MINUTES OF THE REGULAR MEETING
of the
DEPARTMENTAL RULES REVIEW COMMITTEE

Time of Meeting: Tuesday, December 9, 1975, 9:25 a.m.

Place of Meeting: Senate Committee Room 24, Statehouse, Des Moines, Iowa.

Members Present: Senator Berl E. Priebe, Chairman; Representative W. R. Monroe, Jr., Vice Chairman; Representatives Donald V. Doyle and Laverne Schroeder; Senator Minnette Doderer.
Not present: Senator E. Kevin Kelly who was on vacation.
Also present: Wayne A. Faupel, Code Editor.
David Charles, Research Assistant, Senate
Joseph O'Hern, House Research Assistant.

Minutes: Moved by Schroeder to dispense with reading of minutes of the November meeting and that they stand approved. Carried.

Chairman Priebe announced that he would also be working with the Appropriation subcommittee today. He asked to be excused at 9:30 to attend a conference in the governor's office.
Monroe in the Chair.

CAMPAIGN FINANCE DISCLOSURE COMMISSION: At the request of Barbara Snethen, Executive Director, Campaign Finance Disclosure Commission, Schroeder moved to defer review of CFD rules until 1:00 p.m. when Commission members could be present. Carried.

ARTS COUNCIL: Filed rules of the Arts Council [Chapters 1 and 2] which were published December 1, 1975 in IAC Supplement were acceptable to the Committee.

AGRICULTURE: Thatcher Johnson, Deputy and James Harlan, Hearing Officer, represented the Department of Agriculture for review of
Administration--Ch. 1, published under notice 11/3/75;
Referendum--Ch. 2, filed rules published 11/3/75;
Hair covering--37.2(3), filed rule published 12/1/75.

12-9-75

It was noted that 37.2(3) had been rewritten to overcome objection filed by this Committee. The revision was acceptable and no further discussion of the matter was necessary.

Ch 2: Harlan indicated that 2.4(1) had been rewritten to overcome objection filed by the Committee. Said revision was filed as an emergency rule on November 26, 1975.
Schroeder recommended that the Department implement the rule under normal rulemaking procedure and rescind the emergency provisions.

AGRICULTURE Cont'd

Schroeder raised question in re 1.2(6)--prohibited communications--as to whether the rule would prevent a person from requesting a deposition. Harlan responded that the provision is basically repetitious of the statute [17A.17] for the benefit of individuals having no access to an Iowa Code.

Monroe took the position that 1.2(2)--practice and procedure pertaining to licensing--exceeded statutory authority in that the department could deny a license or permit on grounds not specified in the law; e.g. a debt unrelated to licensing or permits could be grounds for suspension, denial or revocation. Committee members agreed that in order to constitute good cause for suspension, denial or revocation of a license or permit, the debt or violation must be related to the purpose for which the license is being issued.

Motion

Moved by Schroeder that the chairmen of Agriculture Committees of the Legislature be furnished copies of 1.2(2) and that they be urged to initiate appropriate legislation.
Department officials agreed to aid in drafting remedial legislation. Vote on the motion was deferred.

Monroe thought 1.2(6)"c" contained too many "variables" and could be challenged by an employee of the Department. He suggested the Merit Employment Director could probably advise them on language to accomplish their intent.
Harlan commented that they relied upon §17A.17(3) of the Code.

Charles suggested they might want to include a filing against the party. The rule has no effective penalty against an individual not within the agriculture department. He quoted from 17A.17(2) ".... As sanctions for violations, the rules may provide for a decision against a party who violates the rules ..." He added that this provision must be written into the rules if the Department wants to invoke alternatives.

Senator Priebe returned to the meeting and requested that Monroe continue in the Chair for the remainder of the day since it would be necessary for him to divide his time between two meetings.
Schroeder motion concerning 1.2(2) was before the Committee. He asked that it be amended to include the following objection to 1.2(2):

> The Committee objects to 1.2(2)--Licensing--as going beyond the statute in that it allows denial by the Department of a license or permit on grounds not specified in the Code. Even a debt unrelated to the license or permit in question could be grounds for its suspension, denial or revocation. It is the opinion of the Committee that in order to constitute good cause for suspension, denial or revocation of a license or permit, the debt or violation must be related to the purpose for which the license is being issued.

AGRICULTURE

The Schroeder motion was approved unanimously.

Discussion of possible amendment to Rules of Procedure to provide that this Committee withhold filing of an objection to rules under Notice of Intended Action to allow an opportunity for the agency to modify them prior to filing.
No action taken.

10:10 a.m.

Senator Doderer arrived.

BANKING
8.1(3)

Thomas Huston, Superintendent, and Howard Hall, Deputy, were present for review of the emergency amendment to 8.1(3) published 11/3/75. Said amendment relating to definition of savings deposit would remove a prohibition against savings accounts in state banks. Corporations could place surplus money in savings for interest in the bank where they do business.
Charles explained to the Department officials that under Chapter 17A two findings are necessary in the adoption of emergency rules. They are outlined in 17A.4 and 17A.5. He pointed out that provision in 17A.4 had not been utilized.

Schroeder suggested the Committee concur with the amendment as presented today but added all departments should submit all emergency rules under the normal rulemaking procedure.

PUBLIC
INSTRUCTION

Arthur Roberts, Transportation Director, Public Instruction appeared for continued discussion of proposed amendments to 23.3 concerning activity buses. Said amendments were published 10/6/75 as follows:

ITEM 1. 670—23.3(285) is amended as follows:
Subrule 23.3(17) is amended by adding the following paragraph:
"*n.* School buses used solely for activity trips may be equipped with recliner type seats. Seats to be approved by the department of public instruction. The minimum center-to-center seat spacing shall be thirty-four inches."

ITEM 2. 670—23.3(285) is amended by adding a new subrule as follows:
"23.3(28) *Luggage racks.* School buses used solely for activity trips may be equipped with padded luggage racks above the windows on the inside. The racks shall be secured and constructed in such manner to prevent the release of stored materials in event of the bus overturning or other type of accident. The luggage racks shall be designed and affixed so there is no exposed metal that might cause injury to students who may come in contact with the rack."

Schroeder reiterated his objection to variances with respect to recliner seats and padded luggage racks.
Roberts pointed out there is nothing in the law to prohibit school districts from hiring over-the-road carriers which are equipped with the seats and racks in question. He added that Cedar Rapids had equipped school buses with the special features for activity trips on an experimental basis. Over a three-year period there was a $32,400 saving compared to a basic Greyhound carrier.

PUBLIC INSTRUCTION
Buses

Schroeder contended that activities are part of the educational process and failed to see justification for distinction between buses used for routine transportation and activity trips.

Doderer objected to use of the word "solely" in line one of each of the proposals since it would prevent flexibility in use of the buses.

Lyle Johnson, Transportation Director, Cedar Rapids schools commented that activity buses would not be idle often because of numerous activities there.

Doderer pointed out the rules will be applicable to all districts not just Cedar Rapids.

Roberts noted that other states do not even require the activity buses to be painted yellow as is required in Iowa. Doderer didn't see the color a big safety factor.

Monroe indicated he could not concur in the dual standards.

Motion

Schroeder moved to object to the rules as follows:

> The Committee objects to Items 1 and 2 on the basis that an arbitrary distinction is drawn between buses used solely for activity trips and those used for day-to-day operation. The Committee further objects to the proposed rules since only larger school districts could take advantage of their provisions.
>
> The Committee recommends that the Department overcome the objection by drafting rules which do not establish dual standards for the operation of school bus systems.

