



ANNUAL REPORT

Administrative Rules Review Committee



I. Introduction

This report covers the final rulemaking actions in calendar year 2014, published in the Iowa Administrative Bulletin (IAB) from January through December 2014.

The rulemaking process set out in Iowa Code chapter 17A only applies to executive branch state agencies. Accordingly, agencies housed within either the legislative or judicial branches of state government and local government agencies are not considered in this report. The Governor as an individual is excluded from this report because the state's chief executive is exempt from the rulemaking process. The Office of Consumer Advocate is exempt as well.

Iowa Code chapter 7E, enacted in 1986, refers to departments, divisions within departments, independent agencies, and separate constitutional offices. However, that structure has not always been maintained over the decades, and for that reason there is not a consistent organization to Iowa state government for rulemaking purposes. As a practical matter, it is best to define an "agency" for rulemaking purposes as a policy-making body that conducts rulemaking instead of relying on statutory designations of each particular agency.

The Administrative Code is organized by agency identification numbers that are assigned to the various agencies that conduct rulemaking. These numbers are used to categorize and track agency rulemaking. For example, the Department of Human Services is number 441. In December 2014, there were 108 executive branch administrative agencies that were assigned such numbers: 14 umbrella departments; 54 semiautonomous divisions, bureaus, and other entities within those departments; 36 other independent agencies; and four separate constitutional offices. A complete list can be found in Appendix C. These numbers are the primary method by which agency rulemaking is quantified in this report.

Additionally, some units of state government, primarily certain licensing and regulatory boards, are categorized within the agency identification number of larger agencies into which their purview falls. Such units do not have separate agency identification numbers. For example, the Elevator Safety Board and the Boiler and Pressure Vessel Board are categorized under the Labor Services Division of the Department of Workforce Development, while 19 licensure boards such as the Board of Athletic Training are categorized under the Professional Licensure Division of the Department of Public Health.

II. Overview of 2014 Regular Rulemaking

This report covers the final rulemaking actions in calendar year 2014, published in the IAB from January through December 2014. The Administrative Rules Review Committee (ARRC) generally reviews rules published the month prior to the ARRC's

monthly meeting. Accordingly, this publication period covers the ARRC's February 2014 meeting through its January 2015 meeting.

In 2014, 50 agencies adopted 263 filings. The 2014 filings are detailed by agency and by month in Appendix A. Eighteen of these 50 agencies adopted only one filing.

Rulemaking filings generally contain more than a single rule change. These filings actually represent approximately 1,000 individual rule additions, amendments, or rescissions. Rulemaking activity for the last 10 years is as follows:

YEAR	AGENCIES	FILINGS	YEAR	AGENCIES	FILINGS
2014	50	263	2009	56	473
2013	56	322	2008	52	468
2012	56	264	2007	51	446
2011	56	310	2006	58	440
2010	52	427	2005	54	396

To calculate the volume of rulemaking, only filed documents are counted, either through the regular rulemaking process or through emergency rulemaking. Individual rule changes contained within each document are not counted. If Notices of Intended Action were included, the volume of rulemaking would virtually double. Each filing put into effect contains one or more individual rule changes; on the average each filing contains approximately four individual changes. The 2014 rulemaking filings are broken down by month on the top line of the following chart, which tracks previous years:

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	TOTAL
2014	17	30	20	30	09	27	23	11	17	35	13	31	263
2013	11	26	16	11	39	17	40	21	09	79	19	34	322
2012	18	24	13	21	14	06	22	20	15	50	27	34	264
2011	16	26	15	26	26	28	21	25	27	25	47	28	310
2010	30	35	34	42	40	44	23	35	39	22	41	42	427
2009	32	32	27	31	33	36	85	28	46	36	38	49	473
2008	51	20	10	30	17	26	98	31	34	40	49	62	468
2007	36	33	14	26	25	30	38	80	26	62	32	44	446
2006	26	54	41	27	39	32	51	39	11	59	35	26	440
2005	23	39	15	09	23	33	80	32	24	19	54	45	396

III. 2014 Formal ARRC Actions, Month-By-Month

The number of formal actions taken by the ARRC has remained at a steady level. No objections were imposed in 2014. No general referrals were made in 2014. Two session delays and four 70-day delays were imposed.¹

JUNE 2014

TREASURER, Custodial agreement for deposited funds, 05/14/14 IAB, ARC 1464C.
70-day delay.

OCTOBER 2014

DEPARTMENT OF HUMAN SERVICES, Emergency contact information, 10/01/13 IAB, ARC 1638C.

70-day delay.

ECONOMIC DEVELOPMENT AUTHORITY, Economic development region initiatives, 09/17/14 IAB, ARC 1626C.

70-day delay.

NOVEMBER 2014

EDUCATION DEPARTMENT, School bus driver's authorization—physical fitness, 10/15/14 IAB, ARC 1661C.

70-day delay.

DECEMBER 2014

EDUCATION DEPARTMENT, School bus driver's authorization—physical fitness, 10/15/14 IAB, ARC 1661C.

Session delay.

