

MINUTES OF THE REGULAR MEETING
OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE

Time of Meeting: Monday, Tuesday and Wednesday, February 13, 14 and 15, 1984.

Place of Meeting: Committee Rooms 116 and 118, State Capitol, Des Moines, Iowa.

Members Present: Senator Berl Priebe, Chairman; Representative Laverne Schroeder, Vice Chairman; Senators Donald Doyle and Dale Tieden; Representatives Ned Chiodo and James O'Kane.
Also present: Joseph Royce, Committee Counsel; Kathryn Graf, Governor's Coordinator; Phyllis Barry, Deputy Code Editor, and Vivian Haag, Administrative Assistant.

Meeting Convened: Chairman Priebe called the meeting to order at 7:30 a.m., Room 116.

CONSERVATION
COMMISSION

Conservation Commission rules as follows were before the Committee:

CONSERVATION COMMISSION[290]

Unprotected nongame, ch 16: Ground hog season, ch 17 renumbered to ch 118	ARC 4423	F	2/1/84
State forest camping, extra vehicle parking, 41.7	ARC 4424	F	2/1/84
Sale of nursery stock to the public, 48.2(3)c	ARC 4425	F	2/1/84
Contracts for public improvements and professional services, 62.2 to 62.4	ARC 4426	F	2/1/84
Migratory game bird regulations, 105.3(3)	ARC 4427	F	2/1/84
Vessels, passenger capacity, 29.1 to 29.4	ARC 4420	N	2/1/84
State park and preserve wildlife refuges, 46.1	ARC 4421	N	2/1/84
Pertaining to the removal of fruit, 47.2	ARC 4422	N	2/1/84

Bob Barratt, Rick McGeough, Doyle D. Adams, Gene Hertel, Al Farris and Stan Kuhn were present for Conservation.

Ch 16, 17

In discussion of chapter 16, it was explained that species not listed would be considered protected. According to Barratt, many were protected by federal law as well.

41.7

In re 41.7, Adams said it was identical to that approved for campgrounds in state parks. Priebe was informed the rule was not applicable to horses or pets. Hertel, in re 48.2(3)c, noted the areas where nursery stock would be planted are identified in the rule to eliminate questions and expedite orders.

62.2-62.4

Kuhn explained amendments to rules 62.2 to 62.4 would increase the dollar limit for sealed bids and requires Commission approval for any order which increases the original contract by more than \$25,000. Priebe questioned their statutory authority. Kuhn assured Schroeder that the Commission is audited and he saw no problem with misrepresentation. Kuhn added that dollar amounts are the same

CONSERVATION
COMMISSION
Continued

in the Code for cities and counties. Mention was made by Schroeder of need for possible legislation. Tieden was told that the staff makes decision as to what is in the best interests of the state. Conservation wanted it clear that the prerogative to solicit negotiations existed. Brief discussion.

62.3(4)

Tieden raised question re new language in the last paragraph of 62.3(4) "at least two-thirds of the committee shall...contract administration." Kuhn declared the language resulted from procedures promulgated in the comptroller's office. Priebe suggested that the Legislative Natural Resources Committees should be made aware of this rule.

Motion to
refer

Schroeder moved to refer rules 62.2 to 62.4 to the appropriate legislative committees for perusal. Motion carried unanimously.

Kuhn informed the ARRC that the "committee" as used in 62.3(4), next to the last paragraph, consisted of staff appointed by the director. Tieden preferred that be clarified in the rule. Priebe observed that 62.3(4)f had been greatly expanded. He suspected that the Commission had "picked up" areas that tend to benefit them. Kuhn responded, "As a practical matter, what we are doing is standard practice"--bringing rules into compliance with other agencies at this time. Barratt indicated that 105.3(3) had been amended as requested by ARRC.

105.3(3)

Steel shot

See Pg 3024

Farris distributed copies of a Louisiana study re steel shot. There was brief discussion. Farris noted that steel shot was originally made for 12-gauge guns. He called attention to the fact that there are two kinds of black powder guns --antique and modern.

Tieden recalled that Arkansas does not ban the steel shot. However, Conservation officials noted that the states surrounding Iowa ban, in whole or in part, steel shot.

ch 29

Discussion of capacity rating for vessels--29.1 to 29.4. According to McGeough, flotation is the important factor --capacity is determined by the operator of the boat. Farris pointed out that sailboats, houseboats, pontoon boats, etc. were not covered by the rule.

Tieden thought it was a unique situation and that safety should be advocated. McGeough emphasized that boat owners have an obligation under 106.12(1) to operate boats in a safe manner. Farris commented that Michigan regulates rental boats only.

Doyle wondered if weight were considered. Farris said "Some do include weight as a factor." According to McGeough, Iowa will abide by the Coast Guard capacity and by manufacturer which are based on flotation, not on capacity.

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COMMERCE
COMMISSION
Continued

Schroeder asked officials to look at Michigan's law where it is silent and give it consideration before ARRC reviews the rule again. Farris stressed they were trying to create a rule to include all vessels.

