

**MINUTES OF THE SPECIAL MEETING  
OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**

Time of meeting      The special meeting of the Administrative Rules Review Committee (ARRC) was held on Friday, April 26, 1996, in Room 22, State Capitol, Des Moines, Iowa.

Members present:    Senator Berl E. Priebe and Representative Janet Metcalf, Co-chairs; Senators H. Kay Hedge, John P. Kibbie, and Sheldon Rittmer; Representatives Horace Daggett, Minnette Doderer, Roger Halvorson, and Keith Weigel. Senator William Palmer was absent.

Also present:        Joseph A. Royce, Legal Counsel; Kimberly McKnight and Cathy Kelly, Administrative Assistants; Caucus staff and other interested persons.

Convened:            Co-chair Priebe convened the meeting at 7:30 a.m.

**AGRICULTURE  
DEVELOPMENT**

Steve Ferguson and Darlene Oliver represented the Agency for the following:

**AGRICULTURAL DEVELOPMENT AUTHORITY[25]**

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]"umbrella"

IADA loan participation program, rescind chs 3 and 4, new ch 4, Notice ARC 6333A, also

Filed Emergency ARC 6334A ..... 3/27/96

Chs 3 and 4

By rescinding chapters 3 and 4 and adding a new chapter 4, Ferguson stated the Agency added a new loan participation program to assist all farmers who met the ratios and the net worth requirements. This permitted farmers to purchase land from parents and the Agency to buy up to 30 percent of a loan from a bank.

Weigel asked if someone who used the maximum \$250,000 would be ineligible for the beginning family farmer but could participate in this program.

Members of the committee noted this should not have been filed Emergency. Ferguson stated that, although the rules were finalized on March 7, the Agency would not accept any applications until everything had been worked out with the USDA and Farmers Home Administration.

Kibbie stated a program such as this was needed because people with this net worth had trouble getting started and competing in agriculture.

Halvorson asked what changes USDA felt needed to be made in the rules. Ferguson replied the definition of aggregate net worth was at issue. The USDA indicated the ceiling level of \$250,000 of net worth was too high for a low-income farmer.

Ferguson hoped a ceiling level of \$200,000 of net worth would be accepted. He stated the Board would not proceed with any loan applications until the Agency had a consistent platform and could then proceed with each loan.

Halvorson felt the change in selling to relatives was needed. Priebe agreed with what the Agency was doing but did not think they had the authority. In reply, Ferguson stated the program was premised on the Code granting IADA authority to write loans and set up loan programs.

Halvorson asked how soon the Agency would know what the intentions were and if the Agency could meet the objections. Ferguson indicated it could be within the week.

**AGRICULTURE**

Walter Felker and Ron Rowland represented the Department for the following:

**AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]**

Child support collection procedures, 6.17, ch 7, Filed ARC 6338A ..... 3/27/96  
 Livestock importation, 65.4(3), Filed ARC 6296A ..... 3/13/96  
 Dairy program, 68.13, 71.1, Notice ARC 6339A ..... 3/27/96

6.17 and Ch 7 No questions on 6.17 or Chapter 7.

65.4(3) No questions on 65.4(3).

68.13 and 71.1 No questions on 68.13 or 71.1.

**ECONOMIC DEVELOPMENT**

JoAnn Callison and Mike Miller were present from the Department for the following:

**ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]**

Work force development loan program, ch 6, Notice ARC 6310A ..... 3/13/96  
 VAAPFAP — project creation assistance component, 57.4(1), 57.4(5), 57.10(3),  
Notice ARC 6309A ..... 3/13/96

Ch 6 No questions on Chapter 6.

57.4(1) et al. Miller stated that amendments to 261—57.4(15E) and 261—57.10(15E) added the "Project Creation Assistance Component" to VAAPFAP, to be used when sufficient funds were available in the fourth quarter of any given year. This component encourages earlier Department involvement with business and agricultural related projects.

Weigel inquired how much money was available through the VAAPFAP program and was told approximately \$3.5 million. Weigel asked how much of this had been allocated. Miller responded the Department currently had approximately \$2.3 million available for the remainder of this year.

Metcalf asked if the money was received on a quarterly basis and was told yes.