JANUARY 2015

ECONOMIC DEVELOPMENT AUTHORITY, Workforce housing tax incentives program; high quality jobs program; enterprise zone program; wage thresholds and local match, 12/24/14 IAB, ARC 1801C.

Session delay.

¹ A session delay of item 8 of ARC 1220C, relating to plumber licensing, by the Department of Public Health at the ARRC's January 2014 meeting was inadvertently omitted from the 2013 Administrative Rules Review Committee Annual Report.

IV. Overview of 2014 Emergency Rulemaking

A. Volume of Emergency Rulemaking.

The “emergency” rulemaking process consists of two procedures that allow agencies to place rules into immediate effect prior to publication of a Notice of Intended Action in the IAB (17A.4(3)) and prior to publication upon final adoption in the Iowa Administrative Code (17A.5(2)). In 2014, 10 agencies adopted 21 filings using emergency rulemaking. The 2014 emergency filings are detailed by agency and by month in Appendix B. Of these 21 filings, nine were Filed Emergency After Notice, meaning that the filings became effective after a Notice of Intended Action and public comment period, but before the final adopted rule was published. Most of the filings that were not Filed Emergency After Notice were “double barreled,” which means a Notice of Intended Action was published to allow for the regular rulemaking process to be carried out, while at the same time, an identical rule was Adopted and Filed Emergency and remained in effect while the regular rulemaking process went on. In 2014, the 21 emergency rulemaking filings accounted for roughly 8 percent of the total filings. This is a decrease from 2013, when 48 filings were adopted using the emergency rulemaking process, accounting for roughly 15 percent of the total filings.

B. Administrative Rules Review Committee Approval to File Certain Emergency Rules.

2013 Iowa Acts, chapter 114, amended Iowa Code §17A.4(3) to eliminate agency discretion to file rules without first publishing a Notice of Intended Action unless specifically authorized by statute. This change became effective on July 1, 2013. The legislation permitted an agency to file rules without first publishing a Notice of Intended Action only if the agency receives prior approval from the ARRC. Such approval was not required previously. The standard for such action remains the same: “notice and public participation would be unnecessary, impracticable, or contrary to the public interest.” However, these findings must now be made by the ARRC. As a practical matter, the agency continues to make these findings, which are then subject to ARRC approval prior to filing. Approval requires six votes. Filings that are not approved can still proceed through the regular rulemaking process.

The protocol for ARRC approval is to provide the language for a proposed emergency filing to the committee members. The proposed emergency filing is then placed on the agenda for the next scheduled ARRC meeting. The ARRC may convene a special meeting for the approval of emergency rules which must be implemented prior to the regularly scheduled ARRC meeting.

This approval requirement applies only to those rules for which there is not a published Notice of Intended Action pursuant to Iowa Code §17A.4(3) and a period for public comment before final adoption. Rules which have completed the notice portion of the rulemaking process and are “Adopted and Filed Emergency After Notice” pursuant to §17A.5(2) do not require prior ARRC approval.

In 2014, the ARRC approved 10 emergency filings and declined to approve two emergency filings:

MARCH 2014

PHARMACY BOARD, Schedule I controlled substances.

Approved.

MAY 2014

REVENUE DEPARTMENT, Property assessment appeal board.

Approved.

EDUCATION DEPARTMENT, Supplementary weighting.

Approved.

JUNE 2014

WORKERS' COMPENSATION DIVISION, Payroll tax tables.

Approved.

HUMAN SERVICES DEPARTMENT, Child care assistance eligibility.

Approved.

HUMAN SERVICES DEPARTMENT, Minimum foster group care payment rates.

Approved.

HUMAN SERVICES DEPARTMENT, Community mental health centers reimbursement.

Approved.

HUMAN SERVICES DEPARTMENT, Emergency medical service providers reimbursement rate.

Approved.

AUGUST 2014

IOWA FINANCE AUTHORITY, Military service member home ownership assistance program.

Approved.

ECONOMIC DEVELOPMENT AUTHORITY, STEM internship program.

Declined.

OCTOBER 2014

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT, Emergency messaging and mass notification.

Approved.

SECRETARY OF STATE, Technical updates.

Declined.

V. Major Items Before the ARRC.

DEPARTMENT OF TRANSPORTATION, *Automated Traffic Enforcement Systems*, 01/08/14 IAB, ARC 1260C.

Background. Automated traffic enforcement systems are high-resolution cameras used to detect speed or stoplight violations. Civil citations are issued to the registered owner of the vehicle. These systems are largely owned and operated by a contractor working on behalf of the local jurisdiction. These rules establish the requirements, application procedures, and responsibilities in the use of these enforcement systems on the primary road system, which is under the jurisdiction of the department. These

provisions apply to local jurisdictions wishing to install these systems and issue citations; no permission is required on locally controlled roadways. All mobile enforcement systems in a vehicle must be owned and operated by a law enforcement agency, be marked with official decals, and have an "official" license plate. The department does not own, operate, or receive compensation for any automated traffic enforcement system.