No questions re rule 46.1. In re 47.2, removal of fruit, Priebe thought apples should be included. Adams agreed to add "fruit" in addition to nuts and berries in the rule.

HEALTH
DEPARTMENT

Peter Fox, Health Department; Harriett Miller, Chiropractic Examiners; and Jim Krusor, Board of Medical Examiners, were present to review:

HEALTH DEPARTMENT[470]	
Medical examiners, applications, examinations, 135.101(2), 135.102(5)	ARC 4444 ..F.....2/1/84
Chiropractic examiners, schools, examinations, acupuncture, 141.11(1), 141.11(2), 141.11(3)"a", 141.13(6), 141.36	
ARC 4430 ..F.....	2/1/84
Medical examiners, discipline, 135.204(10)	ARC 4412N.....1/18/84
Physical therapy examiners, license applicants, 137.2(8), 138.201(6)	ARC 4361 ..N.....1/4/84
Psychologists, limited permit, 140.4(9), notice ARC 3926 terminated	ARC 4363N.....1/4/84
Chiropractors, license renewal, grounds for discipline, 141.15, 141.24(2)"a"(6), 141.24(28)	ARC 4358 ..N.....1/4/84
Chiropractors, fees, 141.16(2)	ARC 4359N.....1/4/84

No recommendations for 135.101 and 135.102.

ch 141

Chiropractic examiners amendments to chapter 141 were considered. Schroeder challenged the new equivalent standards as exceeding the Board's authority. He moved to place a 70-day delay on 141.11(1-3) and 141.13(6) for further study. Motion carried unanimously. Chiodo not present.

Motion -
70-day
delay

The 70-day delay can be lifted by virtue of the Board striking all after "March 1, 1983" in 141.11(1,2 and 3).

Medical
Examiners

Priebe inquired as to 141.36(151) and was informed that acupuncture is a surgical procedure and an individual must be a medical school graduate in order to perform acupuncture.

135.204(10)

Krusor stated that after the 70-day delay had been placed on subrule 135.204(10), he had submitted the recommended change to the Board, which they accepted. No questions. No questions were posed re 137.2(80), 138.201(6) and 140.4(9). There were no substantive questions to Noticed amendments to chapter 141.

NURSING
HOME
ADMINIS-
TRATORS

The following agenda was before the Committee:

NURSING HOME ADMINISTRATORS, BOARD OF EXAMINERS[600]	
Quorum—board meetings, 2.8(1)"e"(1)	ARC 4437N.....2/1/84
Continuing education, 3.2(2)	ARC 4411N.....1/18/84

Fox indicated that 2.8(1)e(1) would be withdrawn and there were no recommendations for 3.2(2).

HIGH
TECHNOLOGY
COUNCIL

David Swanson, Chairman, Douglas Getter and Fran Fleck appeared on behalf of the High Technology Council and Product Development Corporation. Agenda was as follows:

HIGH TECHNOLOGY COUNCIL, IOWA[485]	
General description, ch 1: Organization and operation, ch 2: Grants program, ch 3: Technology transfer, ch 4	
ARC 4366" ..N.....1/4/84	

2/13/84

HIGH
TECHNOLOGY
COUNCIL

Getter indicated that Royce's memo recommended clarification of vague criteria. This will be referred to the Council. He informed the ARRC that the Council has complete autonomy in conducting hearings and making grant awards.

PRODUCT
DEVELOPMENT
CORPORATION

The following rules of Product Development Corporation were explained by Doug Getter:

PRODUCT DEVELOPMENT CORPORATION, IOWA[642]

General description, ch 1; Organization and operation, ch 2; Iowa product development corporation fund, ch 3; Bonds and notes, ch 4 ARC 44362/1/84

Chiodo expressed concern about the duration time for repayment. According to Getter, the Board of Directors has patterned the Corporation after Connecticut -- in essence the corporation is not a loan entity but is taking a royalty position--approximately 5 percent. No time frame was spelled out. Getter stated they did not anticipate that a project would realize its full rate of return until the third year. Chiodo thought that was too quick. General discussion.

Chiodo asked Getter to clarify some points with Lou Wood. Getter was amenable.

Tieden was advised that Getter serves as acting President of the Product Development Corporation. The Board has authority to hire its president. Tieden referred to 2.5(4) and expressed an opinion that it would be difficult to "contact the president." Getter described the corporation and said space would be rented at the Iowa Development Commission. Tieden suggested reference to the Development Commission.

2.5 (4)

Chiodo referred to 3.3(3) with respect to criteria and asked where it was set out in the rules. Getter answered that chapter 3 contains definitions which are the criteria. Chiodo interpreted 3.3(3) as allowing the rules to go beyond the scope of the Act.

3.3 (3)

Business plans were described by Getter--\$629,000 is available.

2.5

O'Kane considered 2.5 to contain some inconsistencies when compared with 2.5(6). Getter responded that an individual can be placed on an agenda as late as 24 hours before a meeting. Statute provides for 48-hour advance notice of an agenda.