Motion carried with 4 ayes.

Doderer asked the Department to consider the possible substitution of the word "primarily" for "solely". Another alternative would be to leave the matter to local boards.

Roberts expressed opposition to use of recliner seats for day-to-day operations when there is only the driver to be responsible. Several supervisors accompany students on activity trips.

Monroe thought it conceivable to overcome the problem by devising a "lock-out mechanism" to be used during routine transportation. Roberts pointed out that seat standards are set by the federal government.

Drs. Orrin Nearhoff and Donald Cox represented the Department of Public Instruction for review of rules relating to teacher education and certification. Said rules, being Chapters 13 to 19, were published under notice 10/6/75 and were deferred at the November meeting of this Committee.

PUBLIC INSTRUCTION

Discussion centered on proposed 13.18(257) to 13.22(257) in re human relations requirements for teacher education and certification proposed under authority of §257.10(11) of the Code.

It was Schroeder's opinion the rules were unnecessary and would create unjustified harrassment for teachers. He contended they would place a hardship on "older teachers who do have permanent certificates." Effective 8/31/80, applicants for initial certificates shall have completed the human relations requirement and effective 8/31/78, all teachers required to renew certificates, including those entering the state, would be affected by the rules.

Teachers may receive human relations training at the state universities, at private colleges or during in-service training sessions conducted by the local school districts, area community colleges and area education agencies.

Motion

Schroeder moved to object to rules 13.18 to 13.22 as being arbitrary in that they are not applicable to those teachers with permanent certificates.

Discussion of the motion. Monroe suggested that the matter be referred to the legislative committees on education for study and recommendation.

The Schroeder motion failed.

Charles pointed out that Chapter 17A of the Code provides only that this Committee "may refer a rule to the speaker of the house and the president of the senate ... and the speaker and president shall refer such a rule to the appropriate standing committee of the general assembly."

Discussion of possible amendment the Rules of Procedure to provide referral by this Committee of rules to appropriate legislative study committees.

Priebe was concerned as to the affect of the human relations requirements on part-time teachers.

Motion Rules to Legislature

Dept prop. + filed rules 1/30/76

Schroeder moved that copies of the proposed amendments to 13.18 to 13.22 be referred to the speaker of the house and the president of the Senate with a recommendation that the matter be referred to Committees on Education for further study. Carried unanimously.

STATUS OF WOMEN

Judy Landers, Acting Director, and Chris Wilson, Chairperson, represented the Status of Women for review of rules relating to organization and duties [Chapters 1 and 2] filed 10/16/75 and published 11/3/75.
Doyle questioned Wilson briefly concerning use of the word "volunteers" in 1.3--purpose.
No recommendations were made by the Committee.

HEALTH
Hearing Aid Dealers

Peter Fox, Hearing Officer, and James Faust, Director of Licensing, appeared for review of filed rules of the Board of Examiners for Licensing and Regulation of Hearing Aid Dealers, being Chapter 145, intended to implement Chapter 154A of the Code, published 11/17/75.

Fox said suggestions of the Committee had been incorporated into the filed rule.

Discussion of 145.3--licensure by reciprocity. "Applicants for licensure to practice as a hearing aid dealer in the state of Iowa, who are licensed by examination by any other state licensing board with equal or higher licensure requirements and maintaining equal practice privileges with Iowa licensees, will be considered on an individual basis."

Objection

The following objection was moved by Schroeder:

> The Committee objects to 145.3(154A) relating to licensure by reciprocity in that individuals from states having higher standards than those required by Iowa are unjustifiably discriminated against. The Department can overcome this objection by honoring the higher standards of other states.

Fox pointed out it is necessary to consider applicants on an individual basis because some dealers in other states are on probation because of unethical practices.

Schroeder suggested the rules provide that persons who meet the educational requirements but are on probation shall not be eligible for licensure until the probation has ended.

The motion to object carried unanimously.

Doyle raised question concerning the last sentence of 145.9 in re filing and investigation of charges--"the person making the complaint shall file the statement with the board of examiners within twelve months from the date of the action upon which the complaint is based." He took the position that procedure for investigation should be included in the rule.

Schroeder called attention to 145.7(2) in re office space in a building normally used as a residence. In this situation, a dealer must provide the public access to the office without going through any part of the residence.

Schroeder was concerned that many dealers would be unaware of the provisions and others would be forced out of business.

In response to question by Doderer, Fox stated that the rule was drafted for benefit of patients who would be reluctant to

HEALTH Cont'd

"return to a residence" for service or repair on hearing aids.

Doderer moved the following objection to 145.7(2):

> The Committee objects to 145.7(2) as it is beyond the Department's authority to require "an entrance by which the public may have access to the office without going through any part of the residence."
> The rule would in effect force some dealers out of business.

Motion carried unanimously.

Objection

Doyle moved the following objection to 145.9:

> The Committee objects to 145.9(145A), relating to filing and investigation of charges, as being unreasonable in that it does not provide the procedure to be used in the investigation.
> Objection could be overcome by including such procedure in rule form.

Motion carried unanimously.

Schroeder recommended the following amendment to 145.6(3) regarding continuing education sessions:
Strike from line 2 the words "said meeting" and insert "completion of said educational meeting".
Fox agreed the amendment would prevent possible harrassment of licensees.

Recess
Reconvened

Chairman Monroe recessed the meeting for lunch at 12:15 p.m. The meeting was reconvened at 1:25 p.m. with Monroe in the Chair. Five members were present.

CAMPAIGN FINANCE DISCLOSURE

The following persons were present for review of rules of the CFD Commission published in 11/17/75 IAC Supplement[Amendment to Ch 4 also published in 11/3/75 Supp]:
Barbara Snethen, Executive Director, Frances Fleck, Deputy, Commissioners Larry Scalise and Dr. Charles Wiggins, and Joseph Coleman, Assistant Attorney General. Also appearing were Senator Earl Willits and Yale Kramer, Attorney.

Schroeder and Monroe were opposed to the two-year statute of limitations provided in 1.1 as going beyond the scope of authority since a candidate is only required to keep records for one year. Commission members indicated a willingness to amend the rule but since it was to become effective 12/22/75, the following objection was moved by Schroeder:

> The Committee objects to 1.1(66GA, HF431)since the statute specifically directs candidates to retain records for only one year. The effect of the two-year statute of limitation in the rules is to require candidates to maintain records for two years in order to answer any charge brought in the second year.

CAMPAIGN FINANCE Cont'd

Discussion of 1.15(56) relating to informal settlements intended to implement §17A.10(1) of the Code. Committee members expressed opposition to use of the words "settlement" and "settle" since they have the connotation of money. Scalise said they would rewrite the rule and substitute the words "disposed of" for "settle" and "agreement" for "settlement".

There was discussion concerning nonwillful late filing and the procedure followed by the Commission in reviewing complaints of alleged violations.

In response to Monroe comment that 3.1 and 3.3 [Summary reports] were contrary to the forms prepared by the Commission, Snethen said existing forms would be used until January 25. After that time a new form will be used as mandated by statute.

Monroe stated he "was confused by this approach."