Approval for automated systems will only be considered in areas with a documented high-crash or high-risk location in an area or intersection with a significant history of crashes attributed to red-light running or speeding, or a school zone. These standards include provisions relating to motorist safety, signage, and effectiveness. The rules place various restrictions on when, where, and how these systems may be used.

The application process requires a six-part justification for the use of these systems. Once in place, the systems must be evaluated annually to determine the effectiveness of that system on public safety and driver compliance with traffic laws. Continued use will be contingent on the effectiveness of the system, appropriate administration of it by the local jurisdiction, the continued compliance with these rules, changes in traffic patterns, infrastructure improvements, and implementation of other identified safety countermeasures. The department may require removal or modification of a system in a particular location as appropriate.

Commentary. The rules were initially reviewed by the committee in October 2013. Opponents of the rules contended that the standards for the approval and location of these systems were too vague, allowing the department too much discretion in the approval process. Some contended that the decision should be based on local control and local circumstances. Representatives from cities and counties also opposed portions of the rules, noting that the annual review requirements made it difficult to contract for these systems. One city representative stated the city had entered into a five-year contract with the provider providing all hardware for the system.

At the committee's February 2014 meeting, a department representative reviewed the adopted rules, including changes made to the rules such as a prohibition on placing systems close to an area with a speed limit increase. The representative stated that the department acknowledges that these systems can be effective, but believes that they should not be a first choice for ensuring traffic safety. He also stated that Iowa is the only state with a permanent speed camera installed on an interstate.

Committee discussion included how other states have responded to this issue, how the rules affect home rule by local governments under the Iowa Constitution, how the department will engage local communities in this process going forward, and what alternatives for traffic safety exist. Some committee members argued that these rules exceed the department's authority and that this issue should be resolved legislatively. Other committee members argued that the department has the authority to adopt these rules.

The committee heard public comment largely in opposition to these rules. Representatives of cities, municipal law enforcement, a regional hospital, and a member of the public asserted that the rules exceed the department's authority and impinge on the authority of local law enforcement, that traffic cameras are an effective and

necessary traffic safety measure, that existing traffic cameras have been shown to reduce traffic accidents, and that the standards in the rules are vague.

Action. No action taken. Litigation regarding the adoption and implementation of these rules is ongoing.

DEPARTMENT OF HUMAN SERVICES, *Online Training for Brain Injury (BI) Waiver Providers*, 04/30/14 IAB, ARC 1442C, ADOPTED.

Background. This adopted rule revises current provisions requiring Medicaid home and community-based BI services waiver providers and each of their staff members involved in direct consumer service to have training regarding individuals who have a brain injury. The filing requires completion of a standardized training program. The training can be taken over the Internet and is completed by an examination which is used only to determine what additional information the service provider might need; there is no passing grade required. Current provisions allowing for an on-the-job experience alternative are eliminated. The rule took effect on July 1, 2014, but the training requirement became applicable on January 1, 2015.

At the committee's May 2014 meeting, stakeholders and some committee members questioned whether the training requirements were too burdensome and whether they were necessary for all providers. Further review of the rule was requested for the committee's June 2014 meeting.

Commentary. At the committee's June 2014 meeting, a department representative distributed a handout detailing changes that will be made to the training requirements in a subsequent rulemaking before the requirements become effective on January 1, 2015. The changes are in response to prior feedback received from committee members and stakeholders. These changes include a grandfathering provision, a 60-day period to complete the training, and a paper version of the training. Committee members and stakeholders expressed appreciation to the department for pursuing these changes.

Action. No action taken. The changes discussed were implemented by ARC 1638C, which took effect November 5, 2014.

EDUCATION DEPARTMENT, *Athletic Eligibility for School Transfer — Bullying*, SPECIAL ISSUE REVIEW AT JULY MEETING.

Background. Iowa Code §282.18(11) provides that a student who open enrolls in another district is ineligible to participate in varsity interscholastic athletic contests and athletic competitions during the student's first 90 school days of enrollment in the new district. In the 2014 Legislative Session, legislation allowing continued athletic eligibility for a student who open enrolls due to an incident of harassment or bullying was considered as part of multiple larger bills, but was not enacted.

Commentary. While relevant legislation was not enacted in the 2014 Legislative Session, public commenters stated that the proposed athletic eligibility change was generally well-received. It was noted that while Iowa Code §282.18(11) did provide a series of exemptions from the ineligibility provisions, it would be unlawful to add another exemption by rule. Several members did not believe that relaxing the athletic eligibility provisions would resolve the bullying issue in any particular case; members stated that

the reason for the student's transfer could follow that student to the new school and allow the cycle of bullying to continue.

Members concluded this issue could not be resolved through rulemaking and should be addressed by the legislature as a whole.

Action. No action taken. Legislation on this matter was considered during the 2015 Legislative Session but not enacted.

PUBLIC HEALTH DEPARTMENT, *Medical Cannabidiol*, 08/06/14 IAB, ARC 1571C, NOTICE.