Royce observed that "this is such a radically different governmental activity -- a cross between government and private organization that does not make grants but becomes a partner of some form in a business. Getter explained there are only two in the United States.

Doyle thought "behest or Order" to be redundant in 2.8 (1)a. He preferred "request." Brief discussion of the makeup of the corporation. No formal action.

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RAILWAY
FINANCE
AUTHORITY

Dan Franklin, Beverly Allen and Stan Peterson were present for review of:

RAILWAY FINANCE AUTHORITY[695]

Financial assistance, projects, 3.1. 4.1. 4.3 ARC 4439, also filed emergency ARC 4438 .N.Y.F.F.2/1/84

According to Franklin, the rules are being revised to account for the \$15 million loan provided by the 1983 GA. It also provided a no-interest loan to the Iowa Railway Finance Authority. Brief discussion of the interest rate and pay-back procedures. The loan to the Authority is a no-interest loan.

Royce's memo comment was referenced. He reiterated that the issue was under the criteria for approval -- under previous rules, it had to have a positive cost benefit relationship. That language requiring that (under 3.1(3) there was a rule that said if the present value of public benefit is equal to or greater than total project costs) has been stricken. What is the effect?

Replying to Royce's analysis of the rules, Franklin stressed that the revision will make it easier for an applicant to receive a grant for a no-interest loan.

Tieden wondered if this would result in higher risk. Franklin admitted that was a possibility but pointed out the rules still require economic and financial analyses to ensure a good loan.

DEPT. OF
TRANSPOR-
TATION

Conrad Amend, Randall Nyberg, Transportation Regulation Authority; Jane E. Phillips and Robert S. Steiner, Counsels, TRA; Ron Hughes, Carol Coates, Carol Padgett, Dennis Ehlert and Gordon Sweitzer appeared on behalf of DOT.

Also: Captain Loren Dykeman, State Patrol, Vehicle Registration. The agenda was:

TRANSPORTATION, DEPARTMENT OF[820]

Vehicle registration and certificate of title, (07.D) 11.2(6), 11.3(6), 11.5(2), 11.13, 11.16, 11.17, 11.51(1)"b", 11.51(2)"c"

ARC 4405 1/18/84

Windshields, windows and sidings, (07.E) 1.7 ARC 4406 1/18/84

Interstate registration of vehicles, claim for refund, (07.F) 1.12 ARC 4402 1/18/84

Truck operators--tariffs, (07.F) 3.8(8), amended notice ARC 4399 1/4/84

Motor carriers and charter carriers, requirements for a certificate of public convenience and necessity, (07.F) 4.15

ARC 4356 1/4/84

Liquid transport carriers, requirements for a certificate of public convenience and necessity, (07.F) 13.13 ARC 4357 1/4/84

Schroeder inquired if there were any recourse for the individual who junks a wrong vehicle. Currently, according to Coates, there is none. This was model legislation. Schroeder was dissatisfied with the response of the Department. Coates stated that the rules pertain to remanufactured vehicles for titling.

Coates said 11.13 contains bonding procedures; 11.16 contains requirement for specially constructed or reconstructed vehicle. For bonding requirements, the issue is identifying the vehicle.

Re [07E]1.7, Schroeder was told that certification of dark windshields is based on a testing lab. Law requires that an individual can be identified while sitting in the front seat of a vehicle.

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DEPT OF
TRANSPORT-
TATION
Continued

[07F]1.7 pertaining to interstate registration of vehicles was amended to correct the Code citation from Chapter 321 to 326, according to Hughes. Tieden was told there is no reciprocity on refunds.

Phillips reminded ARRC that Noticed [07F]3.8(8) was amended to correct an error. Schroeder referred to [07F] 4.15 and commented, in light of all the deregulation across the country, why does Iowa continue to ask for more than is necessary? Phillips said the Department was aware of those concerns. Application process costs carrier \$50 if it is unprotected. A hearing costs more. Steiner added that Chapters 325 and 327A have been in the Code for 50 years. The purpose of the rules was to simplify the process and respond to recommendation of the Governor's Blue Ribbon Task Force Committee. That Committee was concerned about newness of deregulation. Steiner discussed impact of it in Florida and South Carolina where it has created problems--especially for carriers of household goods. After further discussion, Priebe remarked that DOT was within the statutory guidelines.

The liquid transport carrier, motor carrier and charter carrier rules are basically the same but had to be separated to conform with Chapter 17A.

There was brief discussion of previous ARRC request for declaration of additional roads for the new federal width classification.

Priebe had problems with sale of autos to consignment auctions and the fact that DOT has ruled against that practice. Priebe opined that some kind of rule was needed on what is now treated as a casual sale by Revenue.