At the request of some legislators, Kramer stated that he had reviewed the packet of reporting forms prepared by the CFD Commission. Following are comments and suggestions he had for simplifying and improving the forms:

"With regard to Schedule D and the question regarding forgiveness of a a debt: I think it is an error to include the forgiveness of debt as an in-kind contribution. As I understand the situation, an individual lends money to a committee and later decides to convert that loan into a gift by forgiving the loan. The forms require the committee to report the original receipt of the cash as a contribution under Schedule A. The forms then require the inclusion of the loan on Schedule D, part 2. At the time the loan is forgiven, the forms then require the inclusion on Form F as an in-kind contribution. I find it very difficult to understand how a cash payment originally included as a contribution could later be considered an in-kind contribution. Also, the effect of this reporting would appear to overstate total contributions. I would prefer to see loans forgiven treated as I have indicated on the attached Schedule A. In this way, on the schedule where the loan was originally included as a contribution before forgiveness of the loan it can be disclosed without affecting the total contributions.

Regarding Schedule D, the accounting system invisioned by these forms does not make use of The Total Unpaid Bills from the prior period. Therefore, the inclusion of any total of unpaid bills from prior periods would appear to be irrelevant for this period. Also, such information is available as the Total for the Unpaid Bills included in the prior report.

It is my understanding with few exceptions campaigns do not normally have unpaid bills on the current reporting date. Therefore, an entire schedule for such unpaid bills including loans outstanding, would appear excessive. If my understanding is correct it would appear that the section "unpaid bills" on the disclosure summary page could be expanded slightly to provide sufficient space for the information currently required by Schedule D. (Section Amended summary pages)

CAMPAIGN FINANCE Cont'd

With regard to schedule E, it would appear that the instructions to Schedule B provide all the relevant information currently required by Schedule E. Again, the total loans receivable from the last reporting period is available from the prior report. Any payments on such loans rather than being reported as an additional contribution as is apparently the case under the current forms should be reported as payments received on loans as I have indicated on the revised Schedule B. Again, Schedule E then becomes superfluous and unnecessary.

Regarding Schedule B it has come to my attention that occasionally certain expenses are incurred on behalf of more than one candidate. For example, four candidates may charter a plane to fly to a political meeting. If one candidate pays for the charter and the other three candidates each reimburse the first candidate for 25% of the total cost, the financial forms for candidate one would show a total expense for 100% and a contribution in the amount of 25% of the total for each of the other three candidates. Clearly, those other candidates have not made a contribution to the campaign of whichever candidate happens to pay the bill. Also, in the case of journalists that may travel with a candidate and reimburse such candidate for their share of incurred expenses, such reimburses should not be treated as a contribution. Therefore, I have provided certain changes which I would propose to Schedule B. The affect of the changes are to clearly indicate that such reimbursements infact reduce the actual expenses which the candidate or his committee is required to bear and yet not treat such reimbursement as a political contribution."

He concluded that reducing the number of schedules and pages in such reports while maintaining the basic principle of cash method or reporting with certain supplemental disclosure schedules, should allow the candidates to meet the letter and intent of the law without hiring trained accountants.

Scalise responded that the forms were developed after many meetings with the Commission and other interested persons. They would have welcomed any suggestions.

In regard to Schedule D, Scalise recalled that the law requires a report each reporting period including those debts or bills that are still outstanding.

Fleck pointed out that Form A had been renamed as "Monetary Receipts" rather than "Monetary Contributions." She added that it is important to look at the individual entries rather than just the total on the form.

Monroe objected to the "outrageous" maximum of 25 cents per page which county commissioners could charge for copies of reports, statements and notices in 3.2. Committee members considered 10 cents to be reasonable.

Discussion of 4.1--identification number to be used on the disclosure report.

CAMPAIGN FINANCE Cont'd

Monroe urged the Commission to adopt a "sequential numbering system" for identification of report forms.
Snethen stated that, to date, the Commission has not set up any numbering system.
Wiggins pointed out that appropriation was made to provide computerization of information by number.

Willits brought up the matter of "incidental expenses" defined in 4.9 as follows:

> 190—4.9(56) **"Incidental expenses" defined.** In paragraph (2) of section 56.13, as amended by section 15, HF 431, Acts of the 66th GA, 1975 Session, the term "incidental expenses" shall mean "such minor expenses absorbed by the volunteer which result from or arise out of his or her volunteer work. Incidental expenses shall include, but are not limited to, the following: cost of materials and supplies, food, lodging, transportation, and the use of equipment if their total value does exceed ten dollars.

He suggested that the words "per person" or similar language inserted before "ten dollars" would clarify the rule.

Doderer took the chair at 3:00 p.m.

It was Monroe's opinion that the rule would limit incidental expenses to ten dollars for the entire campaign.

Motion

Monroe moved to object to 4.9(56) as being unreasonable as to the definition of "incidental expenses". The objection could be overcome by (1) not defining "incidental" or (2) by defining "incidental" in a manner which is in more common practice.

Discussion followed. Monroe suggested an alternative might be to add "per day" after "ten dollars".

Coleman wondered how "incidental expenses" could be defined without providing a monetary amount.

Committee members expressed concern that with the rule as written, they would "lose the volunteers who donate two hours a day."

The Monroe motion to object failed. 3 ayes, Schroeder voting "no".

Schroeder offered the following suggestions:
Consider providing a time element as anything in excess of three days. Limit incidental expense to cost of materials or supplies. Leave food, lodging and transportation as unreportable.

Scalise quoted from HF 431, §15.

Doderer suggested adding "in any one week" after "ten dollars".

Discussion of 4.9 deferred temporarily.

CAMPAIGN FINANCE Cont'd

Discussion of 5.3 and what is "appropriate information to be released by telephone."

Doderer recommended that the Commission "protect itself" by deleting the fourth sentence of 5.3 which read "Appropriate information will be released by telephone."

Commission representatives expressed a willingness to delete the nebulous language.

In re procedures for filing information--5.4--Doderer recommended that "shall" be substituted for "might" in the fifth line and that the phrase "who do not have standing", in line 2, be clarified. Commission members agreed to rewrite the rule.

Motion

Discussion of 4.9 resumed. Schroeder moved that the Committee recommend that the last sentence of 4.9 be stricken. Carried unanimously.

Monroe and Schroeder urged the Commission to clarify 4.1. They will pursue legislative action, in the event this is not done.

In response to question by Doyle as to 1.4--burden of proof--Scalise said the rule is intended to remove spurious complaints.

Copies of filed rules of the Commission published in 12/15/75 IAC Supplement were distributed for review of amendments to 4.2 and 4.3 concerning disclosure reports.

Monroe indicated he would prefer the DR-2 Disclosure Report designed by Kramer and that the Schedule D proposed by the Commission be eliminated. [Copies of the three forms prepared by Kramer are reproduced in these minutes.]

Scalise reiterated that the law requires reports quarterly of loans outstanding, including those in prior reporting period. Because of the way the law is written, it is necessary to duplicate the prior report.

Schroeder commented that if there are no loans, it would be unnecessary to fill out Schedule D.

There was brief discussion of changes made by the Commission in Schedule A form.

Monroe thought the Commission should draft in rule form the procedure they will follow when a disclosure report is late. Commission representatives referred to §17A.2(7)f as a possible exemption from such rulemaking. No recommendations by this Committee.

CFD
Cont'd

Form by
Kramer

PLEASE PRINT OR TYPE.
INSTRUCTIONS ON REVERSE SIDE.

