F) ch 8 ARC 7624	6/3/87
Outdoor advertising, logo signing, 820--(06.D) 5.1(5), 5.1(6), 5.4(5), 5.7, 5.7(2), Figures 1--10, 761--ch 118 ARC 7629	6/3/87
Outdoor advertising, private directional signing, 820--(06.D) 5.1(11), 5.7(1), 761--ch 120 ARC 7632	6/3/87
Federal aid urban systems, 820--(06.Q) 10.3(3)(b), 10.5(4)(b)(3) and (4), 10.5(6)(a)(3), 10.5(6)(d), 10.5(6)(f)(3) ARC 7631	6/3/87
License examination, driver licenses, 761--ch 604, 820--(07.C) 13.3, 13.5, 13.7(3), 13.17 ARC 7627	6/3/87
Vehicle registration and certificate of title, 820--(07.D) 11.2(1), 11.3(9), 11.3(12)(f), 11.4(3)(c)(3), 11.4(3)(d) and "f," 11.7, 11.9, 11.12(1), 11.12(2), 11.14, 11.12, 11.17(1)(b), 11.19, 11.22, 11.22(1), 11.23, 11.25, 11.29, 11.30(1), 11.33, 11.40, 11.41(1), 11.41(2)(b), 11.41(2)(d)(1), (3), (7) and (8), 11.41(5), 11.44, 11.48, 11.49(1), 11.49(2), 11.50(1), 11.50(2), 11.53, 11.55, 11.56, 11.58(1), 11.61, 11.63 ARC 7628	6/3/87
Special permits for operation and movement of vehicles and loads of excess size and weight, 820--(07.F) paragraph "d" in subrules 2.7(1) to 2.7(5) and 2.8(1) to 2.8(4), 2.9(1) to 2.9(4), 2.10, 2.11(1) ARC 7640	6/3/87
Tourist-oriented signing, 761--ch 119 ARC 7630	6/3/87

Fitzgerald said the majority of changes were clean up and renumbering to reflect government reorganization.

No questions re ARC 7525, or ARC 7624.

In discussing rules pertaining to logo signing, ARRC expressed opinion there was some confusion about them. Drawings are held for logo signs when the number of qualified applicants exceeds availability of space. The manual adopted by the Department is a product of

TRANSPORTATION
DEPARTMENT
(Cont.)

ASTO and Federal Highway Administration. The state can be more restrictive but not less restrictive than federal rules. General discussion. Failure to comply with the Manual may jeopardize funds. The Committee expressed amazement that other states seem to avoid following the Manual. Department officials reminded that federal highway interstate system pays 90 per cent of the interstate construction costs. They added that, more and more, attorneys in liability cases are turning to the Signing Manual. Department officials had contacted other states and were unaware of noncompliance with federal regulations. General discussion of signing on interstate and primary systems.

There was discussion of private directional signing which provides motorists with tourist attraction information. No questions re 07D Chapter 11.

ch 604 &
07C ch 13

Dillinger explained the clarifying amendments to license examination rules. A major change in the field division creates a new peripheral vision standard. Parker reiterated his opposition to the "ridiculous rule" and he recalled a lengthy discussion on the Noticed version. Dillinger stressed the importance of an individual being aware of any deficiency in their vision. If the individual has no vision in one eye, the nasal vision will carry 45 degrees. The provision was recommended by the American Optometric Association, and testing equipment is available. Sweitzer pointed out that rule provides opportunity to require a second mirror for those who have trouble with peripheral vision.

Parker wondered how the license could be restricted to be pertinent to the deficiency found and Sweitzer contended that it was a liberal standard. Individuals with only one eye are already restricted to an outside mirror. Sweitzer emphasized that DOT makes no effort to enter the field of optometry. Statements must be completed by an eye care specialist.

Motion to
Delay
Carried

Parker moved that the 604.11(2) and 604.13(2)b be delayed 45 days into the next General Assembly. Motion carried.

Clark was told that telescopic bioptic lenses are used for poor central vision.

ch 11

Amendments to 820--(07,D)11.2(1) et al were reviewed by Hardy who stated that no comments were received at the public hearing. Sweitzer reviewed special permits for operation and movement of vehicles and loads of excess size and weight. Brief discussion of federal movement on "32- or 36-wheeler trucks" which is codified under the bridge law.

TRANSPORTATION
DEPARTMENT
(Cont.)
ch 119

Smithson, Maintenance Engineer, explained 761--ch 119 dealing with tourist-oriented signing along primary road system.