REVENUE
DEPARTMENT

Carl Castelda, Deputy and John Christensen represented Revenue Department for the following:

REVENUE DEPARTMENT[730]

Corporation—filing returns, payment of tax and penalty and interest, 52.1(3)"k", "m", "s", 52.2(3), 52.3(1), 52.4(4), 52.6(12); determination of net income, 53.12(4), 53.15(4)"c"; allocation and apportionment, 54.3(2), 54.6(4), 54.8; refund of overpaid tax, 55.3(3); franchise—filing returns, payment of tax, 58.2(2), 58.3(1), 58.4(3), 58.6(11); refund of overpaid tax, 60.3(3)

ARC 4389/.....1/4/84
Corporation and franchise tax—venture capital fund credit, minimum tax, 52.4(4), 52.5, 58.5 ARC 4388/.....1/4/84

52.1(3)m

Castelda gave an overview of amendments contained in ARC 4389. O'Kane and Doyle inquired as to why the Indiana Case was stricken from 52.1(3)m and were informed the Department had thought it was a final decision but learned it was under appeal. Generally, a case is not cited until litigation is complete.

52.4(4),
52.5, 58.5

Castelda referred to 52.4(4), 52.5 and 58.5 pertaining to tax credit for the Iowa minimum tax. To his knowledge, the fund had not been established but Revenue wants to promulgate rules to set forth parameters of credit. Responding to Tieden, Castelda said 1982 returns filed

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REVENUE in 1983 generated \$2.7 million. Estimates for this year
Cont'd range from \$6 to \$7 million.

Agency Tieden observed that many agencies include a contact person
Contact in the preamble of their rules. He expressed a preference
Person for this practice as opposed to showing only the agency or
division. Barry and Graf were willing to work with all
agencies on this matter.

INSURANCE The following rules were considered:

HEALTH
DATA COMM.

INSURANCE, DEPARTMENT OF[510]
Examination and licensing of insurance agents, 10.4(1) ARC 4449 ..F.....2/1/84
Prearranged funeral plans, forms, 19.1. filed emergency ARC 4450 ..FE.....2/1/84
Variable life insurance model regulation, ch 33 ARC 4419 ..X.....1/18/84

HEALTH DATA COMMISSION[465]
Uniform hospital billing form, ch 6; Submission of data, ch 6; Data accessibility and confidentiality, ch 7 ARC 4443 F.....2/1/84

Those in attendance were: Kim O'Hara, Market Conduct Division;
Richard C. Hurst, Director, L&A/H Division; Fred Haskins
and Jeanine Freeman, Assistants Attorney General; Steven
J. Brown, Health Department; Paul Brown, President, Iowa
Life Insurance Association; L. A. Potter, Bankers Life;
Brice Oakley, Blue Cross and Blue Shield of Iowa.

No questions on 10.4(1) or 19.1.

Brief discussion of chapter 33 but no recommendations.

In reviewing Health Data rules, Freeman indicated they were
a joint venture of the Insurance Department, the Commission
and the interagency policy staff. No recommendations.

MINUTES The Chairman called for disposition of minutes of the January
meeting. O'Kane moved to approve the minutes as submitted.
Motion carried viva voce.

Recess The meeting was recessed at 9:34 a.m. to be reconvened on
Tuesday, February 14 at 7:30 a.m.

2/14/84

Reconvened Chairman Priebe reconvened the meeting at 7:30 a.m., Tuesday, February 14, 1984, Committee Room 118, State Capitol, Des Moines, Iowa.
Five members present; Representative Chiodo absent.
Staff was present.

LAW EN- Ben Yarrington, Ralph Ager and John Quinn appeared on be-
FORCEMENT half of the Law Enforcement Academy for the following:
ACADEMY

Law enforcement officers, requirements, certification, instructors for regional facilities, organization, 1.1(8), 2.1.2.9,
3.3(2), 3.3(3), 3.4(2)"n" and "o", amendments to ch 6 ARC 4429. N.....2/1/84

Chs. 1, 2, Ager stated that many of the changes were "cosmetic" in
3 & 6 nature. Primary interest was in new rule 2.9(80B) which
amendments would permit two classifications of officers to be certi-
fied by satisfactorily completing written and firearms com-
petency tests. The rule was intended to resolve ARRC con-
cern in this area. Tieden voiced approval of the rules
and Priebe viewed them as a "good compromise."

In a matter not before the Committee, Schroeder requested
LEA officials to investigate a rumor of an edict from the
Polk County Attorney to Des Moines and County law enforce-
ment officials to prohibit filing of charges by those
departments, in certain instances. Quinn agreed to pur-
sue the matter and report later in the day.

Chiroprac- Royce brought up the matter of the 70-day delay imposed
tors on Chiropractic subrules 141.11(1,2,3a) and 141.13(6)
pertaining to schools [IAB 2/1/84]. Royce continued that
the amendments would have recognized both groups--the
"mixers" and the "straights". Previously, only the mixers
were recognized. After discussion, the Committee decided
to let the 70-day delay stand. They stressed that they
do not oppose new colleges--only the adoption of some
future unknown requirements.
Schroeder suggested that specifics be provided to the ARRC
since it is the specifics which should authorize "straights"
to qualify. Royce agreed to draft a letter on the matter.
Doyle requested that a copy be sent to Senator Charles Miller.