FORM DR-2 | DISCLOSURE REPORT

DISCLOSURE SUMMARY PAGE

COMMITTEE NAME
(Must be same as on Statement of Organization

ID NUMBER
(If assigned by Commission)

SIGNATURE OF TREASURER

DATE SIGNED

Report Due	Covering Period
☐ May 25	January 1-May 20
☐ July 25	May 21-July 20
☐ October 25	July 21-October 20
☐ January 25	October 21-December 31

School and Municipal Committees Only

Report Due	Covering Period
☐ 5 days before election	Beginning of committee to 10 days before election
☐ 30 days after election	9 days before election to 25 days after election

☐ Check if Ballot Issue Committee and give date of election _____

☐ Check if Final (termination) report. (Attach Notice of Dissolution Form DR-3)

☐ Check if Amendment to report dated _____

STATEMENT OF CASH ON HAND

CASH ON HAND at the beginning of the reporting period. (This is the total of money and bank accounts held by the committee. This amount MUST be the same as the cash on hand at the end of the last reporting period.) $ _____

ADD TOTAL MONEY TAKEN IN THIS PERIOD
Schedule A: Monetary receipts _____
Schedule C: Sale of products at fund raising events (Sale price column) _____

SUB-TOTAL _____

SUBTRACT TOTAL MONEY SPENT THIS PERIOD
Schedule B: Net Monetary Expenditures _____

CASH ON HAND at the end of this reporting period (this may not be a negative balance) . . . . . $ _____

UNPAID BILLS
(Outstanding debts, obligations and loans)

NAME AND ADDRESS	AMOUNT
	$
	$
	$
	$

CFD
Cont'd

PLEASE PRINT OR TYPE.
INSTRUCTIONS ON REVERSE SIDE.

SCHEDULE A	MONETARY RECEIPTS

Form by
Kramer

CONTRIBUTIONS - MONEY TAKEN IN

COMMITTEE NAME AND ID NUMBER
(Must be same as on Statement of Organization)

DATE RECEIVED	NAME AND ADDRESS OF CONTRIBUTOR	AMOUNT RECEIVED	Loans*	Transfers In*

TOTAL (if last page of this schedule) $_____

LOANS FORGIVEN

Date of Original Loan	Name and Address	Original Amt of Loan	Amount Forgiven

Page ___ of ___
(for Schedule A)

*See Instructions

CFD
Cont'd

Form by
Kramer

PLEASE PRINT OR TYPE.
INSTRUCTIONS ON REVERSE SIDE.

SCHEDULE B — NONMONETARY EXPENDITURES

NET EXPENDITURES - MONEY SPENT

COMMITTEE NAME AND ID NUMBER
(Must be same as on Statement of Organization)

DATE EXPENDED	NAME AND ADDRESS TO WHOM EXPENDITURE (Disbursement) WAS MADE	AMOUNT EXPENDED	Loans*	Media*

TOTAL (if last page of this schedule) $

LESS REIMBURSED EXPENDITURES OR LESS PAYMENTS RECEIVED ON LOANS MADE

NET EXPENDITURES $

Page ___ of ___
(for Schedule B)

*See Instructions

CONSERVATION
Wild Turkeys
Ch 111

Kenneth Kakac, Law Enforcement Superintendent, explained 1976 Wild Turkey Hunting rules published 12/1/75. No recommendations were made by this Committee.

Organization
Ch 60

Stanley Kuhn, Chief of Administration, was present to answer questions concerning Conservation filed rules Chapter 60 entitled "Organization". Said rules were published in 11/17/75 IAC Supplement.

In response to Schroeder's question, Kuhn said the Department concurred with Committee recommendations and incorporated them into the rules before filing. No further discussion.

Priebe took the Chair.

CRIME
COMMISSION

Representatives from the Crime Commission were present for review of Chapters 1 and 2 of their rules published under emergency provisions in 10/20/75 IAC Supplement and carried over from the November meeting. At the recommendation of the Committee, the rules are also being implemented under normal rulemaking procedure and were published in December.

There were no questions concerning the substance of the rules and the Committee indicated it would not be necessary for a Commission representative to appear at the January meeting.

EMPLOYMENT
SECURITY

Harold Keenan, Legal Counsel, represented the Employment Security Commission for review of filed rules Chapters 1-4, 6, 8, and 9, published 11/17/75 and filed rules Chapter 7 and 10, published 12/1/75.

Monroe out of room.

Discussion centered on 4.6(1) defining "partially unemployed" as "An individual shall be deemed partially unemployed in any week in which, while employed at his then regular job, he works less than his regular full-time week and in which he earns less than his weekly benefit amount plus fifteen dollars

The language was repealed by the legislature but the Commission reinstated it as rule. Since then, the Attorney General advised the Department it had exceeded its rulemaking power. To date, the Commission has failed to abide by the opinion.

Priebe took the position that formal objection should be filed by this Committee since the department is circumventing the law.

EMPLOYMENT SECURITY Cont'd

Charles pointed out that under the APA an objection by the Attorney General would accomplish the same purpose as one filed by this Committee--place the burden of proof on the agency.

Priebe took the position that a Committee objection should be filed also.

Doyle commented that since the Attorney General who is legal adviser of the state had made objection that would be sufficient and the Committee should not interfere.

O'Hern suggested the matter be called to the attention of the presiding officers of each house.

Schroeder offered a suggestion that the record show the Committee would have filed objection to 4.6(1) had the Attorney General not previously done so.

Doyle wanted to amend the Schroeder proposal to state: "The Committee took no action since the Attorney General had already issued an opinion having the same effect of reversing the burden of proof, the same as the Committee could have done in filing an objection."

Monroe returned.

Charles questioned whether the Attorney General had actually filed an objection with the Secretary of State as provided in Chapter 17A to reverse the burden of proof. An alternative would be for the Committee to adopt a conditional motion to file an objection with the Secretary of State if, in fact, the Attorney General had not done so. Charles further concurred with O'Hern's proposal to notify the presiding officers of each house.

Motion Failed

Schroeder moved to object to 4.6(1) in that the Commission had exceeded its rulemaking authority. Doyle and Monroe voted "no". Schroeder and Priebe voted "aye". Doderer not voting. Motion failed.

Priebe urged the Committee to be consistent in their position on legislating by rule.

Monroe took the Chair.

Motion

Priebe moved to file an objection to 4.6(1) on the basis the Employment Security Commission is legislating and not rule-making and the rule is illegal.

EMPLOYMENT SECURITY Cont'd Motion Failed

Doderer called for a point of order that the motion had been disposed of.

Chairman Monroe asked for a roll call on the Priebe motion. Doderer "pass", Schroeder and Priebe "aye", Monroe and Doyle "no". The motion failed.

Schroeder left the room to obtain a copy of the opinion of the Attorney General with respect to 4.6(1).

SECRETARY OF STATE UCC

Herman Schweiker, Deputy and Robert Farrell, Uniform Commercial Code Division, represented the Secretary of State for review of filed rules relating to UCC [Ch 1] published 11/3/75 and Agricultural Reports [Ch 12] published 12/1/75.

Ch 12 Deferred

The Committee made no recommendations for Chapter 1 but asked the Department to return December 10 for review of Chapter 12.

SOCIAL SERVICES

The following persons represented Social Services: Judy Welp, Administrator, Office of Procedures, John Thalacker, Director of Corrections Institutions, Dean Luxford, Superintendent of Mitchellville Girls' Training School.
The following rules were before the Committee:

State penitentiary [Ch 17] Filed	11/3/75
Men's reformatory [Ch 18] Filed	11/3/75
Women's reformatory [Ch 19] Filed	11/3/75
Medical facility [Ch 20] Filed	11/3/75
Riverview release center [Ch 21] Filed	11/3/75
Juvenile Home [Ch 101] Filed	11/17/75
Training school for girls [Ch 102] Notice	11/17/75
Training school for boys [Ch 103] Filed	11/3/75
Foster care payments [Amend 137.9] Notice, also Emergency	11/17/75

Charles pointed out that the first five sets of rules had been reviewed by the Committee and were now effective.