**EDUCATION**

Don Helvick and Jim Tyson represented the Department for the following:

**EDUCATION DEPARTMENT[281]**

Extracurricular interscholastic competition — tennis tournament exception, 36.15(7)"a,"  
Notice ARC 5554A Terminated, Notice ARC 6325A, also  
Filed Emergency ARC 6326A ..... 3/13/96

36.15(7)"a" Helvick stated paragraph 36.15(7)"a," was filed Emergency to enable high school tennis players the opportunity of playing in out-of-state tournaments to compete for national ranking and college scholarships.

In response to Priebe, Helvick noted other tournaments held following the completion of the high school tennis season did not provide the same opportunity.

Hedge asked if the same situation could occur in other sports. Helvick responded each instance would be reviewed on an individual basis.

**NO REPS.**

No agency representative was requested to appear for the following:

**EDUCATIONAL EXAMINERS BOARD[282]**

EDUCATION DEPARTMENT[281]"umbrella"  
 Child support noncompliance, ch 10, Filed ARC 6335A, see text IAB 1/17/96, page 1179 ..... 3/27/96  
 Middle school endorsement, 14.20(15), Notice ARC 6308A ..... 3/13/96

**NO REPS. (CONT.) ELDER AFFAIRS DEPARTMENT[321]**

Area profile, deletion of 80 percent requirement for nutrition program for elderly, 4.22, 7.3(7)"a,"

Filed **ARC 6332A** ..... 3/27/96**EMERGENCY MANAGEMENT DIVISION[605]**

PUBLIC DEFENSE DEPARTMENT[601]"umbrella"

Iowa emergency plan, 6.1, 6.2, Notice **ARC 6342A** ..... 3/27/96**ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]**Personal financial disclosure, 11.1(1), 11.1(3), 11.1(6), 11.1(7), 11.2, Filed **ARC 6328A** ..... 3/27/96**HISTORICAL DIVISION[223]**

CULTURAL AFFAIRS DEPARTMENT[221]"umbrella"

Iowa Heritage Illustrated, 15.2, 21.3(2)"b," Filed Without Notice **ARC 6324A** ..... 3/13/96**INSURANCE DIVISION[191]**

COMMERCE DEPARTMENT[181]"umbrella"

Prearranged funeral contracts — denial, suspension or revocation of sales permit for failure

to pay child support, 19.25, Filed **ARC 6298A** ..... 3/13/96

Securities — denial, suspension or revocation of license for failure to pay child support, 50.11,

Filed **ARC 6299A** ..... 3/13/96**LANDSCAPE ARCHITECTURAL EXAMINING BOARD[193D]**

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Examination review fee, 2.10, Notice **ARC 6297A** ..... 3/13/96**LAW ENFORCEMENT ACADEMY[501]**Reserve officer weapons certification, 10.1(3)"d," Filed **ARC 6293A** ..... 3/13/96**PROFESSIONAL LICENSURE DIVISION[645]**

PUBLIC HEALTH DEPARTMENT[641]"umbrella"

Mortuary science — child support noncompliance, ch 115, Filed Emergency **ARC 6303A** ..... 3/13/96Hearing aid dealers — child support noncompliance, ch 124, Filed Emergency **ARC 6300A** ..... 3/13/96

Physical therapists and physical therapy assistants, 200.2(4), 200.3(1)"b," 200.4(3), 200.4(4)"c,"

200.20(8)"c"(2) to (8), 202.2(4), Filed **ARC 6306A** ..... 3/13/96Podiatry — child support noncompliance, ch 226, Filed Emergency **ARC 6302A** ..... 3/13/96Psychology — child support noncompliance, ch 241, Filed Emergency **ARC 6329A** ..... 3/27/96Social work — child support noncompliance, ch 284, Filed Emergency **ARC 6304A** ..... 3/13/96

Speech pathology and audiology — child support noncompliance, ch 306,

Filed Emergency **ARC 6305A** ..... 3/13/96Physician assistants — child support noncompliance, ch 326, Filed Emergency **ARC 6301A** ..... 3/13/96**PUBLIC HEALTH DEPARTMENT[641]**

Immunization of persons attending elementary or secondary schools or licensed child-care centers,

