

MINUTES OF THE REGULAR MEETING OF THE

ADMINISTRATIVE RULES REVIEW COMMITTEE

- Time of meeting** The regular, statutory meeting of the Administrative Rules Review Committee (ARRC) was held Tuesday, July 8, 1997, and Wednesday, July 9, 1997, in the Speaker's Conference Room, State Capitol, Des Moines, Iowa.
- Members present:** Senator H. Kay Hedge, chair and Representative Christopher Rants, vice chair; Senators Merlin E. Bartz, John P. Kibbie, William Palmer, and Sheldon Rittmer; and Representatives Minnette Doderer, Janet Metcalf, and Keith Weigel. Representative Danny Carroll was absent.
- Also present:** Joseph A. Royce, Legal Counsel; Cathy Kelly, Assistant Editor; Paula Dierenfeld, Administrative Rules Coordinator; caucus staff; and other interested persons.
- Convened** •Chair Hedge convened the meeting at 10:00 a.m.
- Committee Business Motion** •Discussion ensued regarding the proposed amendment on general referrals and session delays in tracking committee actions in the legislature. Kibbie moved additional language include notification to the Administrative Rules Review Committee counsel "within five legislative days" following any "decision" made concerning a rule. Decision includes those actions taken, as well as no action taken on a rule.
•Doderer requested the word "should" be changed to "shall" in the following: "A standing committee should review a rule...."
- Motion deferred** Action on the motion was deferred until the following day when the final amendment is before the committee.
- Royce Salary** •Metcalf moved Royce's salary be increased to \$66,747 from grade 38, step 5 to grade 38, step 6 retroactive to the pay period beginning June 27, 1997. The motion carried.
•Doderer moved approval of the minutes as presented. Motion carried.
- August meeting** The August meeting will be held Tuesday and Wednesday, August 19 and 20, 1997.

REVENUE AND FINANCE DEPARTMENT Carl A. Castelda appeared on behalf of the department.

- ARC 7313A** •Castelda indicated to Rants it is not feasible to impose penalties when a vehicle is traded prior to expiration of a lease.
- ARC 7314A** •In response to Kibbie, Castelda noted the department would have to address the issue if a state pretax is imposed on pension plan contributions. Due to the complexity of the formula, administration, and the anticipated effective date of January 1, 1999, he stated the rule would probably remain in effect. He further indicated it is probable that decoupling will occur.
- ARC 7275A** No questions concerning the inheritance tax amendment, paragraph 86.6(2)"a."
- ARC 7340A** No questions on rules 15.20 and 34.13 concerning statutory mergers.
- ARC 7339A** No committee action regarding Chapter 86 inheritance tax amendments.
- ARC 7338A** No committee action on local option sales and service tax, 107.2 and 107.10.

HUMAN SERVICES DEPARTMENT Present from the department were Mary Ann Walker, Sally Nadolsky, Rosemary Norlin, Jane Jorgenson, Ruth Schanke, Jo Ann Kazor, Tony Montoya, Debborah Ozga, and Kathi Kellen. Linda Goeldner appeared on behalf of the Iowa Nurses' Association.

- In response to previous committee requests concerning ARC 7208, Walker said the exact wording in Iowa Code section 235B.2 was used for the definition of "abuse." The "informed consent" definition was taken from "Black's Law Dictionary" with slight modifications after comments were received.
- Jorgenson spoke to previous requests for information on the status of food stamp waivers and said there will be no FIP control groups as of July.
- ARC 7258A** No questions on rules 24.21 to 24.27, mental health provider certification.
- ARC 7259A** No questions on 52.1(3) and 177.4 amendments, SSA RCF and IHHRC reimbursement.
- ARC 7257A** No committee action regarding rent subsidy payments in rules 53.3 and 53.4.
- ARC 7260A** •Walker, in replying to Metcalf, stated some comments at the public hearings dealt with the desire for adult day care service providers, concern over the lack of training and certification required of providers resulting in possible inadequate care, and denial of provider status to parents and spouses of minor children.
- ARC 7261A** •Following Bartz's question, Walker replied she will provide information on the number of those children receiving nonrehabilitative services under policy exceptions.
- ARC 7262A** No questions on rules 185.41 and 185.42, family preservation skill building services.
- ARC 7321A** No questions on FIP provisions amendments to Chapters 9, 41, and 95.
- ARC 7323A** No questions on 73.4(3)"d"(2), Federal Surplus Food income eligibility guidelines.
- ARC 7322A** No committee action on lead inspection amendments in Chapters 77, 78, 79, and 80.