2014 Iowa Acts, Senate File 2360, established new Iowa Code chapter 124D, the "Medical Cannabidiol Act," to allow for the medical use of a certain type of marijuana derivative for alleviating symptoms caused by intractable epilepsy. A neurologist who has physically examined and treated a patient suffering from intractable epilepsy may provide a written recommendation for the patient's medical use of cannabidiol to treat or alleviate symptoms of intractable epilepsy if there are no other satisfactory treatment options.

"Cannabidiol" is a nonpsychoactive preparation that has a tetrahydrocannabinol level of no more than 3 percent. "Intractable epilepsy" is an epileptic seizure disorder for which standard medical treatment does not prevent or significantly ameliorate recurring, uncontrolled seizures or for which standard medical treatment results in harmful side effects.

The Department of Public Health authorizes a picture ID registration card issued by the Department of Transportation; this registration file is confidential and must be annually renewed.

The substance of the program is detailed in the Act itself; the rule sets out the procedural steps to authorize registration.

Commentary. At the committee's September 2014 meeting, a department representative explained the rulemaking and noted that most of the public comment received by the department regarded proposed changes to the underlying legislation. She also described changes that would be made before the rulemaking is adopted, such as to the definition of "permanent resident" and to the renewal process, and she provided copies of the final rule.

Committee members suggested several changes to the proposal, including clarifying whether a primary caregiver must be in-state, voiding registration cards if they are reported lost, and sunseting the rule to match the sunset in Senate File 2360. Public comment was heard from several persons whose children will benefit from the proposal. They expressed appreciation for the department's efforts, but still urged further revisions. They suggested further use of electronic components in the application and renewal process, an opportunity to correct errors in required documentation, an expedited renewal process, and a timeframe set out for departmental response to applications. The department representative explained that the department will work with applicants to correct errors in their applications, and may further refine the renewal process before the first renewals occur, but lacks funding to pursue further improvements such as electronic augmentation of the application and renewal processes. Committee members asked how many people would benefit from

the legislation, and a public commenter explained that it would be very few, as the only state where lowans can legally access cannabidiol is Oregon, which still has its own legal requirements that must be satisfied.

The adopted rule was reviewed at the committee's October 2014 meeting. A department representative explained several changes that were made to the noticed rule, including a revised definition of "permanent resident," an additional option for valid photo identification in the application process, increased flexibility in the renewal process, and removal of the requirement that the recommending neurologist physically examine a patient before issuing a written recommendation. No further discussion occurred. The rule became effective on January 30, 2015.

Action. No action taken. Legislation on this matter was considered during the 2015 Legislative Session but not enacted.

EDUCATIONAL EXAMINERS BOARD, *Montessori Authorization, 09/03/14 IAB, ARC 1603C, NOTICE.*

Background. Most Montessori programs (an early childhood education program based on a European approach) in the state are independently operated; this proposal would create a voluntary authorization allowing recognition of specialized Montessori training and coverage of these employees under the board's code of professional conduct and ethics. The credential would not by itself authorize the individual to teach in the public schools.

Commentary. Committee members asked why the board had chosen to pursue this rulemaking, and a board representative explained that these provisions were requested by Montessori professionals. She stated that the goal is to create a credential that newly trained Montessori professionals could use as evidence of competence and also as a way of ensuring properly trained professionals in the independent schools. The representative stated that the credential would subject the holder to the board's code of ethics; no other mechanism is available to prevent a violator from continuing to teach in another school. Committee members questioned why a voluntary credential is necessary or desirable and suggested that the concerns raised by Montessori professionals to the board could be resolved by schools instead. Committee members questioned whether establishing new types of credentials upon the request of an outside group would lead to more such requests in the future. Committee members suggested that creation of such a new credential might be better pursued through the legislative process.

Action. No action taken. The board terminated this rulemaking in ARC 1717C.

ENVIRONMENTAL PROTECTION COMMISSION, *Animal Feeding Operations — NPDES Compliance, 09/17/14 IAB, ARC 1627C, ADOPTED.*

Background. This rulemaking implements an agreement between the Department of Natural Resources (DNR) and the federal Environmental Protection Agency (EPA), relating to state enforcement of National Pollutant Discharge Elimination System (NPDES) standards for concentrated animal feeding operations (CAFOs). The owner or operator of a CAFO must obtain an NPDES permit if the CAFO is designed, constructed, operated, or maintained such that a discharge will occur.

Iowa Code §459.311(2) specifically states that state rules implementing the NPDES permitting requirements “shall be no more stringent” than the requirements set out in EPA rules. The commission adopted a rule that incorporates by reference the EPA’s CAFO regulation.

Federal EPA Region 7 informed the DNR that the amendments “meet the requirements...of the Work Plan and ensure that Iowa’s NPDES authorities are consistent with federal requirements.”

Commentary. A commission representative explained the rulemaking and noted that it satisfies the statutory requirements that the state comply with federal NPDES permitting requirements but not exceed them, and that the EPA has agreed to this proposal.