Doyle reported that as a result of discussion he had with Thalacker, the Department had agreed to amend Chapter 17--State Penitentiary and Chapter 18--Men's Reformatory--with respect to visitation privileges at these institutions by adding at the end of 17.2(8) and 18.2(3)"g" the words "except with permission of the warden or designee".

Review of proposed chapter 102. In answer to Doderer, Welp responded that, to her knowledge, rules for training schools for boys and girls were basically the same.

Discussion of contraband Type A and Type B items as defined in 102.1(3). Monroe questioned department offidals as to what are obscene materials. It was suggested these materials be defined as found in §725.1 of the Code.

SOCIAL SERVICES

Committee members shared the opinion that prohibition of contraband Type B items--nail polish remover, incense, black lights and aerosal deodorants--was discriminatory since the prohibition was not imposed upon the boys.

Motion

Moved by Doderer to object to 102.1(3) as follows:

Objection

> The Committee objects to 102.1(3) because an arbitrary distinction is drawn between the training school for girls and the training school for boys in regard to items defined as "contraband; Type B." These items are not similarly defined in the contraband rule for the boys. If these items are dangerous for girls, they are equally dangerous for boys. The rules fail to recognize this.

Motion carried unanimously.
Schroeder pointed out that 102.4(2) will need revision to conform to 102.1(3) in re contraband B items.

In re money brought or sent to the institution, Monroe recommended that 102.4(3) be amended by inserting at the end the words "and receipt shall be given". Department officials were amenable.

Variances in mail restrictions for the two institutions was noted. Although the Committee could see merit in certain restrictions, they maintained it was important for the Department to be consistent.

Motion

The following motion was approved unanimously:

Objection

The Committee objects to 102.4(218)--Mail and packages--because an arbitrary distinction is drawn between the two training schools in regard to mail privileges.

The Committee recommended that the rules be standardized in the areas of contraband and mail restrictions.
Schroeder asked that the Department make an "in-depth review" of the two sets of rules govering the training schools and eliminate variances. [Chapters 102 and 103].

Doderer recommended that 102.3(4), pertaining to interviews and statements by the resident be amended to read as follows:
"When the interview or statement is being made or taken by the resident's own attorney or state officials acting in their official capacity, the presence of staff person may be waived by the superintendent or designee."

Doderer questioned department officials as to whether additional rules would be submitted for the Juvenile Home, Training School for Girls and Training School for Boys. They indicated other rules for these institutions are considered to be for internal operation only. They cited the exclusion in §17A.2(7)"k" of the Code. There was brief discussion of the definition of "penal

SOCIAL SERVICES Cont'd

institution" and whether it would cover instutions set forth in §218.1 of the Code. The Department indicated they would seek an Attorney General opinion on the question.

Doderer excused at 5:42 p.m.

Doyle suggested clarification of the proposed amendment to 137.9 relating to payments for foster care for children.

Recess

Chairman Monroe recessed the meeting at 6:00 p.m. to be reconvened Wednesday, December 10 at 8:30 a.m. First item of business would be review of Committee rules of procedure.

Reconvened

Chairman Priebe called the meeting to order at 9:10 a.m. in Senate Committee Room 324. Senator Kelly absent, Monroe out of the room.

Committee Procedure

The following rule of procedure was proposed and adopted by the Committee:

"If any member requests a record roll call, the ayes and nays shall be recorded."

Discussion of existing Rule 2. Doderer moved to amend Rule 2 to read as follows:

"A majority of the members of the Committee may object to all or any portion of a proposed rule or transact other business."

Motion carried.

The following new rule was moved by Schroeder and approved by the Committee:

"The Committee may direct the Secretary to send specific rules to specific chairmen of various legislative committees designated by this Committee."

The Committee Rules of Procedure, published in IAC General Information division, were approved as amended.

There was discussion of need to initiate legislation to reduce the free distribution of the Iowa Administrative Code.

Priebe stated that he would request permanent staff to work with the Committee and Code Editor's office as the workload is increasing. Faupel commented that additional space would be needed.

INSURANCE Securities

Marshall Hunzelman, Superintendent of Securities, and Jamie Wade, Securities Dealer Examiner, were present for review of proposed rules 50.1 to 50.59 pertaining to registration and operation of broker-dealers. Said rules would implement the Iowa Uniform Securities Act [66GA, ch 234].

INSURANCE Cont'd

Schroeder questioned whether the Release number referred to in 50.1(2) should provide a date certain. Hunzelman explained these numbers run consecutively and are never amended so this would not be necessary.

Discussion centered on qualification of principals and the "grandfathering in" of certain broker-dealers--50.2. Schroeder contended all should be required to take the test. Hunzelman said that dealers registered prior to new examination did not have to qualify and this seemed unreasonable in view of sweeping changes in the securities law so they have provided that persons who leave the industry for a continuous period of sixty days would be required to take the test [50.2(5)].

Hunzelman said there would be a major clerical problem in administering the exams to all broker-dealers.

Schroeder wanted the rule to provide that persons in the business who had been "grandfathered in" should be required to take the test within 12 to 18 months from the effective date of the Act.

Priebe asked if the Act provided for "grandfathering in." Hunzelman said it did not but by the same token did not provide that all should take test.
Priebe emphasized that the Legislature is always very specific about grandfather clauses and if the Act did not contain such a clause, they did not intend to make exception.

Hunzelman described the test as being in two parts--Part 1 is the general security examination; Part 2 deals with Iowa law..

Responding to question by O'Hern, Hunzelman said if your are registered in Iowa or registered with NSE, SEC you will be required to take only Part 1.

9:50 a.m. Monroe arrived.

O'Hern suggested possible date be inserted in 50.2(9) "b". Priebe thought 50.2(9) "a" and "b" should be stricken.

Doyle objected to to 50.3(1) "1" (8) as to use of "arrests, indictments or". Department was willing to strike the objectionable language.

Priebe excused. Monroe took the Chair.

Committee members learned that net capital requirements have been tightened in the new rules.

INSURANCE With respect to cost of examination, Monroe recommended that the cost should reflect somewhat the employee wages. He continued that 50.9--unethical business practices--is an arbitrary rule since it contains "unbounded standards" such as "unreasonable delays", "excessive" and "fairly" in 50.9(1), paragraphs a to c, j, k, l and n. In paragraph a, a maximum delay provision would be preferable to "unreasonable delay".

O'Hern doubted broker-dealers would have cause to "delay" and suggested deletion of the word "unreasonable" in 50.9(1)a. Department officials agreed to review the matter.

Monroe suggested that 50.12(1) be amended by substituting a specific number of days for the word "promptly".

Doyle recommended that 50.24(1) be modified by inserting in line 1, after "administrator" the words "or the administrator's successor in office". Further, 50.24(2) should provide for availability of form U-2.

In re 50.56(3)--experience of management in cattle feeding programs, Schroeder thought the rule was too stringent and would "narrow down to about six persons in Iowa who would qualify." He recommended substituting 500 head for 1,000 head.

Priebe returned.

Schroeder doubted that 50.56(12) relating to capacity of feed lot facilities could be applicable to Iowa. He recommended a lot capacity of 4,000 head and that the second sentence be stricken but provide that an agreement can be made for expansion.