REAL Kenneth Smith, Acting Director, and Gene Johnson, former
ESTATE Director who has resigned to move to Arizona, appeared on
1.11, behalf of the Real Estate Commission. Rules 1.11 and 1.21,
1.21 pertaining to brokers and salespersons, ARC 4367 published
under Notice in IAB 1/4/84 were reviewed.

Smith described the real estate test. Doyle suggested
amendment to rule 1.21 by substituting "shall" for "may"
in lines 5 and 8. Further, he noted that use of "at any
time" in the last sentence was redundant. Smith was amen-
able to making the changes. It was noted that a broker-
associate may not sponsor a sales person.

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INSURANCE
34.2,
34.7
Special
Review

Chairman Priebe reported that Blue Cross officials had an interest in proposed amendments to rules 34.2 and 34.7, 2/15/84 IAB, and he announced there would a special review of them February 21 at 7:30 p.m.

HUMAN
SERVICES

The Human Services Department was represented by Dan McKeever, C.S. Ballinger, Will Miller, Suzanne Boyde, Jim Krogman and Judith Welp. The following agenda was considered:

ADC, granting assistance, 41.6(1)"j", 41.6(4), 41.7(1), 41.7(7)"c"(3) and (5), 41.7(9)"c"(1) and (2) ARC 4380 F.....1/4/84
Facility participation, intermediate care facilities, 54.3(11)"k"(3) and (4), 81.6(11)"k"(3) and (4), 82.5(11)"h"(3) and (4)
ARC 4382 F.....1/4/84
Providers of medical and remedial care, 79.1(7)"a" and "b" ARC 4433 F.....2/1/84
Child care centers, 109.2(1), 109.3(1), 109.4, 109.5(4)"a", 109.5(7), 109.7(4) ARC 4384 F.....1/4/84
General provisions, 130.2(1), 130.3(1), 130.3(4) ARC 4381 F.....1/4/84
Purchase of service, contract approval/rejection, 145.3(3)"j"(2), 145.6(1)"a"(1) ARC 4385 F.....1/4/84
Medical assistance, medical resources, 75.2, filed emergency ARC 4431 FE.....2/1/84
Medical assistance, eliminates a form, 76.8, filed emergency ARC 4432 FE.....2/1/84
General provisions, adverse service actions, notification, 130.5(4) ARC 4434 N.....2/1/84
Foster care services, out-of-district and out-of-state placements, 136.7(1), 136.8 ARC 4435 N.....2/1/84

- Ch 41 Welp briefed the Committee re chapter 41 amendments. No questions.
- 54.3 et al In re ICF's--facility participation--loans cannot be made by those who have control or ownership in a facility. Priebe expressed concern that the silent partner, who might be a relative, would be precluded from making a loan. Miller indicated that each situation would be considered on a case-by-case basis. No opposition to the rules had been voiced. Department officials emphasized the rules were not new--only reworded.
- 79.1 No suggestions were offered for 79.1(1).
- Ch 109 In response to Tieden, Welp opined that the 18-month size crib requirement was intended to provide flexibility for the child care centers but was not a national standard--109.7(4)e.
- Ch 130 Doyle referred to 130.3(1)f and questioned whether the Department could determine whether or not a court order was "valid." Welp agreed to confer with the AG on the matter.
- Ch 145 Doyle observed use of the virgule to separate alternatives in amendments to 145.3(3)j(2). It was his understanding that the trend was to use "or". Barry and Graf were willing to work with agencies on this matter.
- 75.2, 76.8
130.5(4) No questions re 75.2, 76.8 or 130.5(4).
- Ch 136 Welp explained that amendments to 136.7,.8 expand reasons for placement of a foster child outside of the district where the child lives. This could include both out-of-district and out-of-state placements. There are eight districts.

2/14/84

DWAWM

The Department of Water, Air and Waste Management was represented by Michael Murphy, Mark Landa, Mark Johnson and Morris Preston for the following:

Emission standards for contaminants, 23.3(3)"a", notice ARC 3813 terminated ARC 4374 1/4/84
Wastewater construction and operation permits, 64.2(9)"b" ARC 4379 1/4/84

Landa explained their reason for terminating the Notice on emission standards for contaminants. Tieden questioned why Iowa was under stricter regulation than all surrounding states. He declared the entire state would suffer from what he considered to be inequities. Landa referred to the Iowa plan agreed to in 1969. Schroeder wondered if the plan could be amended. He suspected that Iowa had been led to believe that federal regulations must be followed even though other states operate under lesser standards. Johnson emphasized that a relaxation of standards would not be advantageous. Landa addressed the consequences should Iowa refuse to comply with EPA which could include loss of federal funds for highways and a number of other projects.

Priebe interjected that concern about acid rain, etc. is very real and he could foresee more restrictive rules.

- 64.2(9) O'Kane was informed that new chapters to be added to the Design Manual for wastewater disposal systems would not affect construction of private septic tanks. They would have some applicability in the design of Interstate rest areas. Preston indicated a permit would not be needed for minor repairs. However, major expansion of systems would come under the purview of the rules. Schroeder referred to the rest area on I 29 in his district and opined that existing systems should be exempt from the design standards. A facility to accommodate 16 or more would be considered a public system and a permit would be required--similar to water supply systems.