The committee heard public comment from approximately one dozen speakers in opposition to the rulemaking. Speakers asserted that the DNR has inadequately enforced NPDES standards for CAFOs in the past and that the rulemaking is similarly inadequate. Speakers asked for a variety of changes they asserted would strengthen the rulemaking, including increased inspections, particularly on-site inspections; increased fines for violations; a publically available database of violations; requiring NPDES permits for all CAFOs; and increased penalties for habitual violators. Speakers also urged that the law requiring that state NPDES permitting requirements be no more stringent than EPA requirements be amended, arguing that federal EPA standards were not meant to serve as a ceiling for state standards.

The DNR director then spoke in support of the rulemaking. He explained that the rulemaking was the result of negotiation with the EPA, with input received from all stakeholders. The negotiations began in light of a petition filed with the EPA that sought for the EPA to take over enforcement of the state’s NPDES program. The work plan implemented by this rulemaking was agreed to as an alternative. He noted that the DNR had requested additional inspectors to implement the plan and has been able to hire seven. He explained how the DNR uses technology to conduct inspections without going on site. He also explained that the DNR is in regular contact with the Attorney General’s office regarding the NPDES program and refers cases there for enforcement action.

Action. No action taken.

EDUCATION DEPARTMENT, *School Bus Drivers: Physical Fitness*, 10/15/14 IAB, ARC 1661C, ADOPTED.

Background. Current rules require that school bus drivers pass an annual physical examination performed by a licensed physician, chiropractic physician, licensed physician assistant, or advanced registered nurse practitioner. This revision eliminates this list and instead refers to a “certified medical examiner” listed on the National Registry of Certified Medical Examiners.

At the committee’s November 2014 meeting, members questioned the need for a federally issued certificate to perform a physical examination; members felt that Iowa licensure ensured adequate competency. Members understood this was a federal requirement but inquired about the consequences if Iowa did not implement this mandate. Department representatives were unsure of the possible federal responses

and agreed to research this question. The committee voted to delay the rule for 70 days to allow time for further study. Further review was scheduled for the committee's December 2014 meeting.

Commentary. At the committee's December 2014 meeting, department representatives stated that Iowa Code §321.375(1)(d), which provides standards for qualifications for school bus drivers, has been interpreted to require adoption of this federal standard. The representatives explained that the federal regulation only applies to drivers contracted with a school district, not drivers who are directly employed by a district, and only when such drivers cross state lines to transport students to or from extracurricular activities. They also explained that the department believes the federal standard would provide more safety for students, and that it is inappropriate to have multiple standards for school bus driver physicals. Therefore, the department will apply it to all Iowa school bus drivers.

Committee members asked what consequences there would be for failing to implement the federal regulation, and the representatives stated that \$37 million in federal funding could potentially be jeopardized. Committee members asked if there is any difference between the physical currently required under state law and the one required by the federal regulation. The representatives explained that the physical is the same; the only difference is which medical professionals are qualified to give the physical. Committee members asked how many bus drivers would be affected by this rule and how many would be affected by the federal requirement for drivers who cross state lines for extracurricular activities. The representatives were unsure how many bus drivers would be affected.

Committee members questioned whether and to what extent federal regulations actually require adoption of this policy for Iowa school bus drivers, whether the department's interpretation of state law is correct, and whether requiring additional certification for medical professionals to complete these physicals is necessary or appropriate. Committee members voted to delay the effective date of this filing until the adjournment of the 2015 Legislative Session of the General Assembly.

Action. Session delay. No action was taken on this matter during the 2015 Legislative Session.

REVENUE DEPARTMENT, *Multiresidential Property Tax Classification*, 12/10/14 IAB, ARC 1765C, ADOPTED.

Background. This rulemaking implements Iowa Code §441.21, subsection 13, which was enacted by 2013 Iowa Acts, Senate File 295, which took effect January 1, 2015. Senate File 295 created a new classification of property for property taxation purposes called "multiresidential." The rulemaking sets out the multiresidential property tax classification and provides for the determination of aggregate actual values of multiresidential real estate, the valuation and assessment of property classified as multiresidential, and the valuation and assessment of property with a dual classification.

Commentary. A department representative stated that the department received much public comment on the rulemaking, largely from local governments asserting that it would negatively affect their budgets. The representative explained that the rulemaking would affect only a small proportion of properties in the state, although some cities might be significantly affected, depending on the types of property they contain.

She stated that the department has sought to implement Senate File 295 as written and as intended and is willing to assist in any further legislative action on the matter during the 2015 Legislative Session.

Committee members stated that some legislators who voted on the legislation in 2013 believed Senate File 295 required that each portion of a multiresidential property would be taxed according to its use, instead of the whole property being taxed according to its primary use, as the rulemaking requires. Committee members questioned whether the legislation required that two otherwise identical businesses would be taxed differently because one of them shares a building with apartments. The representative responded that the department believes its approach is what the legislation requires. Committee members and the agency representative agreed that a statutory change would likely be necessary to resolve the issue.

Committee members asked if a property owner has a remedy if the owner disagrees with a local assessor's decision regarding a property's primary use. The representative explained that an owner can appeal to a local board of review, and then to the Property Assessment Appeal Board or district court.

Action. No action taken. 2015 Iowa Acts, House File 616, addressed the concerns raised during this rulemaking.