7.4(1) to 7.4(5), 7.4(6)"c," Notice **ARC 6331A** ..... 3/27/96State plumbing code, ch 25, Notice **ARC 6312A** ..... 3/13/96**REAL ESTATE APPRAISER EXAMINING BOARD[193F]**

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Child support — certificates of noncompliance, 4.6, 7.6, 9.9(3), Filed **ARC 6327A** ..... 3/27/96**VETERINARY MEDICINE BOARD[811]**Fee schedule — late renewals, 6.2, Notice **ARC 6340A** ..... 3/27/96

**EPC**

Anne Preziosi, Tom Anderson, and Jack Riessen were present from the Commission for the following:

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

Title V deferred stationary sources, 22.106(6), Notice ARC 6321A..... 3/13/96

Nationwide Section 404 permit authorizing construction of single family homes, 61.2(2)"h,"

Filed ARC 6320A..... 3/13/96

Water quality standards, 61.2(5), 61.3(5)"e," Notice ARC 6322A..... 3/13/96

Household hazardous materials program, ch 214, Notice ARC 6323A..... 3/13/96

22.106(6)

No questions on 22.106(6).

61.2(2)"h"

Kibbie asked if someone who built in the area of a natural lake controlled by the Corps of Engineers, would have to obtain a 404 permit from the Department of Natural Resources and was told no. The Corps would issue Section 404 permits. Under Section 401 or the Federal Water quality Act the state had to certify that it would not violate state water quality standards before the Corps could issue a Section 404 permit.

61.2(5) and 61.3(5)

In response to Priebe, Riessen said no rivers had been added or removed in the amendments to subrules 61.2(5) and 61.3(5). The rules established Class B use classifications for 32 segments.

Priebe asked whether the part involving the Des Moines river was south or north from Humboldt Dam to the state line. Riessen replied it was north. Priebe asked if the Commission had control of the river north from Algona to Highway 18. Riessen responded this was in a drainage district, but it supported Class B aquatic uses and the state did control the discharges into the river.

Ch 214

Anderson stated chapter 214 outlined different household hazardous materials programs, the proper management and disposal of household hazardous waste, and the use of safer alternatives. Daggett asked if these hazardous materials were sent to a landfill. Anderson replied that hazardous wastes from a collection center were sent out-of-state.

**UST BOARD**

Pat Rounds represented the Board for the following:

**PETROLEUM UNDERGROUND STORAGE TANK FUND BOARD, IOWA COMPREHENSIVE[591]**

Financial responsibility coverage under the innocent landowner fund, 10.1(2)"i,"

Notice ARC 6313A..... 3/13/96

Remedial or insurance claims under the innocent landowner fund, 11.1(3)"l," 11.1(5),

Notice ARC 6314A..... 3/13/96

10.1(2)"i"

Rounds stated that the amendment to paragraph 10.1(2)"i," allowed potential insureds to become eligible for innocent landowner fund benefits and to backdate premiums, if they applied for coverage by December 1, 1996. The Board would allow the purchase of insurance for any time that the tanks were operated after October 26, 1990, until they were permanently closed. This worked as a buy-in fee which allowed coverage for those tanks currently closed but not closed before the insurance requirements went into effect.

In response to Daggett, Rounds replied the insurance was not jeopardized because the Board had previously identified the release, which would be covered under the innocent landowner fund or the remedial fund. Those people who complied with the law had already incurred the cost of insurance coverage. The insurance fund was solvent, there was more money in the fund from the premiums received than what an actuary had said would be necessary to pay off all claims, and the Board did not believe there would be additional releases during this time period. All would come from the remedial fund.

UST (Cont.)

Kibbie asked if the insurance premium was higher than that paid originally. Rounds replied the premium would be the same. If, however, they were not upgraded and if the tanks were kept in the ground, they would have to pay the double premium and the surcharge on the tanks just as did the other individuals.

Kibbie asked whether people with closed tanks who were no longer in the retail sales business could go back and buy insurance. Rounds replied possibly they could. If the tank was permanently closed but possibly left in the ground or, if the tank was not regulated and possibly closed before 1984 or was not in use before then, insurance was not required but innocent landowner benefits could be received.

