

ADMINISTRATIVE RULES REVIEW COMMITTEE OF THE IOWA GENERAL ASSEMBLY 1995 Annual Report

I. Introduction. This report covers the period beginning with the Committee's February 1995 meeting through the January 1996 meeting. This curious time period is chosen because those meetings cover the rules published in final form during the 1995 calendar year.

Iowa state government consists of some 109 "entities". There are some 29 umbrella agencies, sixty divisions having at least some degree of autonomy, nineteen independent agencies, and one legislative agency. In 1995, only 53 of these entities promulgated a total of 399 filings representing over 1600 individual rule additions, amendments or rescissions. Although the number of rule-making agencies has declined some 20% in 1995, the volume of rule making itself is relatively unchanged. Rule-making activity for the last ten years is set out below:

YEAR	AGENCY	FILINGS	YEAR	AGENCY	FILINGS
1995	53	399	1990	56	498
1994	66	414	1989	60	463
1993	62	493	1988	86	621
1992	61	493	1987	60	503
1991	66	511	1986	57	476

66 of these filings were placed into effect using the "emergency" provisions of the Iowa Administrative Procedures Act {Iowa Code Chapter 17A}. Most of these were also placed under notice. This figure represents 17 percent of the total volume of rule making and shows good improvement over the 21 percent level in 1994; this is the lowest level on record, the percentage of emergency rule making is virtually one half the record set in 1986.

YEAR	EMERGENCY	FILINGS	YEAR	EMERGENCY	FILINGS
1995	66	399	1990	94	498
1994	91	414	1989	92	463
1993	116	493	1988	111	621
1992	92	493	1987	133	503
1991	135	511	1986	142	476

To calculate the volume of rule making for 1995, filings are counted instead of single rules. Note that a filing is *not* a notice of intended action; a filing is only the adoption in final form, if notices were included, the number would virtually double. Each filing put into effect contained one or more individual rule changes; on the average each filing contains roughly four changes. The agencies which adopted rules are listed below together with the number of filings put into effect. For purposes of this analysis the term "agency" ignores the statutory groupings of divisions, boards, commissions, etc. Instead the chart below independently lists every rule-making unit without regard to its location within a larger "umbrella" agency. The

first column of numbers represents the number of emergency filings adopted in 1995. The second column of numbers represent the total number of rules promulgated by the agency. Note that only eight agencies account for over half of the volume of rule making and over two-thirds of the "emergency" filings, while half of the agencies promulgated three or fewer rules.

1995 rule making by agency

Human Services Department	19	82
Natural Resource Commission	2	35
Department of Economic Development	6	21
Environmental Protection Commission	8	21
Revenue and Finance Department	2	21
Professional Licensure Division	0	20
Dental Examiners Board	0	14
Petroleum Underground Storage Tank Fund Board	3	13
Inspections and Appeals Department	3	12
Labor Services Division	0	11
Public Health Department	1	10
Agriculture and Land Stewardship Department	0	9
Ethics and Campaign Disclosure Board	0	9
Public Safety Department	4	9
College Student Aid Commission	0	8
Transportation Department	0	8
Pharmacy Board	0	7
Insurance Division	1	6
Utilities Division	0	6
Racing and Gaming Commission	2	6
Personnel Department	3	5
Regents Board	2	5
Real Estate Commission	0	4
Elder Affairs Department	0	4
State Treasurer	1	4
Attorney General	0	3
Historical Division	0	3
Education Department	0	3

Industrial Services Division	2	3
Iowa Law Enforcement Academy	1	3
Nursing Board	0	3
Lottery Division	0	3
Accountancy Examining Board	0	2
Architectural Examining Board	0	2
Corrections Department	0	2
General Services	0	2
Substance Abuse Commission	0	2
Secretary of State	0	2
Voter Registration Commission	2	2
Soil Conservation Division	0	1
Banking Division	0	1
Professional Licensing and Regulation Division	0	1
Engineering and Land Surveying Examining Board	0	1
Landscape Architect Examining Board	0	1
Educational Examiners Board	1	1
Iowa Advance Funding Authority	0	1
Library Division	1	1
Iowa Egg Council	1	1
Fair Board	0	1
Criminal and Juvenile Justice Planning Division	1	1
Deal Services Division	0	1
Livestock Health Advisory Council	0	1
Public Employment Relations Board	0	1
	66	399

This annual number of 399 filings breaks down by month in the following chart. Note that during the legislative session rule making decreases only marginally. Two "spikes" occur during the year. One occurs in August, when rules implementing newly enacted legislation are published, and a second in November and December as agencies rush to clean up "loose ends" by the end of the year.