APPENDIX A: SUMMARY OF RULEMAKING IN 2014

Agency name	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
HUMAN SERVICES DEPARTMENT[441]	07	02	06	04		05	04		06	11		01	46
EDUCATION DEPARTMENT[281]		02		04		04			02	03		06	21
PUBLIC HEALTH DEPARTMENT[641]		02		05		04				02		04	17
Educational Examiners Board[282]		07	01		02		02				04		16
REVENUE and FINANCE DEPARTMENT[701]		03	01	02		01	01			03	01	02	14
INSPECTIONS and APPEALS DEPARTMENT[481]		02	01	01		01	01	01		02	01	03	13
Pharmacy Board[657]		03		02				02				05	12
College Student Aid Commission[283]		04				02		01		03			10
Professional Licensure Division[645]	02			02	01					02		01	08
Labor Services Division[875]	01			01		01	01			01		03	08
TRANSPORTATION DEPARTMENT[761]	01		01	02			01		01		01		07
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]	02		01			01	01	01				01	07
AGING, DEPARTMENT ON[17]							06						06
Natural Resource Commission[571]								01	01	03		01	06
ECONOMIC DEVELOPMENT AUTHORITY [261]			01	01		01		01	01			01	06
Environmental Protection Commission[567]		02				01		01	01				05
Architectural Examining Board[193B]						02			02				04
Insurance Division[191]	01	01			01					01			04
Iowa Finance Authority[265]				01			01		01	01			04
Utilities Division[199]	01		01						01		01		04
PERB[621]								01		01		01	03
SECRETARY OF STATE[721]							02					01	03
WORKFORCE DEVELOPMENT DEPARTMENT[871]	02		01										03
Engineering & Land Surveying Bd[193C]		01						01					02
Homeland Security & Emergency Management Division[605]							01				01		02
Public Defender[493]						02							02
Racing and Gaming Commission[491]					01	01							02
Real Estate Appraisers Board [193F]											02		02

Real Estate Commission[193E]				01	01								02
ADMINISTRATIVE SERVICES DEPARTMENT [11]						01		01					02
Ethics and Campaign Disclosure Board [351]				02									02
TREASURER [781]					01					01			02
Accountancy Examining Board[193]			01										01
Child Advocacy Board[489]			01										01
County Finance Committee[547]			01										01
Employment Appeal Board[486]			01										01
Interior Design Examining Board[193G]				01									01
IPERS [495]		01											01
Lottery Authority[531]					01								01
Management Department[541]			01										01
Medicine Board[653]											01		01
Nursing Board[655]							01						01
Professional Licensing & Regulation Bureau[193]										01			01
Public Safety Department[661]										01			01
Regents [681]									01				01
Soil Conservation Division[27]				01									01
Veterinary Medicine Board[811]					01								01
Voter Registration Commission[821]			01										01
Workers' Compensation Division[876]							01						01
Credit Union Division[189]										01			01
TOTAL	17	30	20	30	09	27	23	11	17	35	13	31	263

50 agencies

APPENDIX B: EMERGENCY RULEMAKING IN 2014

Agency name	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
HUMAN SERVICES DEPARTMENT[441]	03					02	04		01	01			11
ECONOMIC DEVELOPMENT AUTHORITY [261]			01			01							02
EDUCATION DEPARTMENT[281]						01							01
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]												01	01
REVENUE and FINANCE DEPARTMENT[701]						01							01
Pharmacy Board[657]				01									01
Iowa Finance Authority[265]									01				01
Natural Resource Commission[571]									01				01
Homeland Security & Emergency Management Division[605]											01		01
Workers' Compensation Division[876]							01						01
TOTAL	03	00	01	01	00	05	05	00	03	01	01	01	21

10 agencies

APPENDIX C: IOWA AGENCIES

The Reorganization Act of 1986 (Iowa Code chapter 7E) established most of Iowa's state agencies in a number of umbrella departments, with divisions, bureaus, sections, and units as subunits of a department. In addition to these departments, a variety of independent agencies are also established. Iowa Code chapter 7E defines a variety of agencies which include:

- An authority which is a body with independent power to issue and sell bonds.
- A board which has policymaking powers and the power to hear contested cases.
- A commission which has rulemaking powers.
- A committee which is appointed to study a specific problem and terminate on the completion of its assignment.
- A council which is an advisory body.
- A licensing board which sets standards of professional competence and conduct for a profession or occupation under its supervision.