BEER AND LIQUOR William Armstrong, Counsel, and Dick Morrell, Product Manager, appeared for the Beer and Liquor Control Department. Russell Laird represented the Liquor industry.

The following was considered:

"On-premise advertising of distilled spirits, 6.1(8)"a" and "b" ARC 4364 1/4/84
Transportation and warehouse, 8.2(8) to 8.2(11) ARC 4355 1/4/84

- 6.1(8) Doyle questioned use of "give or pay for advertising" in 6.1(8)a. Armstrong replied that the rule would apply to liquor not beer. It would allow on-premise advertising of wine or spirits. The advertising could not be provided by wholesalers or distillers. Armstrong pointed out that the last sentence of paragraph a states that the limitation would apply only to items having a utility value necessary to operating the establishment. Laird displayed items which would be permissible. Armstrong cited a 1962 AG Opinion relative to the definition of "utility value". According to Laird, Industry supports the rule. Armstrong explained that under 6.1(8)b, a licensee would not be precluded from purchasing brand advertising through commercial channels.

No recommendation for rule 8.2.

2/14/84, 2/15/84

Recessed The February 14 meeting was recessed at 9:00 a.m.

Reconvened Chairman Priebe reconvened the Administrative Rules Review Committee in room 116 at 7:30 a.m., Wednesday, February 15, 1984 with all members and staff present.

CORRECTIONS DEPARTMENT Paul A. Muller, Christopher Meek and Broxann Keigley were present for the Department of Corrections. Also present: Kayne Robinson and John L. Jones, Des Moines Police Department. The following agenda was reviewed:

CORRECTIONS, DEPARTMENT OF [291]

Adult corrections institution, jail facilities, temporary holding facilities, 6.1, 20.6(2), 20.6(3), 20.6(5), 22.1(1), amendments to ch 50, ch 51 ARC 4377 1/4/84
State penitentiary, visiting, 21.2(2) ARC 4414 1/18/84
Community-based corrections, work release, parole, interstate compact, 40.1, chs 44 and 45, 46.4(5) ARC 4378 1/4/84

Keigley recapitulated changes made in the rules as a result of the hearing and public comment. They will be presented to their Board on Thursday. Schroeder referenced pending legislation pertaining to chapter 28E agreements with each area correctional division. He preferred statewide rather than regional agreements. According to Meek, "Historically, transfer of money has been an agreement contract type situation."

51.2 Priebe recommended that Keigley meet with interested Senators making them aware of the proposed changes. In re 51.2, he thought "or person responsible" should be included after "governing body." Keigley assured him that sheriffs would be permitted to use a facility. Also, a governing body includes Boards of Supervisors.

51.9(2)a(2) Schroeder interjected that 51.9(2)a(2) seemed to be duplication. Muller contended the individual would not be required to have both Heart Association and Red Cross training. In re 51.11(2)a(5), Priebe questioned the necessity of "unless advance notice." He thought it was written to preclude female officers from entering cells unless in an emergency. There was general discussion.

Doyle recalled there was a court case on the subject. Keigley indicated this sensitive area had not been specifically addressed. Muller added that new inmates are apprised of the procedure upon incarceration. Graf suggested, "Advance notice may be accomplished by providing inmate with a notice form at the time they are incarcerated." Keigley was amenable.

51.19(13) Priebe opposed use of "Any unusual incidents" at the end of 51.19(13). He thought it was too broad. Muller agreed to rewrite the provisions.

51.16(1) Tieden was assured by Royce that the recommended changes were not substantive and could be made without additional Notice. In re 51.16(1), Doyle mentioned a situation in Woodbury County where inmates have been restricted to collect or local telephone calls. He wanted assurance that an inmate would be allowed one initial telephone call. Keigley cited complaints of jail administrators

2/15/84

CORRECTIONS who experience problems with phone privileges for inmates
DEPARTMENT -- e.g. rape victims received calls from the jail. General
Concluded discussion of the problem. Keigley said that Corrections
had a concern that direction on administration of the rule
might be an inappropriate intervention on the part of the
state. However, a clarifying sentence could be added.
Doyle was excused to attend Natural Resources Committee.
chs 40,44,46 No questions re amendments to chapters 40 and 44 to 46.

HOUSING Bill McNarney represented Iowa Housing Finance Authority
FINANCE for review of:
AUTHORITY

HOUSING FINANCE AUTHORITY[495]
Operational definitions, family, 1.8(7)b" ARC 4410...N..... 1/18/84
Operational definitions, low or moderate income family, 1.8(11)c" ARC 4409, also filed emergency ARC 4408 N.Y.F.E. 1/18/84

McNarney noted that definition of "family" was expanded in
1.8(7)b to include a single adult primarily responsible
for his or her own support. This will bring the rules
in compliance with Department policy. McNarney advised
Priebe that "sixty-two years of age" was statutory. Also,
1.8(11)c changes income eligibility criteria for IHFA
single-family loans. The emergency filing creates a bene-
fit of immediate eligibility. No recommendations.