DHS (continued)

ARC 7325A

Goeldner voiced objection that only physicians are to be reimbursed for telecommunications transactions consultations and posited this might limit rural access. She stated the association favors inclusion of all licensed health professionals.

•Kibbie was advised that nurse practitioners and physician assistants are also excluded.

•Killen explained that budget and funding to the department are based on current telemedicine use, which is primarily done by physicians. Metcalf pointed out that "providers" is used in the Code language.

•When Weigel queried why the rules were filed emergency, Walker explained it was due to the July 1 effective date of the statute.

•Rittmer cautioned against emergency rule filings becoming routine. Walker stated such filings would abate if the legislature provided for later effective dates.

ARC 7326A

No questions on paragraph 83.22(1)"b," the elderly waiver program.

ARC 7328A

No committee action on family and group day care homes amendments in Chapter 110.

ARC 7336A

Discussion concerning the general referral letter pertaining to the manner in which the rule on eligibility for child care under House File 715 was promulgated was deferred to the following day.

ARC 7334A

No questions on purchase of service contracting in 150.3, 150.21, 150.22, and 153.57.

ARC 7332A

No questions on group care, foster family, and adoption rates increase, 156.6(1) and 202.17(1)"a" and "b."

ARC 7330A

•Walker pointed out that clarification language had been added to rule 175.13 to speak to Doderer's previous concerns over reoccurring abuse and placement on the registry.

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT John Whipple, Chuck Ekermann,

Rants in chair

Daryl D. Frey, Walter Felker, and John J. Schiltz appeared on behalf of the department. Doug Ireland was present from the Sanitary Supply Association of Iowa, Dennis Hagenow from Martin Bros., Rob Novak from National Paper, and Mira Bond from Agribusiness.

ARC 7304A

No committee action concerning subrule 64.47(8), infectious and contagious diseases.

Selective review
Pesticides

Fry stated fee registrations covering each pesticide sold in Iowa range from \$250 to \$3,000 and are a significant source of funding for the groundwater protection fund. Existing rules provide four exemptions: limited use products where sales are less than \$20,000, low-toxicity pesticide, department-registered pesticide, and department-registered pesticide used in emergency situations.

Ireland requests an exemption for Iowa pesticide registration fees for antimicrobial products. He stated the latter are generally characterized as biodegradable and break down into environmentally safe components. Used almost exclusively indoors, the entry of antimicrobials into groundwater supplies is "highly unlikely." Ireland expressed opposition to the \$250 registration fee paid on each privately labeled product and noted that only one fee is required if the product is not privately labeled.

•In response to Rittmer, Frey stated approximately 2,400 antimicrobial product registrations in the state generate \$610,000.

•Rants questioned whether the department had considered exemptions for antimicrobial products and was informed by Frey concern exists over the fund distribution and the scope of authority in granting such an exemption. Frey stated to Rants that double registration fees on private labels should be addressed legislatively.

•Frey indicted to Bartz that 143 pesticides are registered in the exemption categories but did not have a breakdown available per category nor what the composite amount of money would total.

Motion to refer
Motion carried

•Kibbie moved a general referral of Chapter 45. The motion carried.

EDUCATION DEPARTMENT Ann Molis, Evelyn Anderson, and James Reese represented the department.

Hedge in chair

Others present included Marvin Lewis from AEA 6; Jim Verleya from Heartland AEA 11; Jim Blutz from AEA 13; Danny Long from ICSS; Thomas Forsgren from North High School; Tim Hamera, Crystal Bailey, Sarah Macht, and Erich L. Bakey from SHSI; Bruce Fehn from the University of Iowa; Jim Duea from the Ames Community Schools; Carol Brown from Des Moines Public Schools; Donald Fett from ICSS; John Wheeler from Drake University; and Lora Allison and Lynda Wessel from the State Historical Society.

ARC 7256A

•Anderson responded to Rants that an MIS system paired with accreditation is being developed to improve data collection and the regents and independent colleges were

EDUCATION (continued) consulted during this process. She noted criteria that appeared cumbersome or that which evaluated similar types of categories were reduced.

•Kibbie said consideration should be given to the amount of staff time involved in accreditation and that state accreditation should be in conjunction with that of North Central. He noted it is anticipated that MIS will provide uniform information.