The scheme established in 1986 was not maintained over the following decades with the result that many newer agencies are established as independent agencies unaffiliated with any umbrella department. Agencies that have been assigned agency identification numbers for rulemaking are as follows:

ADMINISTRATIVE SERVICES
DEPARTMENT[11]
AGING, DEPARTMENT ON[17]
AGRICULTURE AND LAND STEWARDSHIP
DEPARTMENT[21]
 Soil Conservation Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF INDUSTRY COUNCIL, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining
 Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
EARLY CHILDHOOD IOWA STATE
BOARD[249]

ECONOMIC DEVELOPMENT
AUTHORITY[261]
 City Development Board[263]
IOWA FINANCE AUTHORITY[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
EMPOWERMENT BOARD, IOWA[349]
ENERGY INDEPENDENCE, OFFICE OF[350]
ETHICS AND CAMPAIGN DISCLOSURE
BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]
 Status of Women Division[435]
 Status of Iowans of Asian and Pacific Islander
 Heritage[436]
HUMAN SERVICES DEPARTMENT[441]
INSPECTIONS AND APPEALS
DEPARTMENT[481]
 Employment Appeal Board[486]
 Child Advocacy Board[489]
 Racing and Gaming Commission[491]

State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT
SYSTEM[495]
IOWA PUBLIC INFORMATION BOARD[497]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY
COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE
TANK FUND BOARD, IOWA
COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY
COUNCIL[597]
PROPANE EDUCATION AND RESEARCH
COUNCIL, IOWA[599]
PUBLIC DEFENSE DEPARTMENT[601]
 Military Division[611]
HOMELAND SECURITY AND EMERGENCY
MANAGEMENT DIVISION[605]
PUBLIC EMPLOYMENT RELATIONS
BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Professional Licensure Division[645]
 Dental Board[650]
 Medicine Board[653]
 Nursing Board[655]
 Pharmacy Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SHEEP AND WOOL PROMOTION BOARD,
IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY
COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT
OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION
ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT
DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]

Workforce Development Board and Workforce
Development Center Administration Division[877]

APPENDIX D: ARRC POWERS

Notice of Intended Action	<ol style="list-style-type: none">1. General referral, 6 votes. Iowa Code §17A.8(7).2. Regulatory analysis, 6 votes. Iowa Code §17A.4A.3. Objection, 6 votes. Iowa Code §17A.4(6).4. 70-day suspension of further action, 7 votes. Iowa Code §17A.4(9).
Adopted	<ol style="list-style-type: none">1. General referral, 6 votes. Iowa Code §17A.8(7).2. Informal regulatory analysis, 6 votes. No statutory authority, customary.3. Objection, 6 votes. Iowa Code §17A.4(6).4. 70-day delay, 7 votes. Iowa Code §17A.4(7).5. Session delay, 7 votes. Iowa Code §17A.8(9).
Adopted and Filed Without Notice	<ol style="list-style-type: none">1. Mandatory prior approval by ARRC, 6 votes. Iowa Code §17A.4(3).2. General referral, 6 votes. Iowa Code §17A.8(7).3. Regulatory analysis, 6 votes. Iowa Code §17A.4A.4. Objection, 6 votes. Iowa Code §17A.4(6).5. 180-day sunset objection, 7 votes. Iowa Code §17A.4(3).6. Suspension of applicability until 180-day sunset, 7 votes. Iowa Code §17A.4(3)(b)(2).
Adopted and Filed Emergency	<ol style="list-style-type: none">1. Mandatory prior approval by ARRC, 6 votes. Iowa Code §17A.4(3).2. General referral, 6 votes. Iowa Code §17A.8(7).3. Regulatory analysis, 6 votes. Iowa Code §17A.4A.4. Objection, 6 votes. Iowa Code §17A.4(6).5. 180-day sunset objection, 7 votes. Iowa Code §17A.4(3).6. Suspension of applicability until 180-day sunset, 7 votes. Iowa Code §17A.4(9).7. 70-day suspension of applicability, 7 votes. Iowa Code §17A.4(7).8. Session suspension of applicability, 7 votes. Iowa Code §17A.4(9).

Adopted and Filed Emergency After Notice	<ol style="list-style-type: none"> 1. General referral, 6 votes. Iowa Code §17A.8(7). 2. Regulatory analysis, 6 votes. Iowa Code §17A.4A. 3. Objection, 6 votes. Iowa Code §17A.4(6). 4. 70-day suspension of applicability, 7 votes. Iowa Code §17A.4(7)(a). 5. Session suspension of applicability, 7 votes. Iowa Code §17A.8(9).
Notice of Termination	No action.
Rules in effect (by special review)	<ol style="list-style-type: none"> 1. General referral, 6 votes. Iowa Code §17A.8(7). 2. Informal regulatory analysis, 6 votes. No statutory authority, customary. 3. Objection, 6 votes. Iowa Code §17A.4(6).
Any rules-related matter	ARRC-approved legislation, 6 votes, 3 from each chamber. Joint Rule 19.

SUSPENSION OF NOTICE — Iowa Code §17A.4(9). Seven votes required. The committee, following Notice of Intended Action, may suspend further action relating to that Notice for 70 days.

REGULATORY ANALYSIS — Iowa Code §17A.4A. Six votes required. Each regulatory analysis must include quantifications of the data and must take account of both short-term and long-term consequences. An agency must issue a regulatory analysis of a proposed rule if an appropriate request is made within 32 days after the Notice is published. When an analysis has been requested, the agency must extend the time for public comment on the proposed rule for 20 days beyond the date a summary of the analysis is published in the IAB.