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	TOT
1995	23	31	35	20	32	36	33	50	23	34	41	41	399

II. Formal Committee Actions

While the number of filings has decreased over the last five years, the volume of formal objections filed by the committee has remained relatively constant for three years. In 1995 the committee imposed one objection, down from a three objections imposed in 1994. A total of 142 objections have been imposed since 1977, but the trend has clearly been toward a decline in their frequency, as indicated below:

1977.....36	1984.....04	1991.....07
1978.....24	1985.....03	1992.....04
1979.....13	1986.....05	1993.....04
1980.....06	1987.....03	1994.....03
1981.....08	1988.....02	1995.....01
1982.....02	1989.....08	
1983.....03	1990.....06	

One session delay was imposed in 1995, a level that has remained fairly constant for years. A total of 49 delays have been imposed since the power was created in 1978.

III. Summary of Major Committee Actions. In 1995 the committee voted one new objection, one session delay, seventeen general referrals {7 in 1994}, seven 70 day delays {4 in 1994} and two requests for an economic impact statement {same as 1994}; making for a total of 28 committee actions. In 1992 the committee took a total of 39 formal actions and in 1993 it took 35, while in 1994 only 17 actions were taken. Note that a single rule can be subjected to several committee actions. "Housekeeping" matters, such as rescinding or affirming earlier actions, are not included in the listing. The 1995 formal actions are summarized as follows:

GENERAL REFERRAL TO SPEAKER OF THE HOUSE AND PRESIDENT OF THE SENATE (17A.8(7))

ARTS COUNCIL[222]

2.3, Relating to grants program, ARC 5482A.

CORRECTIONS DEPARTMENT[201]

20.20, Telephone calls by prison inmates, ARC 5774A.

Ch. 23, Visiting restrictions, ARC 5502A.

DENTAL EXAMINERS BOARD[650]

27.7(8), Unnecessary dental work/silver amalgams, selective review.

EDUCATION DEPARTMENT[281]

Chapter 41, Special education, ARC 5617A.

EGG COUNCIL[301]

Iowa Code section 196A.5, Quorum for the Egg Council. selective review.

ENVIRONMENTAL PROTECTION COMMISSION[567]

Chapter 117, Waste tires, ARC 5808A.

Chapter 40, Water treatment fees, ARC 5410A.

134.2 to 134.5, Registration of groundwater professionals — certification, ARC 6189A.

ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]

4.6, Expenditures of campaign funds, ARC 5677A.

___, Financial disclosure, ARC 6127A.

FAIR BOARD[371]

4.8, liens on exhibitors, selective review.

NATURAL RESOURCE COMMISSION[571]

54.4, Harvest of trees — state lands, ARC 5844A.

106.5, Landowner deer permits, selective review.

PROFESSIONAL LICENSING AND REGULATION DIVISION[193]

Code section 543B.3(1), Term "real estate broker," selective review.

REVENUE AND FINANCE DEPARTMENT[701]

18.33, 18.44(1), 18.44(4), 18.48(6), Tax on twine and the definition of publisher, selective review.

Chapter 7, Assessing litigation costs, selective review.

OBJECTIONS (17A.4(4)"a")

NATURAL RESOURCE COMMISSION[571]

106.5(1)"b," Harvesting of antlerless deer, ARC 5636A.

DELAY UNTIL ADJOURNMENT OF 1996 GENERAL ASSEMBLY (17A.8(9))

PROFESSIONAL LICENSURE DIVISION[645]

141.3(2), Nursing Home Administrators—Education, ARC 5879A.

70-DAY DELAY (17A.4(5))

ENVIRONMENTAL PROTECTION COMMISSION [567]

Chapters 20 and 22, 12 month rolling period, ARC 5875A.

HUMAN SERVICES DEPARTMENT[441]

Chapter 22, Definition of "division" and "persons with mental retardation" and the implementation clause, Items 1 and 2, ARC 5508A.

175.25, Relating to child abuse, ARC 6076.

185.22, 185.42, 185.62, 185.82, Treatment services for troubled children—prohibited while operating a motor vehicle, services are paid according to Medicaid dollars, ARC 5613A.

INDUSTRIAL COMMISSIONER[343]

8.9, Costs of obtaining medical records, ARC 5385A.

PROFESSIONAL LICENSURE DIVISION[645]

325.7(3)"a," 325.7(4)"a"(1), (3), Physician assistants, ARC 5771A.

Chapter 100, proctors for mortuary science licensees, ARC 5414A.

REGENTS BOARD[681]

3.14 "probationary period," 3.39(12), 3.102(1), Merit system, ARC 5791A.

ECONOMIC IMPACT STATEMENT

HUMAN SERVICES DEPARTMENT[441]

HCBS ill and handicapped, elderly, MR and AIDS/HIV waiver programs, ARC 5751A, IAB 8/2/95, Statement published IAB 9/27/95

PHARMACY EXAMINERS BOARD[657]

Reexamination fees from \$20-\$40, ARC 5642A, IAB 6/7/95, Notice Terminated ARC 5963A, IAB 10/25/95