ARC 7255A

•In response to Doderer and Rittmer, Molis stated that determination of extracurricular interscholastic competition will be done by the 379 school districts at the local level.

ARC 7216A

•Kibbie, pointing out that AEAs provide different services and have different needs, questioned the intent of identical regulations for all. Reese and Molis acknowledged the differences in AEAs and stated only core services consistent with legislation will be identical.

Extensive comments by Long, Brown, Wheeler, Duea, Fehn, Allison, and Forsgren centered upon social studies being moved from an essential education category to a discretionary category. Concerns were expressed that social studies is an integral part of basic education but making it discretionary might diminish its importance. The speakers requested social studies be returned to the essential category. It was further requested that the eliminated position of education department social studies consultant to provide assistance to local districts in developing and implementing programs be reinstated or assistance be provided through the AEAs.

•Bartz inquired if the legislature intentionally failed to mention social studies in the statutory authority for the AEA or if it was an oversight. Discussion ensued.

•Weigel suggested the department conduct a dialogue with the commenters and return to the committee at a later date.

Recess

The meeting recessed at 12:59 p.m. and reconvened at 1:40 p.m.

CORRECTIONS DEPARTMENT Fred Scaletta was present from the department.

ARC 7298A

•Rants inquired why the rules were filed emergency and was told by Scaletta it was at the behest of the acting director and the immediate need for \$400,000 to be used to pay for construction of a private industry facility at Rockwell City. He did not have specific information available on the new facility. He did state to Rants that under the old AT&T contract, approximately \$850,000 per year was generated in rebates. Under the new MCI contract, rebates had begun with \$190,000 for the first month, \$172,000 the second month, and \$150,000 the third month and yearly revenue might increase to \$2½ million. Rants was then informed that the attorney general's office requested removal of its position on the central committee because it did not want to be involved in appropriating expenditures.

•In response to Doderer, Scaletta stated direct dial telephone calls cannot be monitored or blocked, whereas person-to-person calls can be controlled and the public can be protected. He added that rates are lower under the new contract.

Various committee members expressed displeasure that the rules were filed emergency.

•Bartz was informed that under the proposed rule, 50 percent of the inmate telephone rebate fund will be retained by the institution that generated it and the remaining 50 percent will be forwarded to the central office for disbursement throughout the corrections system.

•Scaletta indicated to Palmer, the department has the authority under Iowa Code section 904.508A to enter into a contract resulting in this surcharge to a particular class of citizens.

•Metcalf moved to refer 7298A to the general assembly. The motion carried.

Motion to refer

Motion carried

Motion to object

•Rants moved to object substantively on the grounds that subrule 20.20(6) exceeded the department's authority as set forth in 904.508A. Discussion ensued.

Motion to amend

Motion to amend

carried

Motion as amended

carried

The motion to object as amended carried.

Scaletta was advised a proposed rule which addresses the committee concerns could be refiled under notice.

LAW ENFORCEMENT ACADEMY Gene W. Shepard appeared on behalf of the academy and Dean Schade was present from the Iowa League of Cities.

ARC 7305A

•In response to Kibbie, Shepard stated that pursuant to Iowa Code section 384.15(7), officers are required to reimburse an employing agency if relocation to another city occurs less than four years after completion of the certification training.

LAW ENFORCEMENT (continued) •Doderer questioned the requirement that an officer who has obtained certification and is offered a better position elsewhere must make reimbursement. Schade pointed out that on an annual basis approximately 30 cities pay \$1,700 for 12-week training of officers who subsequently move to another location. Some cities have had multiple occurrences.

ARC 7307A No questions regarding reserve officer weapons certification amendments in Chapter 10.
ARC 7306A No committee action on Chapter 13 amendments, telecommunicator training standards.

LIVESTOCK HEALTH ADVISORY COUNCIL Mike Miller represented the council and Mark Williams Rants in chair appeared on behalf of the Iowa Cattlemen's Association.

ARC 7344A No committee action on Chapter 1 appropriation for livestock diseases research.

REAL ESTATE COMMISSION Roger Hansen appeared on behalf of the commission.

ARC 7345A No committee action on Chapter 1 amendments, business conduct.
ARC 7346A No questions on amendments to 2.3, 3.4, 3.6, and 4.43.

SOIL CONSERVATION DIVISION Ken Tow and Bill McGill were present from the division.