Priebe suggested that the word "nutritionist" be stricken from line 5 of 50.56(12). Feed companies supply nutrition information. He was also opposed to the branding mandate in 50.56(13) and suggested the Department check with the Agriculture Department for clarifying language regarding scales and that the word "daily" be deleted from the last line of 50.56(13).

Doyle thought provision relating to liability of sponsors was somewhat nebulous. [50.58(2) d]. Hunzelman pointed out this is determined by the Uniform Limited Partnership Act.

Richard G. Hileman, Executive Vice President, Iowa Consumer and Industrial Loan Association, submitted a written statement concerning the proposed rules of the Insurance Department.

PLANNING & PROGRAMMING Filed rules of the Office of Planning and Programming relating to Health Manpower Project [12/1/75 Supp.] were acceptable. Recommendations by the Committee had been incorporated into the rules.

SECRETARY OF STATE
Agriculture
Forms

Herman Schweiker, Deputy, appeared in behalf of the Secretary of State to explain Chapter 12 of their rules filed under emergency provisions as well as under normal rulemaking procedure. Said rules are intended to implement 66GA, HF 215 and were published in 12/1/75 IAC Supp.

Three forms were developed by the Department: Form AR-1 Annual Agriculture Report; Form AR-2 Fiduciary Annual Agriculture Report; Form AR-3 Annual Beef and Pork Processor Report. Assisting in the development were representatives of farmers' organizations, the Iowa Catholic Conference, Iowa Manufacturers Association, Iowa Development Commission, Secretary of Agriculture, bankers' associations, the Iowa Bar Association and other knowledgeable persons.

Monroe questioned the necessity of mailing a copy of the Act with the forms. Hermann responded that this seemed preferable to a complicated instruction sheet and they preferred to avoid trying to "interpret the Act". Postage expense would have been the same, either way.

The decision as to whether they are required to file a report, would be left to corporations and nonresident aliens.

Monroe labeled their position as "passive resistance." He questioned Schweiker as to the mailing list and learned that the AR-1 will be mailed along with the regular annual report of a corporation.

Schweiker commented on a provision of the Act which states that corporations organized under Chapter 504 shall file this report only [66GA,Ch 133,§5]. This is a waste of time and money since these corporations do not file annual reports--they are incorporated for any number of years up to fifty. He continued that the Department is mailing 15 to 16 thousand of the forms to the "504 corporations" although they do not expect to hear from many of them.

Schroeder complained that duplicate forms for shareholder's copy were not being provided by the Department.

Schweiker reminded the Committee that there was no appropriation to implement the Act and, at this time, there is no assurance of money from any source.

Committee members agreed to accept the forms but urged that duplicates be provided for those reporting.

REGENTS

Dwight Wolf represented the Board of Regents for review of rules as follows:
Chapter 3--Amendments to merit system, Notice 11/3/75;
Rule 3.39--pay plan, Filed emergency, 11/3/75;
Chapter 11--Administrative procedures, Notice 11/17/75.

Committee made no recommendations concerning Chapter 3 amendments.

Wolf explained the purpose of 3.39 was to authorize employees who have been in their classification for nine years or more to be eligible for Step 13 in pay grade. This would recognize long-term, meritorious service of some Regents employees who were compressed into the beginning steps because of the reorganization of the Regents merit system employees and establishment of the uniform pay plan for all of the Regents institutions. The rule was adopted by the Regents Board and approved by the state Merit Employment Department and the Executive Council but through oversight was not submitted for publication in July as was the intent of the Board. Due to the importance of the rule, the Board filed it under the emergency provisions of Chapter 17A.

Schroeder and Monroe were concerned as to the number of employees involved and requested the Board to furnish them any material which was generated preliminary to the drafting of the rule.

Refer to Legislature

The Committee voted to bring the matter to the attention of the Speaker of the House and the Lt. Governor as well as the Appropriations Committee Chairmen and Education Committee Chairmen to ensure that the rule is in the best interest of all concerned.

In re Chapter 11, it was noted the Committee would have another opportunity to review it.

Monroe asked that the Board consider eliminating 11.1(7)--general role and scope of regent institutions and inserting "designee" throughout the rules where appropriate.

LABOR
ELEVATORS

Jerry Addy, Labor Commissioner, Walter Johson, Deputy, and Thomas Trammel, Elevator Division, were present for review of rules of Organization and Elevator Safety which were published 10/6/75. Also present were Donald Hauser, Vice President of Iowa Manufacturers Association and Howard Rebholz, Safety Director of Rath Packing Waterloo and Chairman of IMA Safety and Health Committee.

Addy asked that review of Chapter 7 of their rules be deferred since a public hearing has been requested and that Chapters 77 and 78 also be deferred since they are being rewritten.

Discussion centered on proposed Chapters 71 to 78 governing elevators, dumbwaiters, escalators and moving walks which are intended to implement Chapter 104 of the Iowa Code.

LABOR Cont'd

Hauser commented that most of the 25 to 30 objections voiced by IMA at the public hearing had been overcome. Remaining areas of concern deal primarily with existing elevators. Hauser continued that 71.1(29)--Inspector--should read "An inspector employed or certified by the bureau of labor." With this language, the definition of "inspector" and "special inspector" appearing in §104.1(14), (15) would apply and the Commissioner would be authorized to certify persons other than labor personnel as safety inspectors under his jurisdiction.

Hauser suggested that 71.2(2) should be clarified to permit qualified persons in the insurance industry to be certified as special inspectors.

Addy responded that they are waiting for a "National Board type of examination to be administered before inspectors are certified." He added that insurance personnel inspect only for underwriting purposes.

In answer to question by Priebe, Addy said the state is liable for the inspections.

Monroe commented that the statute did not permit inspectors who are licensed. The rule is an action by the commissioner and he could see no way the Committee could object to the rules as being illegal. He asked Hauser, "Have you yet filed a petition with him acknowledging why he has not promulgated a rule to effect that under 17A. I recommend this since the Commissioner must respond within 60 days." [17A.7]

Hauser objected to 73.4(6) and 73.4(9) placing restrictions on the use of freight elevators for carrying employees. Permission for such use may be granted by the Commissioner provided the facility complies with Rule 1200.2H of the American National Standards Institute code A17.1, 1971. He complained that the referencing structure within the standard was very complex. The IMA study committee questioned the safety benefit to employees since many would be required to reach upper floors via stairways. Hauser said statistics show very few accidents from lifting facilities. However 90 per cent of accidents are caused from falls or slips.

Monroe wondered how effective the rule would be since "load handlers" could be authorized to operator the freight elevators.

Hauser reiterated they were not asking that the public be permitted to ride on freight elevators--only employees.

Recess

Meeting was recessed at 12:15 to reconvene at 1:00 p.m.

Reconvene

Reconvened at 1:35, Priebe presiding.

LABOR Cont'd

Review of Labor rules resumed.
Hauser indicated they could accept 73.4(9) if the last sentence were deleted. Addy agreed to strike said sentence.

Discussion of 73.7(8) which would require a stop switch in the pit of each elevator. Hauser pointed out that most elevators constructed prior to 1967 are not equipped with such switches and IMA took the position statistics did not justify the cost. Opinion varied as to cost--IMA estimated a range of $25 to $500 and Trammel thought $25 to $50 would be an average.
Addy contended "cost is minor compared to human life."
IMA thought equivalent safety could be achieved by following normal safety procedures requiring lockout and other safety controls.