Clark discussed the hazardous junction of state Highway 65 and county road adjacent to her home. She was concerned about lack of signs to alert drivers of the junction. Smithson agreed to look into the matter.

Parker and Doyle also mentioned problem intersections on Highway 330 as it approaches I-80 and Highway 141 near Sioux City and Ollie Springs.

Recessed
Reconvened

Chairman Priebe recessed the Committee for lunch and Parker reconvened the meeting at 1:25 p.m.

REVENUE AND
FINANCE
DEPARTMENT

Gene Eich, Administrator, Local Government Services Division, and Clair Cramer, Supervisor, Policy Section, represented Revenue and Finance for review of the following:

Assessment practices and equalization, agricultural realty, 71.12(1)a(1) to (4) and (7) ARC 7643...F..... 6/3/87
Practice and procedure—declaratory rulings, 7.25 ARC 7570N..... 5/6/87

ch 71

Eich advised Priebe that all government payments are applied to those acres referenced in 71.12(1)a(1) and 71.12(1)a(3) and actual production of hay yields will be used.

Responding to Tieden, Eich said information is obtained from the Iowa Crop and Livestock Reporting Service. Eich said the CRP Program would be addressed prior to 1989 equalization. Eich assured the Committee that the expenses would be refined when data is available.

7.25

Cramer briefed the ARRC re 7.25. Royce commented that the rule was standard language which, hopefully, all agencies would ultimately adopt.

PUBLIC
HEALTH
DEPARTMENT

Susan Osmann, Joyce Borgmeyer, Phyllis Blood, Irene A. Howard, Michael Magnant and David Fries represented Public Health for the following:

Sanitary conditions for beauty salons and schools of cosmetology, 150.1, 150.2, 150.9, 150.10(3) ARC 7639...F..... 6/3/87
Standards for certificate of need review long-term care, 203.5 ARC 7644F..... 6/3/87
Swimming pools, 15.4(3)"c"(1), 15.4(3)"d"(1), 15.4(4)"c," filed emergency after Notice ARC 7645 F.E.A.N..... 6/3/87
Maternal and child health program, ch 76 ARC 7638N..... 6/3/87
Venereal disease prophylactics, 6.1, 6.6 Notice ARC 7392 ~~terminated~~ ARC 7596N.T..... 5/20/87
Mortuary science examiners, board of—attendance record report, 147.105, 147.106 ARC 7547N..... 5/6/87

150.10

No changes made since Notice re amendments to Chapter 150. In 150.10(3), Doyle asked that the word "strictly" be removed.

203.5

Osmann said formulas in 203.5 are calculated on a county basis and she was doubtful that long-term care insurance would have an impact.

6/10/87

PUBLIC
HEALTH
DEPARTMENT
(Cont.)
ch 15
ch 76

Magnant briefed ARRC with respect to changes in Chapter 15. ARRC was advised that coliform bacteria water standards for swimming pools are required to meet those of drinking water.

Discussion of Chapter 76 which will be primarily federally funded with 5 to 10 per cent from the state. Clark viewed as redundant language in 76.2, second paragraph. Royce advised that the first sentence was standard language. Priebe thought more than 10 per cent state funds were targeted for the program. Osmann stated that if a patient were eligible, Title XIX would be billed. Clark and Priebe discussed funding of the program, in general.

6.1
6.6

Fries informed the Committee that proposed rules 6.1 and 6.6 would be terminated. A different approach may be pursued at a later date.

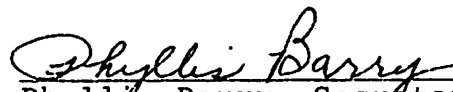
147.105

Re 147.105 and 147.106, Howard said opposition had been received from the Medical Continuing Education Department, University of Iowa. Doyle asked if out-of-state fees were allowed and response was in the affirmative. He pointed out that other professions are required to file annual reports. Howard indicated attendance lists are provided and individuals have 30 days to verify attendance.

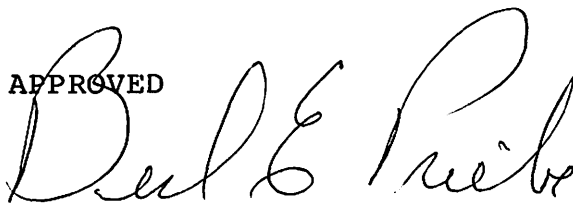
Adjournment Chairman Priebe adjourned the meeting at 2:15 p.m.

Next meetings were scheduled for July 7 and 8, August 18, 19 and 20.

Respectfully submitted,


Phyllis Barry, Secretary
Assisted by Vivian Haag
and Bonnie King

APPROVED


Chairman