ARC 7308A No questions on the financial incentive program for soil erosion control, 10.41.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA Kay Williams and Lynette Donner represented the board.

ARC 7349A No committee action on campaign disclosure reporting amendments in Chapters 4 and 6.
ARC 7348A •Weigel commented that larger delinquency reporting fines for the period from October 15 to November 1 should be considered.
ARC 7347A No committee action on delinquent lobbyist and lobbyist client reports, 13.6 and 13.7.

TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA Harold Thompson and Tami Hedge in chair Fujinaka represented the commission.

ARC 7186A Thompson stated that Chapter 7, which was filed emergency and becomes effective August 1, is identical to the previously proposed Chapter 7 with the exception of the omission of 7.12. The latter, dealing with the remote dial-up access issue, is now contained within the proposed new Chapter 16. He pointed out that with the exception of proposed subrule 16.2(4) and proposed rule 16.6, Chapter 16 language is identical to that of S.F. 519.

•Rants inquired whether video rates for independent colleges will increase substantially over the \$6 rate and was told they would not. Thompson said ICN funding was moved to the department of education and new measures have been taken to meet the monthly costs that equate to approximately \$1½ million per year. Beginning July 1, 1997, a \$750 charge per classroom for community colleges and K through 12 was imposed with a \$5 per hour video rate remaining in effect. Discussions are underway with state government, the board of regents, and private universities pertaining to a new billing structure of \$750 per month with a \$6 hourly video rate and the voice rate taken to true operational cost. Subsidizing from voice revenues would be discontinued.

•In response to Hedge, Thompson said the listing in proposed 16.6 does not include families of authorized users. Firewalls provide protection against other than authorized users by tracking information on the person who makes a call, the number to which the call is made, and the length of time of the call.

•Metcalf was informed that firewalls are ineffective in extremely complex systems such as those found at the higher learning institutions but can be very effective in the smaller systems.

TRANSPORTATION DEPARTMENT Pat Schnoor, Dick Hendrickson, Tom Sever, Dave Titcomb, and Valerie Hunter appeared on behalf of DOT.

ARC 7302A •According to Schnoor, applications for certificates of title and annual renewal notices for registration fees will note that personal information from state motor vehicle records will be disclosed unless otherwise requested by the individual. Metcalf was informed that a separate form is also available for use by individuals who want to prohibit such disclosure.
•Weigel pointed out the inherent problems when social security numbers are used as drivers' license numbers and made public record. Hendrickson replied that upon request numbers other than social security may be used.

ARC 7299A No questions concerning 520.1(1)"a" and "b," motor carriers and hazardous materials.
ARC 7301A No questions on Chapter 611 pertaining to the driver's privacy protection act.
ARC 7317A No questions on undercover law enforcement officers motor vehicle license in Chapter 625.

INSURANCE DIVISION Craig Goettsch represented the division.

ARC 7311A No committee action concerning regulation of securities offerings in Chapter 50.

SECRETARY OF STATE Sandy Steinbach and Carol Olson were present for the following. David Vestal Rants in chair appeared on behalf of the ISAC and Dean Schade was present from ILC.ARC 7295A Olson and Steinbach stated the city of Clinton adopted a home rule charter which included initiative and referendum provisions for adoption, amendment, or repeal of ordinances by voters at an election. The Iowa Supreme Court case City of Clinton deals with the authority of cities to conduct such elections. Olson stated there are few special charter cities in Iowa, and there is some question as to whether the case is applicable to only charter cities or to all cities.

•Rittmer observed that although Clinton city elections are by charter, the proposed rules state city elections can be done by ordinance. He believed this to be an expansion of home rule that should be examined by the legislature. Olson replied the statute does not prohibit the governing body of a city or county from adopting any ordinance providing for elections on matters under the jurisdiction of a governing body. She added the proposed rules which allow a city or county to adopt such an ordinance are optional. Olson, in response to Rittmer, stated a specific process exists for the recall of city officials.

Vestal and Schade questioned whether the proposed rules accurately reflect the underlying legislation and expressed belief there is a fundamental difference between elections and referendums and initiatives. Vestal noted that unlike an election, voters in a referendum petition to put an existing ordinance to a vote and that in an initiative, voters petition the supervisors to either adopt an ordinance or put it to public vote if the board chooses not to adopt it. Both stated there should be an ordinance for each referendum to offer the public an opportunity to learn about issues and have input. Vestal voiced objections to subrule 21.30(6) in that it oversteps the county's authority and that subrule 21.30(7) permits counties to elect officials who by law must be appointed. He noted it has been argued that officials are still appointed in the sense that subsequent to winning an election, the person is then "appointed" by the supervisors to the position.