MERIT Clint Davis was present to review the following Merit De-
EMPLOYMENT partment rules:

MERIT EMPLOYMENT DEPARTMENT[570]
Reduction in force, 11.3(1) ARC 4415F..... 1/18/84
Pay plan administration, 4.5(2)b", "e" and "f" ARC 4416...N..... 1/18/84
Grievances, appeals and hearings, complaints, 1.1(21), chs 12 and 15 ARC 4387 N..... 1/4/84

12.1(3) He was asked to explain what constitutes "substantial
error" in 12.2(3), second paragraph. Davis explained
that it would be a Department error -- exams are multiple
choice and computer errors are possible through malfunction.
Committee suggestion was to add "by the Department" after
the word "error." Davis was amenable.

FAMILY FARM William Greiner appeared on behalf of Iowa Family Farm
AUTHORITY Development Authority for the following:

IOWA FAMILY FARM DEVELOPMENT AUTHORITY[523]
Soil conservation loan program, 4.2(7), 4.7 ARC 4284 F..... 12/7/83
Operating loan guarantee program, ch 5 ARC 4292, also filed emergency ARC 4291...N.Y.F.E. 12/7/83

4.2(7) According to Greiner, 4.2(7) and 4.7 were intended to im-
4.7 plement 1983 Iowa Acts, HF 518. No comments had been re-
ceived. In re chapter 5, Greiner was to meet with bankers
and others today to peruse program summary and forms de-
veloped to implement 1983 Acts, HF 557. The program will
guarantee an operating loan program made by private lender
to beginning farmers up to \$25,000. Greiner suspected the
demand would far exceed available funds.

COMMERCE David Lynch, Jean Nederhiser, Diane Munns and Ray Vawter, Jr.
COMMISSION were present to review the following:

Gas and electric utilities, new structure energy conservation standards, 19.9(5), 20.12 ARC 4452 F..... 2/1/84
I-SAVE America's vital energy, 27.1, 27.2(3), 27.3(1) to 27.3(5), 27.13(2) ARC 4442F..... 2/1/84
Public utilities, notice of rate or charge increase, 7.4(1)b", 7.4(1)c"(1) to (3); 7.4(1)d"(1), (3) and (4); 7.4(1)f"(1); 7.4(4);
19.2(3)c" and "d"; 20.2(3)c" and "d"; 21.2(4)c", 22.2(4) "d" ARC 4417...N..... 1/18/84
Assessment of cost and pipeline permit extension proceedings, 10.8 to 10.10 ARC 4395...N..... 1/4/84
Natural gas procurement in contracting practices, 19.1(3), 19.10, 19.11 ARC 4398...N..... 1/4/84
Purchased gas adjustments, weatherization adjustment methodology, 19.10(3)c"(1) ARC 4418...N..... 1/18/84

COMMERCE According to Lynch, the utilities will provide the forms
COMMISSION relative to energy conservation and he assumed the cost
Continued would be borne by the ratepayers. Graf was assured the
19.9, 20.12 questions posed by Farm Bureau had been resolved.

Ch 27 In re 27.1, Tieden questioned statutory authority for the
I Save 5 percent participation rate by residential customers
through March 1985 and 7.5 by March 7, 1986. Nederheiser
indicated there is authority to carry out the intent of the
program.

Royce asked how a utility could expect to achieve a 5 per-
cent participation rate when under the current energy
audit program, participation rate is 2.5 to 3.0 percent.
He was advised that past audits would be counted -- the
long payback item had been eliminated--at no cost to the
customer. Priebe, in questioning what would occur should
the percentage not be achieved, was told the recovery of
costs is perused on a pro rata basis. In addition, the
authority is there to disallow the difference. The rules
were amended to reflect procedural changes with regard to
rate change notification.

Chiodo referred to the sample notice in 7.4(1)c where
Commerce attempts to illustrate impact on the customer.
He expressed his strong feelings that the average increase
per customer presents a very distorted impact on the
majority of ratepayers. He suggested that a median figure
would have more credibility. Vawter was unsure that would
be preferable. If median is unworkable, Chiodo thought
units should be used. He concluded "The average customer
is nonexistent." Vawter agreed to review the issue.

Tieden questioned Vawter re information gained at the pub-
lic hearing and learned that changes were a result of the
hearings.

10.8 Lynch reported that Commerce had reviewed pipeline rules
10.9 10.8 and 10.9 and determined that the statute allowed
recovery of all costs for an extension of a pipeline pro-
ceeding.

Priebe questioned reason for stricken language in 10.9(479).
According to Lynch, that language existed previous to en-
actment of 17A--notice and hearing are required. He noted
that other rules provide for parallel construction. An
extension of a permit does not mean new construction; it
is almost a relicensing. The industry considers it to be
extension of time. Lynch concluded that the entire chapter
10 would be rewritten. No questions re proposed amendments
to chapter 19.