Kibbie knew of a site where it cost \$90,000 to clean up and asked if the owners could buy the back insurance and get reimbursed. Rounds responded it was possible but they would not be reimbursed from the insurance fund. Benefits available to them would only be through the innocent landowner fund or one of the remedial funds. If they backdated their insurance now, they were actually paying the fee to comply with the law. If tanks were still in operation, the owners could get benefits from the insurance fund if a future release occurred.

11.1(3) and 11.1(5) Rounds stated that when the remedial program was originally set up in Chapter 11, there were numerous dates which confused people who had to comply in order to get benefits.

The Board received comments on these rules and would make minor wording changes in the Filed rule.

DOT

Susan Albright, Steven Westvold, Valerie Hunter, Tom Sever, Saleem Baig, Roger Anderberg and Ian MacGillivray were present from the Department and Richard Malm, and Frank Stork, Outdoor Advertising Association, and Jerry Brown, Universal Outdoor Advertising of Des Moines, were also present for the following:

#### TRANSPORTATION DEPARTMENT[761]

Outdoor advertising, 117.1. 117.3(1)"h," 117.3(4), 117.4(3), 117.5(5)"m," 117.6(1), 117.6(2), 117.6(4) to 117.6(9), 117.7(6), Notice ARC 6294A ..... 3/13/96  
 Signing manual, highway-railroad grade crossings, 130.1(3), ch 811, ch 812, 820.5(2),  
Notice ARC 6311A..... 3/13/96  
 Construction of curb ramps to meet requirements of ADA, 150.4(3), Notice ARC 6295A ..... 3/13/96  
 Regulations applicable to carriers, 520.1(1)"a" and "b," Notice ARC 6330A..... 3/27/96

117.1 et al.

Westvold stated rules governing outdoor advertising had not been updated for 20 years and that amendments to Chapter 117 eliminated anything that exceeded federal law.

Metcalf received several telephone calls and letters from people in the outdoor advertising business who expressed concern about the definition of "facing."

Westvold stated when the law was passed in 1972, the Department worked in conjunction with the Outdoor Advertising Association with the intent to provide for an orderly display of outdoor advertising devices in commercial or industrial areas. At the time, the industry preferred the standard of two side by side poster panels. The Department adopted a program based on this and Westvold noted that, theoretically, at one site there could be four faces—two facing one way and two facing another. Two displays side by side or one above the other and facing the same direction were commonly known as a facing or double-faced sign, while a two-faced sign contained two messages or two displays. In the past few years, the industry had begun to put multiple faces on a single sign. The Department felt this exceeded what had been intended for safety reasons and size limitations.

DOT (Cont.)

In response to Daggett, Westvold stated tourism signs were covered under other rules.

Malm was concerned with the definition of "face" and "facing" and the use of that definition to inject a new aspect of content control to the outdoor advertising regulation. Association members believed the rules controlled content and therefore opposed them.

Brown presented pictures of outdoor advertising and questioned how many messages were on a given face. He believed the Department should permit by structure and not by content of the sign.

Malm stated it was important to recognize that permits were issued when the structure was built but were not reexamined every time new copy was added to the board.

Halvorson asked when the Department would require a second permit if an advertiser with a single permit changed the content of the sign. Westvold replied this would occur at the time the second display was added. Because of new industry technology, the Department was attempting to determine the size at which one face became two.

Weigel asked if a sign with one message but multiple sponsors was considered as one sign. Westvold responded it was.

Priebe asked if three separate messages on one board, such as three different individuals running for three political offices would be allowed. Westvold stated three different messages would be one more than allowed, but if all three messages pertained to the same political party, it was permissible.

Westvold informed the ARRC the Department was scheduled to go to the DOT Commission on May 21.

Daggett asked if an attempt had been made by the groups to resolve their differences. Westvold replied this had been done and most of the differences had been worked out.

Priebe asked that this be tentatively added to the June agenda.

130.1(3) et al.

No Committee action.

150.4(3)

Priebe asked if the amendment to Chapter 150 involving construction of curb ramps on existing sidewalks to meet ADA requirements involved only the property that DOT owned. Anderberg replied it was applicable to any city where there was a primary road extension—a marked highway that was under the joint jurisdiction of the Commission, the Department and the city—and had to be within the right-of-way of the state highway.