August agenda

•Metcalf requested ARC 7295A be placed on the August agenda and stated the concerns expressed were not legitimate enough to warrant an emergency filing for such a controversial issue.

•In response to Rants, Olson stated the authorization for initiative comes from the Clinton case.

Motion to object

•Kibbie moved a procedural objection to the emergency filing. Discussion followed.

Motion failed

The motion to object failed.

Recess

The meeting recessed at 4:53 p.m. until the following day.

Reconvened

The meeting reconvened at 9 a.m. on Wednesday, July 10. Hedge in chair.

PUBLIC HEALTH DEPARTMENT Present on behalf of the department were Carol Hinton, Donald Flater, Barb Nervig, Pierce Wilson, Jill France, Pat McClure, Carolyn Vogel, Janet Beaman, Gary Ireland, and Mark Schoeberl. Others present included Mark Lambert and Judy Rutledge from Planned Parenthood, Linda Goeldner from the Iowa Nurses' Association, and Brice Oakley.

ARC 7288A No questions on amendments 11.80 to 11.83, HIV home collection.

ARC 7281A No questions on radiation protection standards in Chapters 38, 39, 40, 41, and 45.

ARC 7282A •In response to Weigel, Marshall stated that subrule 70.6(8) addresses previous concerns that a lead abatement contractor or lead abatement worker cannot provide both lead inspection assessment and lead abatement services at the same site unless full disclosure is given and a written consent or waiver is obtained.

ARC 7285A No committee action on 78.1 and 78.3, geographic-based district health departments.

ARC 7280A Marshall noted certification forms will be placed in the minor petitioner's medical file and will be in a sealed envelope that can only be opened by medical personnel with the consent of the minor or pursuant to court order.

•In reply to Doderer, Hinton stated the sealed envelope containing the confidential information will only be found in the medical records and not in the state file.

•Metcalf suggested applying a standard consistent with the confidentiality of HIV records and including a penalty in the proposed rules if any unauthorized person opens the sealed envelope.

Various committee members suggested controversial rules not be filed on an emergency basis. Marshall indicated the controversial section on confidentiality certification would be submitted in a new rule and the remainder would be filed emergency after notice.

PUBLIC HEALTH (continued)

- ARC 7284A •Metcalf noted Representative Grundberg's concerns that the provider codes in 106.5 are too broad and France replied the department is considering reductions. Marshall and France indicated to Metcalf that provider forms for use in reporting terminations of pregnancies will be sent within the week and the emergency filing will not interfere with the first August 10 reporting requirement. Reporting will be as of July 1 and the department is working closely with providers to ensure compliance with the law.
- ARC 7290A No questions on Chapter 139 amendments, law enforcement emergency care providers.
- ARC 7289A No committee action pertaining to Chapter 177, health data amendments.
- ARC 7287A No committee action on waivers of public health administrative rules, Chapter 178.
- ARC 7279A No committee action concerning practice review committees, Chapter 194.
- ARC 7286A Oakley queried why the proposed rules restricting medical communication should differ from those set forth in the insurance department and stressed the importance of consistency.
- Responding to Rants, Marshall said the insurance rules addressing medical communication are of a general nature whereas the proposed rules of the health department are more specific and delineated the prohibitions more exactly.
- Motion** •Rants moved that a memo request be forwarded to the insurance commissioner to compare that departments' rules with those of the public health department for consistency and report the findings to the committee. Following discussion the motion was withdrawn.
- Motion withdrawn**
- August agenda** Weigel requested representatives from both departments be present for a special review at the August meeting.
- ARC 7283A No questions on the certificate of need program amendments in Chapter 202.

PROFESSIONAL LICENSURE DIVISION Marge Bledsoe appeared on behalf of the division.

- ARC 7277A No committee action on 30.3(2)"d" and 30.4(2)"e," behavioral science examiners.
- ARC 7278A No questions pertaining to the chiropractic examiners amendment to subrule 40.11(5).
- ARC 7343A No committee action concerning mortuary science amendments in Chapter 100.
- ARC 7337A No questions concerning respiratory care amendments in Chapters 260, 261, and 262.