Schroeder suggested the rule provide "red flagging" of elevators when a workman is in the pit. The practice had been followed successfully by railroads and airlines. He thought industry would support such a rule having the force and effect of law. Hauser was willing to accept such a plan.

Addy cited the problem of training for use of flags, particularly in a multistory building.
After considerable discussion, Addy reluctantly agreed to implement the "red flagging" procedure but would insist that the main power switch be immobilized.

Addy stated the rules would be filed as temporary ones due to the urgency of getting them into effect.

Hauser was willing to waive other objection.

Chapters 1 to 6 of Labor rules were accepted by the Committee.

COMMERCE

Michael May, Commerce Counsel, explained proposed amendments to 19.2(5)"c"(8) and 20.2(5)"g" relating to sale of natural gas and electricity, respectively. Publication of Notice was 10/6. One favorable comment was received by the Commission from Peoples Natural Gas Co. No recommendations were made by the Committee.

TRANSPORTATION DEPT.

William Armstrong, Management Review, and Delano Jespersen, Engineer, represented the Department of Transportation for review of the following rules:

Secondary road budgets [06,Q, Ch 2] Filed	11/17/75
Pavement markings [06,Q, Ch 13] Emergency	11/17/75
Safer roads program [06,Q, Ch 14] Emergency	11/17/75
Farm-to-market funds [06,Q, Ch 16] Filed	11/17/75

DOT Cont'd Discussion centered on [06,Q] Chapter 13 pertaining to implementation of the federally funded pavement marking program to improve markings on all highways except interstate over a three-year period.

Jesperson said funds will be distributed to counties on a first-come, first-serve basis. He commented that some counties will not request funds but he could forsee no problem with lack of funds if all choose to participate.

Priebe thought the funds should be distributed on a pro rata basis and then remaining funds could be provided on first-come, first-serve basis. It was his opinion that all counties should take advantage of the program.

The Committee made no recommendations concerning the other three sets of rules of DOT. They did, however, express dissatisfaction with the complicated numbering scheme for DOT rules.

MERIT EMPLOYMENT Walter Keating, Merit Employment Director, was present for review of rules of the department as follows:

Pay plan [4.5(2)] Emergency	11/3/75, 11/17/75
Vacation [14.2(1)] Emergency	11/3/75, 11/17/75
Vacation leave earned [14.2(8)] Notice	11/17/75

Priebe questioned Keating as to the reason for 14.2(8) which provided: "A classified employee who is discharged for good cause, or for other reasons set forth in these rules, shall be paid for vacation leave earned."

Keating answered that HF 351 repealed the provision that denied vacation payment to employees who had been fired for cause.

Priebe asked about accumulated vacation pay for employees who retire. As he saw it, they could not receive back pay for vacation.

Faupel quoted from the amended version of the first paragraph of §79.1 [66GA,ch 90,§14], the last two sentences as follows:

> In the event that the employment of an employee of the state ~~shall~~ be *is* terminated ~~for any reason other than a discharge for good cause, he shall be paid a vacation allowance for any vacation which he may have earned prior to such termination, and which he has not yet taken. For the purposes of this section, death of an employee shall be considered a termination of employment which shall require payment of such vacation allowances as might be payable for any other termination~~ *the provisions of this Act relating to such termination shall apply.*

He continued--66GA, ch 90, §2(4) defines wages to include vacation provided there is previous agreement with the employer. It was his interpretation that the amendment quoted above strikes this previous agreement and raises a serious question as to whether an employee who voluntarily retires can collect vacation

MERIT Cont'd

pay after the employment is terminated. He pointed out if an employee must be kept on the payroll to collect vacation pay, FICA and IPERS must be deducted. This would probably not be required if vacation were paid after retirement

Doderer was confident it was not the intent of the legislature to deny vacation to retirees. She said the amendment to §79.1 was passed to remove a redundancy.

Some members of the Committee interpreted the section to require that vacation be taken prior to retirement. Keating could see no problem with the revision and he concluded, "This amendment makes the vacation vested; before it was only conditioned."

Charles was requested to research the matter and Keating indicated he would ask for an opinion from the Attorney General.

After Keating had been dismissed, it was noted there were questions concerning 4.5(2). The matter was deferred temporarily.

ENGINEERING EXAMINERS

The following represented the Engineering Examiners: Ronald Brown, Vice Chairman of the Board, Bernadine Millslagle, Executive Secretary and Charles Dick, General Counsel. They proposed to rescind existing rules and adopt substitutes describing organization, policies and procedures, being 1.1(114) to 1.6(114) published 11/3/75 IAC Supplement. The rules are intended to implement Chapters 17A and 114 of the Code.

Discussion of 1.2, paragraph c relating to requirements for examination. Monroe raised question as to the legality of the following: "College seniors studying an Engineering Council for Professional Development (ECPD) accredited engineering program may take the Fundamentals Examination during the final academic year; such applicants will be permitted to submit for examination during the testing period which most closely precedes anticipated graduation."

Priebe was of the opinion that 1.2(1), in re confidentiality of personnel records, exceeded the statute [§68A.7]. Brown pointed out that the rule provided that a registrant or applicant may examine his or her file. Dick remarked that the Attorney General ruled that files of a registrant were encompassed by the confidentiality section of the Code. Brown thought these files should be treated as personnel records. Doderer quoted from §19A.15 of the Code and concurred with the position taken by the Board.

Board members wanted to avoid being in a position of "rating students."

ENGINEERING Cont'd

Priebe suggested that 1.2(1) provided that "the registrant or applicant may authorize release of his or her file."

Monroe suggested that 1.4--requests for rulemaking should be less restrictive even though the rule as written was legal. He recommended that "may" be substituted for "shall" in line 1.

BEER AND LIQUOR

Filed rules of the Beer and Liquor Control Department, published 11/3/75, were acceptable to the Committee.

CITY DEVELOPMENT

Filed rules of City Development Board, published 11/17/75, were also acceptable without further review.

ENVIRONMENTAL QUALITY

David Bach, Hearing Officer, and Keith Bridsen, Chief of Permit Section of Water Management Division, represented the Department of Envirnomental Quality for review of the following:

Air quality, equipment [Amend 1.2(33), 2.1(2)] Notice	11/3/75
Controlling pollution [Amend Ch 3] Notice	11/3/75
Emission standards [Amend Ch 4] Notice	11/3/75
Rules of practice [Ch 14] Notice	11/3/75
Water quality, water supplies [Ch 22] Notice	12/1/75

Discussion of proposed rules of the Air Quality Commission. Bach indicated many of the amendments are intended to implement Chapter 17A of the Code.

In response to question by Priebe concerning Item 10, amending 4.1, Bach said the emission standards set forth are identical to those of federal.

Schroeder brought up the problem of composting with respect to trees and brush and urged that provision be made to allow landfill operations to burn them. Monroe thought action would require a statutory change.

Bach pointed out proposed amendments which change existing permit rules.

Priebe cited examples of problems because of time lapses in the processing of permits. Law provides a permit is required prior to commencement of construction and he urged that something be done to expedite this process. Bridsen indicated one problem is inadequate staff.

Discussion of 14.6(6) in re vehicle emission violation. Monroe questioned whether the cost provision of the subrule was pertinent. The Committee recommended that the following sentence be deleted: "It is necessary to specify what repairs were made, by whom, and at what cost."

DEQ Cont'd Monroe recommended that DEQ work with the Transportation Department in drafting procedure to be followed by the public in reporting vehicle emission violations.