520.1(1)"a" and "b"

No questions on 520.1(1)"a" and "b."

**PUBLIC SAFETY**

Michael Coveyou, Department Rule Coordinator; Roy Marshall, State Fire Marshal; Gary Forshee, State Building Code Bureau; and Frederick Wegner were present for the following:

**PUBLIC SAFETY DEPARTMENT[661]**

Handicapped parking, ch 18, Special Review .....IAC

**PUBLIC SAFETY (Cont.)****Special Review**

Coveyou stated the special review had been prompted by a letter from Wegner, who expressed his concerns related to making handicapped parking rules more enforceable. The Department reviewed his letter and concluded that the rules as they existed now were in conformance with the ADA.

Wegner stated he had spoken with a state attorney who said some changes needed to be made in the rules in order to prosecute handicapped parking offenders.

Forshee indicated he had no objections to Wegner's requests, although they did exceed the federal standards. Coveyou stated the rules applied to public and private parking lots, ramps and garages, and the Department relied on signs to designate a handicapped parking place. In response to Kibbie, Coveyou stated that a sign was required or it was not a legally designated handicapped parking space.

**REVENUE**

Carl Castelda, Administrator for the Compliance Division, represented the Department for the following:

**REVENUE AND FINANCE DEPARTMENT[701]**

Waiver of penalty and interest, 10.58, Filed Emergency ARC 6343A ..... 3/27/96

Challenges to administrative levies and publication of names of debtors, ch 154,  
Filed ARC 6336A ..... 3/27/96

10.58

Daggett asked if 701—10.58(422) gave people an extra four months to pay the tax due without penalty. Castelda replied an individual would be allowed four months from the due date of the return to file.

Ch 154

No questions on Chapter 154.

**REAL ESTATE**

Roger Hansen represented the Commission for the following:

**REAL ESTATE COMMISSION[193E]**

Professional Licensing and Regulation Division[193]

COMMERCE DEPARTMENT[181]"umbrella"

Enforcement date, 1.52, Notice ARC 6307A ..... 3/13/96

1.52

Daggett asked if comments had been received concerning the delayed enforcement date concerning rules 1.41(543B) to 1.51(543B). Hansen replied the only concerns pertained to the 10-point print type requirement on the forms.

**LIBRARIES**

Sharman Smith represented the Division for the following:

**LIBRARIES AND INFORMATION SERVICES DIVISION[286]**

EDUCATION DEPARTMENT[281]"umbrella"

ICN classroom policy, ch 4, Filed ARC 6337A, see text IAB 1/31/96, page 1253 ..... 3/27/96

Ch 4

No Committee action.

**RACING**

Karyl Jones was present from the Commission for the following:

**RACING AND GAMING COMMISSION[491]**

INSPECTIONS AND APPEALS DEPARTMENT[481]"umbrella"

Thoroughbred racing — scratch time, racing eligibility of claimed horses, 10.5(8)"d"(2),

10.5(17)"g"(2), Filed Emergency ARC 6341A ..... 3/27/96

RACING (Cont.)  
10.5(8)"d"(2) et al.

Priebe believed the following sentence in subrule 10.5(17) paragraph "g," subparagraph (2) was too restrictive: "No right, title or interest for any claimed horse shall be sold or transferred except in a claiming race for a period of 30 days following the date of claiming." Jones noted this was part of the existing rule and Priebe asked that this be examined.

May Agenda

Daggett requested that ARC 6331A, Public Health Department, immunization of persons attending elementary or secondary schools or licensed child-care centers, 7.4(1) to 7.4(5), 7.4(6)"c," from the March 27, 1996, IAB be added to the May agenda for review.

Minutes

Kibbie made a motion to approve the March and April 16 minutes and the motion carried.

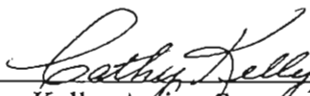
May Meeting

The May ARRC meeting was scheduled for May 14 and 15, 1996.

Adjourned

The meeting was adjourned at 9:30 a.m.

Respectfully submitted,

  
Cathy Kelly, Acting Secretary  
Assisted by Kimberly McKnight

APPROVED:

  
Senator Berl Priebe, Co-chair