Request re Schroeder asked that General Services be asked to appear
General Thursday morning. So ordered.
Services

Recessed Recessed at 8:44 a.m. to be reconvened at 7:30 a.m.
Thursday, February 16, 1984.

2/16/84

Reconvened Chairman Priebe reconvened the meeting at 7:30 a.m. in Room 116 with a quorum being present.

GENERAL SERVICES There was brief review of the following General Services rules:

GENERAL SERVICES DEPARTMENT[460]
Organization and operation, ch 1; Centralized purchasing, ch 1 renumbered to ch 6 ARC 4407 ...F..... 1/18/84

Jack Walters, Director, and Cindy Morton were present. Discussion centered on 1.4(2) pertaining to vendor appeals. Schroeder favored extending the filing time from "three days" to "five days."

Schroeder questioned Walters briefly concerning leasing of trucks and trailers for transporting liquor; also, on trade-in allowances.

Acution procedures were discussed. Walters pointed out that General Services is not involved with federal surplus sales. No formal action.

No Agency Reprs No agency representatives were requested to appear for any of the following:

COLLEGE AID COMMISSION[245]
Student loans, 2.1(5)"b"(6), 2.1(8)"f", 4.1(8), 5.1(8), 9.1(1)"h" ARC 4371 ...F..... 1/4/84
Guaranteed loan payment program, ch 14; science and mathematics loan program, ch 15 ARC 4372 ...F..... 1/4/84
Science and mathematics grant program, ch 16 ARC 4373 ...F..... 1/4/84

DENTAL EXAMINERS, BOARD OF[320]
Biennial renewals, continuing education and adjusting fees, 6.4, 10.2, 11.2(2)"e", 11.3(2)"f", 11.5(2)"e", 13.1(3), 14.1, 15.1 to 15.4, 25.2(1), 25.2(2), 25.6, filed emergency ARC 4375 ...FE..... 1/4/84

HEALTH DEPARTMENT[470]
Psychologists, application for and renewal of a limited permit, 140.4(3), 140.4(9), 140.8(3), 140.9(1) to 140.9(3), 140.10, filed emergency after notice ARC 4362 ...FEAN..... 1/4/84
Chiropractor examiners, general, discipline, continuing education, 141.11(4), 141.13(1)"d", 141.24(10), 141.64(5) ARC 4360 ...F..... 1/4/84

HIGH TECHNOLOGY COUNCIL, IOWA[485]
General description, ch 1; organization and operation, ch 2; grants program, ch 3; technology transfer, ch 4; filed emergency ARC 4365 ...FE..... 1/4/84

PUBLIC SAFETY DEPARTMENT[680]
Accident reports, 1.4(5) ARC 4369 ...F..... 1/4/84

AGRICULTURE DEPARTMENT[30]
Miscellaneous amendments to chs 1, 2, 8, 10, 11, 12, 16, 18, 20, 25, 26, 30, 43 and 55 ARC 4447 ...F..... 2/1/84
Pesticides, 10.22(3)"b", 10.30, 10.32 to 10.37 ARC 4448 ...F..... 2/1/84

COLLEGE AID COMMISSION[245]
Iowa guaranteed student loan program, amendment to ch 10 ARC 4441 ...F..... 2/1/84
Iowa guaranteed student loan program, amendment to ch 10 ARC 4440 ...N..... 2/1/84

CAMPAIGN FINANCE DISCLOSURE COMMISSION[190]
Election campaign fund, 2.1(6) ARC 4400 ...N..... 1/4/84

CITY FINANCE COMMITTEE[230]
Detailed budget, 2.1(7), filed emergency after notice ARC 4404 ...FEAN..... 1/18/84

DENTAL EXAMINERS, BOARD OF[320]
Biennial renewals, continuing education and adjusting fees, 6.4, 10.2, 11.2(2)"e", 11.3(2)"f", 11.5(2)"e", 13.1(3), 14.1, 15.1 to 15.4, 25.2(1), 25.2(2), 25.6 ARC 4376 ...N..... 1/4/84

EMPLOYMENT SECURITY[370]
Appeals and hearings, 6.2(1)"b", filed emergency ARC 4428 ...FE..... 2/1/84

ENERGY POLICY COUNCIL[380]
Energy measures and energy audit grant programs, 7.1(2), 7.2, 7.3(3) ARC 4445 ...F..... 2/1/84
Technical assistance and energy conservation, grant programs, 8.6(2)"e"(3) and (4), 8.6(4)"e"(2) ARC 4446 ...F..... 2/1/84

PHARMACY EXAMINERS, BOARD OF[620]
Unit dose dispensing systems, 6.11 ARC 4461 ...F..... 2/1/84
Administrative hearings, informal procedure, 9.2(3)"b" and "c" ARC 4413 ...N..... 1/18/84

Adjourned Committee was adjourned at 7:45 a.m.
Next meeting scheduled for March 12 and 13, 1984.

APPROVED

Burt E. Priebe
CHAIRMAN

Respectfully submitted,

Phyllis Barry
Phyllis Barry
Assisted by Vivian Haag