INFORMAL REGULATORY ANALYSIS — No statutory authority, customary. Six votes required. The committee has on occasion informally requested an agency to conduct a regulatory analysis of a rule after the statutory period for requesting a regulatory analysis pursuant to Iowa Code §17A.4A has elapsed. This may include a rule that is already in effect. While a statutory regulatory analysis will typically be extensive and take a significant amount of time to complete, an informal regulatory analysis may be more simple and concise for the purpose of conveying information to the committee in a timely manner. An agency will typically comply with such a request without issue.

GENERAL REFERRAL — Iowa Code §17A.8. Six votes required. The committee may refer any rule, whether proposed or in effect, to the General Assembly for further study. This power does not impact the enforceability or legality of the rule; it is simply a mechanism to bring a rule-making issue to the attention of the legislature. A letter is prepared summarizing the issue and sent to the Speaker of the House and President of the Senate. Those officers then forward the material to the appropriate standing committees. Any additional action is discretionary with the standing committee members.

OBJECTION — Iowa Code §17A.4(6). Six votes required. An objection may be imposed on any rule, whether proposed or in effect. It is a document outlining the committee’s opinion that a rule is “unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to the agency.” If that rule is subsequently challenged in court, the objection strips away the presumption of validity that is normally accorded administrative rules and forces the agency to prove the legality of the rule. If the agency fails, it must pay both the court costs and the attorney fees of the person challenging the rule.

THE “EMERGENCY” RULE APPROVAL — Iowa Code §17A.4(3)(a). Six votes required. The committee must approve the filing of a rule that is either Adopted and Filed Emergency or Adopted and Filed Without Notice, pursuant to Iowa Code §17A.4(3). To the extent practicable, these approval reviews will be scheduled during the regular monthly meeting. When necessary, the committee will schedule a special telephonic conference.

THE “EMERGENCY” RULE OBJECTION — Iowa Code §17A.4. Seven votes required. The committee can object to the “emergency” filing of a rule and sunset the rule after 180 days. At one time all emergency rules were temporary, but the problem was that a large majority of these filings were appropriate and should be left in effect. The solution was to make “emergency” rules permanent; but in those cases where abuse occurs, the committee is empowered to transform them into temporary rules by filing the objection. This procedural objection is not necessarily an attack on the rule itself; it is an attack on the procedure used to implement the rule.

THE “EMERGENCY” RULE SUSPENSION — Iowa Code §17A.4(3)(c). Seven votes required. If the committee objects to the “emergency” adoption of a rule, the committee may also suspend the applicability of the rule until the 180-day sunset.

SESSION DELAY — Iowa Code §17A.8(9). Seven votes required. A session delay may be imposed only before the effective date of the rule has passed. It postpones the effective date of the rule, or a designated portion of a rule, until the adjournment of the next session of the General Assembly. A letter is prepared summarizing the issue and is sent to the Speaker of the House and President of the Senate. Those officers then forward the material to the appropriate standing committees. Any additional action is discretionary with the committee members. If the legislature takes no action, the rule automatically goes into effect upon adjournment.

EMERGENCY RULE SESSION SUSPENSION — Iowa Code §17A.8(9)(a). Seven votes required. Within 35 days of its effective date, an emergency rule may be suspended until the adjournment of the next session of the General Assembly. A letter is prepared summarizing the issue and is sent to the Speaker of the House and President of the Senate. Those officers then forward the material to the appropriate standing committees. Any additional action is discretionary with the committee members. If the legislature takes no action, the rule automatically goes into effect upon adjournment.

SEVENTY-DAY DELAY — Iowa Code §17A.4(5). Seven votes required. A 70-day delay may be imposed only before the effective date of the rule has passed. It is a tool to buy more time to review a proposed rule. It is most frequently used to create a “cooling off” period before the committee takes more drastic action, giving interested

persons an opportunity to reach compromises or solutions. At the end of the period, the committee meets again to review the filing and retains all of its original powers.

EMERGENCY RULE SEVENTY-DAY SUSPENSION — Iowa Code §17A.4(7)(a). **Seven votes required.** Within 35 days of its effective date, an emergency rule may be suspended for 70 days. A 70-day delay serves a function similar to a 70-day delay.

SPECIAL REVIEW — Iowa Code §17A.8(6). **By request.** Iowa Code §17A.8(6) provides that “[t]he committee shall meet for the purpose of selectively reviewing rules, whether proposed or in effect.” There is no statutory procedure for how the committee reviews rules that are in effect; typically a committee member who would like the committee to review a rule that is in effect will submit the request to the chair, who will then add the request to the committee’s next agenda. Notice will be provided to the appropriate agency that the agency will be expected to have a representative present at the meeting to review the rule. So that the agency will have adequate time to prepare for such a review, it is advisable to submit a request for a special review at least one week before the committee’s monthly meeting. Actions the committee may take on a rule that is already in effect are limited; the committee can make a general referral, impose an objection, or request an informal regulatory analysis.

ARRC LEGISLATION — Joint Rule 19. Six votes required, majority of each house. The committee may introduce a bill relating to rules into either house, at any time. The bill must be referred to a standing committee, which must take action on the bill within three weeks of referral, except bills referred to appropriations and ways and means committees. ARRC bills are exempt from the legislative funnel deadlines.