Priebe raised question as lengthy grain questionnaire provisions in 14.6(5) c.

Chapter 22 It was noted that public hearing on proposed amendments to water quality rules had not been held.

The following interested persons were present for review of amendments to Chapter 22: Thomas Reaveley, representing Iowa Hydronics and Harold Johnson, President of Stile Chemical Corporation.

Discussion centered around 22.12(10), in particular, paragraph c. Text of the subrule:

22.12(10) *Hypochlorite, phosphate compounds and hydrofluosilicic acid addition.* All hypochlorite, phosphate compounds and hydrofluosilicic acid addition facilities shall comply with the following requirements for approval.

a. General.

(1) Addition must be by a positive displacement pump equipped with an antisiphon valve. The feed pump or feed pumps must operate in a manner that will assure an accurate and reliable feed rate.

(2) The solution feed tank must be of noncorrodible material and must have volumetric markings and an overlapping cover.

(3) A meter to measure the water flow past the point of addition must be provided.

(4) A sample tap located at least twenty-five feet downstream from the point of addition must be provided.

(5) If addition at a well is to be made, the point of addition must be above ground on the discharge side of a check valve.

(6) A minimum air gap separation of two inches must be provided between any water-fill lines and the top of the solution tank.

(7) The chemicals must be stored in an area not accessible to the public. Each chemical must be stored in a clearly marked segregated area.

b. Hypochlorite. Hypochlorite includes sodium and calcium hypochlorite.

c. Phosphate compounds.

(1) When phosphate compounds are to be added to any supply which includes iron or manganese removal or ion exchange softening, such compounds must be applied after the iron or manganese removal or ion exchange softening treatment units. Phosphates must not be applied to any system in a manner which may adversely affect the system.

(2) The phosphate concentration in the finished water must not exceed 10 mg/l.

(3) The phosphate solution must be dosed at least every seventy-two hours with chlorine sufficient to give an initial concentration of 10 mg/l in the phosphate solution. A chlorine residual must be maintained in the phosphate solution at all times.

(4) Test kits capable of measuring polyphosphate and orthophosphate in a range from 0.0 to 10.0 mg/l in increments no greater than 2.0 mg/l must be provided.

d. Hydrofluosilicic acid.

(1) The solution tank or tanks must be mounted on a platform scale.

(2) Protective equipment for the operator, including a face shield, rubber apron, and guantlet type rubber gloves and storage facilities for the protective equipment must be provided.

(3) Transfer equipment must be provided to protect the operator.

(4) A sink and table must be provided.

(5) A fluoride test kit with a minimum range of from 0.0 to 2.0 mg/l in increments no greater than 0.1 mg/l must be provided. Distilled water and standard flouride solutions of 0.2 mg/l and 1.0 mg/l must be provided.

DEQ Cont'd Bridsen pointed out the subrule sets out the procedure that has been followed in the past.

Schroeder was concerned that the provision would prohibit use of phosphates for removing rust in water systems. In response, Bridsen said they are attempting to ensure that phosphate applications are handled properly. He added, "No additional equipment will be required."

Reaveley indicated his client objects to the last sentence of c (1) as seemingly to "provide a license to do anything you want to on phosphates." He continued they have instances and will document these at the hearing where Iowa follows the same 10-state water standards as surrounding states and there is no problem with the product Iowa Hydronics sells in Iowa. He maintained the rule on phosphate compound is very controversial and merits very serious consideration by this Committee.

Bridsen made the point that the hearing will become public record and that is the place to present any "scientific evidence or expert opinion." Bach added that the Water Quality Commission will not take action on the rules until January 28 at which time a presentation could also be made.

Charles referred Reaveley to §17A.7 of the Code under which they could make written request and demand a response within sixty days.

Schroeder recommended that an effort be made to notify the rural water districts of the proposed amendments and pending hearing.

Department representatives pointed out areas of the proposed rules which were entirely new.

Bridsen explained their concern is for a city that already has an iron-removing system and that phosphates be applied following the iron removing unit so they do not counteract the good the unit is doing. He cited examples of Iowa cities where salesmen had sold and advised use of phosphates ahead of the iron filter system.

Monroe recommended that for easier administration, the last sentence of 22.12(7)a be amended to read: "The plat for wells must include all potential sources of known contamination within one thousand feet.

Bridsen could forsee no problem with making the proposed change

REVENUE — Elliott Hibbs, Deputy Director of Revenue, Vern Railey, Corporate Audit Supervisor, and John French, Hearing Officer were present for review of the following rules published under Notice 12/1/75:
Sales and use tax, advertising agencies, commercial artists and designers [18.27];
Corporation income tax [53.13];
Reimbursement to elderly and disabled--property tax [Ch 73].

Hibbs told the Committee that 18.27(1)-- defining "nontaxable services" for advertising agencies, commercial artists and designers--was patterned after rules of California and nine other states.

Priebe took the position that 18.27(4)b --an example of when the sale of "finished art" is taxable--was unclear and discriminatory.

Committee members voiced opposition to 18.27(8)--scope--as being unclear. They agreed objections would be filed if the rules are not clarified in the final draft.

Charles was asked to research the matter prior to the public hearing to be held December 31.

No recommendations were made concerning Chapter 53. Some printer's errors were pointed out by department officials.

In re proposed amendments to Chapter 73 which were intended to implement 66GA, chapter 213, the Committee wanted to study them before making recommendation.

MERIT 4.5(2) — Doderer brought up the matter of merit rule 4.5(2) and moved the following objection:

Objection — The Committee objects to 4.5(2)b, subparagraphs 1 to 4, on the grounds that an arbitrary distinction is drawn between two classes of workers. Subparagraph 4 specifically allows maintenance and trade employees to advance under 4.5(2)b, subparagraphs 1 to 3 faster than other employees.

IOWA DATA Letter — Chairman Priebe asked that discussion of a letter from Iowa Data concerning agricultural forms be placed on the agenda for the January meeting. No objections.

INDUSTRIAL COMMISSIONER — No recommendations were made concerning filed rules of the Industrial Commissioner which were published 12/1/75.

NOTICES--Legislation — O'Hern brought up for discussion the inconsistencies in some agencies Notices of Intended Action. Committee members agreed that legislation was needed to ensure more time between the date of the Notice and date for public participation. The Insurance Department was cited as not having provided adequate time.

COMMITTEE AGENDA

There was discussion as to alternatives for reviewing the ever-increasing volume of rules.

Priebe favored recommending as many corrections as possible prior to the agency's filing of rules. Schroeder was inclined to concur.

Monroe thought it too time-consuming to attempt to review all rules--those under notice, as well as the filed ones. This would be particularly difficult during the legislative session.

After some discussion on the matter, the Committee adopted the following policy to be followed temporarily:

> The agenda shall be divided into two parts--
> Division I for Filed and Filed Emergency Rules
> Division II for Rules under Notice.
>
> The Committee will dispose of Division I and continue review of Division II, time permitting.

Priebe suggested that it would not be necessary to request an agency representative to be present for review of filed rules provided the rules had not been modified following Committee review under Notice.

ADJOURNMENT

Chairman Priebe adjourned the meeting at 5:45 p.m. Next regular meeting to be held Tuesday, January 13, 1976, Committee Room 24, 9:00 a.m.

Respectfully submitted,

Phyllis Barry

(Mrs.) Phyllis Barry, Secretary

APPROVED

_____

Chairman

DATE _____