ENVIRONMENTAL PROTECTION COMMISSION Present from the division were Roy DeWitt, Mel Pins, and Mike Murphy. R. Wayne Richey and Joan Rucki represented the board of regents.

- ARC 7309A •DeWitt responded to Hedge that he was unaware of any occurrence in Iowa of heavy metals being incorporated into farm fertilizers. Hedge pointed out that Iowa is a heavy-use-fertilizer state and this practice occurs in other states where the buyer is unaware that the product contains metal since no packaging contents listing is required.
- ARC 7310A and ARC 7242A Richey objected to the department's narrow interpretation regarding supplemental funding. He stated there will be "very limited use" of tires as fuel if funding is applicable only to the purchase cost of fuel and not to operational costs. He noted an attempt will be made next session to broaden the language. Richey expressed a belief in the program but noted the regents have limited resources available for fuel.
- Motion** •Kibbie moved a session delay of the portion of the rules concerning using tires as fuel. Pins stated the department's premise is based on the legislative language that Btu equivalent basis is only applicable to the purchase cost of fuel. The department noted the regents' cost concerns and the additional 25 percent was appropriated. Subsequent to the 70-day delay, the department requested an informal attorney general's opinion which states that additional fuel costs should not be construed to include operational costs. Based on this the department wants to return to the original intent, with any expansion of the supplemental funding interpretation done by the legislature.
- In response to Palmer, Pins stated the rules include transportation costs and that a ton of delivered coal is approximately \$42 while a ton of delivered tires is approximately \$65.
- Doderer pointed out the intent of the legislation was to enable burning of tires and suggested flexibility concerning the cost issue.
- Motion withdrawn** •Following the discussion, Kibbie withdrew his motion to delay and requested the matter be set for the August agenda. He advised the motion would again be put forth if an agreement has not been reached.
- August agenda** •In response to Weigel, Richey stated funding is currently unavailable for retrofitting Iowa State and the University of Northern Iowa for tire-derived fuel.
- Pins said currently there are three industries in the state that burn tires: the University of Iowa burned 250 tons or 25,000 tires this past year, a Mason City cement mill burned 1 million tires, and a grain processing facility in Muscatine burned 750,000. The two private industries operate on a basis that is not labor intensive and have handling costs now equal to that of coal.

EPC (continued)

•Hedge inquired if the handling method at the University of Iowa were improved whether there would be a diminution in cost. Pins noted the process includes hand incorporation of tires with the coal that if changed to automated mechanisms would improve both the handling method and reduce costs.

Special Review
Open Burning

No committee action on open burning restrictions.

NATURAL RESOURCE COMMISSION

Appearing on behalf of the division were Mike Carrier, Steve Rants in chair, Dermend, Kevin Szcodronski, and Richard Bishop. Others present included Jack Lefill, David Scott, and Representative Roger Thomas.

ARC 7266A No committee action on Chapter 13 construction permits and easements on public lands and waters.

ARC 7265A No questions concerning REAP program amendments in Chapter 33.

ARC 7263A No questions pertaining to flotation wet suits, subrule 37.13(9) amendment.

ARC 7270A No committee action on boat motor regulations in 45.4(2) and 45.4(3) "c" to "h."

ARC 7267A No questions regarding Chapter 61 amendments, state parks and recreation areas.

ARC 7264A No questions on subrule 96.1(3), youth pheasant hunt.

ARC 7273A No questions regarding the wild turkey fall hunting license quotas in 99.5.

ARC 7269A •In response to Metcalf, Bishop explained the department intends a future modification of the rules and seeks to have blanket authority to issue permits for deer hunting in designated deer management areas on a case-by-case basis with the approval of the elected official. General procedures will remain intact but there will be no listing of each special permit.

ARC 7272A •Bartz inquired whether the commission intends to grant lottery preference to hunts by Iowa guide services and ask the legislature for waivers to the denied 1,643 out-of-state applications in excess of the allowed yearly 5,000 deer permits. Bishop stated it is not considered at this time.

•Weigel was informed that over 200,000 state permits are issued and that in southern Iowa, landowners can shoot five deer in designated areas.

Hedge in chair

ARC 7268A

No committee action concerning subrule 106.7(3), deer season handgun use.

ARC 7271A

No questions regarding rabbit and squirrel hunting amendments to 107.1 and 107.3.

SECRETARY OF STATE Sandy Steinbach and Carol Olson were present for the following.

ARC 7295A

Motion to object

•Rants requested the referendum and initiative issue be brought back before the committee. He moved to object to rules 21.30 and 21.31 on the substantive grounds that agency authority is exceeded. Following discussion, the motion carried.

Motion carried**NATURAL RESOURCE COMMISSION (continued)**

Special Review

Flotation devices

Thomas indicated a request was submitted to the department to eliminate the rule requiring plastic barrels be filled with closed cell polyurethane used to float docks and Quonset huts. Thomas, Lefill, and Scott pointed out that urethane can eventually absorb water causing the barrels to sink and become navigational hazards. The \$20 per barrel cost is expensive and urethane can be hazardous to wildlife. Conversely, plastic barrels are reusable, cost-effective, durable, and recyclable if damaged. Metal barrels will rust and sink and it would be preferable not to use them. Thomas said the DNR favors the elimination of the urethane requirement but wants continued use of metal barrels. The committee requested additional input when the changed rule is brought before it.

PUBLIC SAFETY DEPARTMENT Michael Coveyou, Darwin Chapman, Steve Conlon, Steve Bogle, Betsy Dittmore, Julie Fleming, Roy Marshall, and Bob Pontious were present from the department. In attendance from the attorney general's officer were Eric Tabor and Jeff Farrell.

ARC 7291A

No questions on 5.626, assisted living facilities—fire safety.

ARC 7292A

No questions pertaining to the Iowa building code amendments in Chapter 16.

ARC 7350A

•Coveyou, in response to Rittmer, said the proposed rules offer guidelines and standards to provide notification to the community when a convicted sex offender listed on the Iowa sex offender registry presents a danger to the community. Pontious added that a risk assessment is completed and each case will be assessed on its own merits. He then advised Rittmer that at the time of notification specific information released about a registrant will include name, address, physical description, and a photograph. The rules provide for the protection of the public, as well as preserving the constitutional rights of the registrant. Chapman indicated to Rittmer that most states have central sex offender registries with cross-notification requirements and that each relocation within the state requires registration.

•Doderer inquired why all registrants are initially classified as low-risk offenders. Coveyou stated there has to be a reason for engaging in community notification beyond the fact a person is listed as a registered sex offender.

PUBLIC SAFETY (continued) •Palmer was informed by Conlon that numbers are not available on high-risk offenders currently in communities. He added there are 1,800 listed on the sex offender registry with approximately 52 new registrants a month.

•Responding to Doderer, Coveyou said determination of low- or high-risk assessment is based on the seriousness of the situation and the likelihood of a repeat offense. Coveyou added that most registrants currently on the registry were convicted prior to the enactment of the law and those offenses may not equate to the severity of offenses under current law. He noted federal guidelines regarding community notification which may impact these proposed rules are currently being developed.

•Farrell indicated to Bartz he will supply the information to Royce as to why paragraphs "d" through "f" were excluded in 8.302(6)"h," relating to criminal offenses committed in other jurisdictions.

•Coveyou then replied to Bartz that each relocation by an offender may constitute a different at-risk category based upon the environment. Factors included in changing the assessment are place of residence, place of employment, location of school attended by the offender, or other places where the offender is known to frequent.

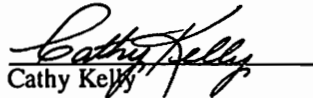
August agenda

•Metcalf requested inclusion in the August agenda of the committee rule concerning review by standing committees of rules referred by ARRC.

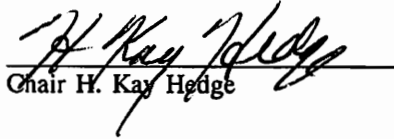
Adjourned

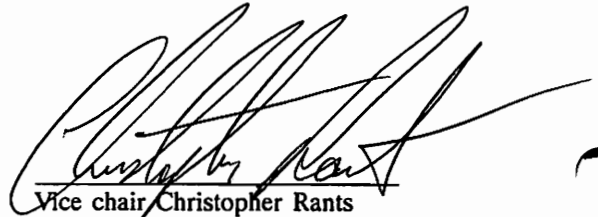
The meeting was adjourned at 12:08 p.m.

Respectfully submitted,


Cathy Kelly

APPROVED:


Chair H. Kay Hedge


Vice chair Christopher Rants