

ADMINISTRATIVE RULES REVIEW COMMITTEE  
Annual Report  
1977

In the 1977 calendar year administrative agencies filed with the secretary of state 406 adopted rule changes. These changes involved well over 1200 rule adoptions, amendments or repealers. The filings are as follows:

Agriculture	35	Insurance Dept.	3
Appeal Board	2	Iowa Development	1
Archaeologist	1	Labor	3
Attorney General	1	Landscape Architecture	2
Arts Council	2	Library Dept.	1
Banking Dept	6	Livestock Health	1
Campaign Finance	3	Mental Health Auth.	1
Citizens Aide	1	Merit Employment	6
City Development Bd.	1	Natural Resources	2
Commerce Commission	8	Nursing Board	10
Comptroller	2	Occupational Safety	1
Conservation Commission	34	Pharmacy Examiners	3
Crime Commission	1	Planning & Programming	10
Dentistry Board	2	Public Defense	1
Drug Abuse Authority	1	PERB	3
Educational Radio & TV	1	Public Instruction	7
Employment Security	8	Public Safety	8
Energy Policy	1	Records Commission	1
Engineering Examiners	2	Regents	8
Environmental Quality	39	Revenue	17
Fair Board	2	Secretary of State	2
General Services	9	Social Services	78
Health Dept	32	Transportation	24
Higher Education Facil.	1	Treasurer	1
Historical Dept	2	Uniform State Laws	1
Housing Finance	1	Vocational Education	1
Industrial Commissioner	1	Voter Registration	11

35 of the items contained in these 406 adopted rule changes were objected to by the Administrative Rules Review Committee and one by the Attorney General. Of these 36 objections, five were procedural, i.e., that the rule adoption constituted an abuse of the emergency rulemaking power of Code sections 17A.4 and 5. Of these procedural objections four were corrected by filing under the normal rulemaking procedures and one objection was sustained in the district court. The remaining 31 objections were substantive, i.e., that the rule itself was either arbitrary, capricious, unreasonable, or beyond the statutory authority of the agency. Only 8 of the substantive objections have been cured. The rules objected to and the final disposition is as follows:

Agriculture. Rules 11.1(1)-(3) and 11.2(2) delegated to the Iowa Poultry Association certain agency authority. Objection was based on the grounds that it was beyond the scope of authority to delegate state functions to a private group. CORRECTED.

Archaeologist. Rule 6.3 provided the archaeologist would keep certain information secret from the public. Objection based on the grounds that the rule violated the public records law, chapter 68A. CORRECTED.

Commerce Commission. Rules 24.4(4) and (5) dealt with systems projections and economic feasibility for power plant siting. Objection based on the grounds that the requirements were unreasonable. NOT CORRECTED.

Rule 24.2(1)i contained a landowner notice requirement. Objection based on the grounds that the requirement was beyond the statutory authority in that the rule differed from the statutory notice. CORRECTED.

Conservation Commission. Chapter 101 was filed 'emergency' Objection by the attorney general based on the grounds there was no statutory authority to authorize dove hunting. Rule overturned in court.

Dentistry. Rule 8.2 set up a 'faculty license' for dentistry. Objection based on the grounds the rule was beyond the statutory authority. Objection was cured by statutory change.

#### Employment Security

1) Rule 6.2(5)a dealt with the admission of evidence in a contested case. Objection based on the grounds that the rule was unreasonable. NOT CORRECTED.

2) Rule 3.6(1) was objected to as an abuse of the emergency rule-making procedures. CORRECTED.

#### Environmental Quality

1) Rule 16.3(1)b forbade the discharge of certain materials into streams. Objection based on the grounds the rule was unreasonably restrictive. NOT CORRECTED

2) Rule 4.2(4) banned leaf burning in three Iowa Cities. Objection based on the grounds the rule was arbitrary. NOT CORRECTED.

#### Health Dept.

1) Rule 153.4 established a square footage requirement for barber shops. Objection based on the grounds that the requirement was beyond the statutory authority. CORRECTED.

2) Rule 153.3 required a separate outside entrance. Objection based on the grounds the requirement was beyond the statutory authority. NOT CORRECTED.

3) Rule 150.2 established a square footage requirement for cosmetology establishments. Objection based on the grounds the requirement was beyond the authority. NOT CORRECTED.

4) Rule 150.3 required a separate outside entrance. Objection based on the grounds that the requirement was beyond the statutory authority. NOT CORRECTED

5) Rule 149.7(4) required out of state applicants to hold a license from that state. Objection based on the grounds that the rule was unreasonable. NOT CORRECTED.

6) Chapter 7 required physicians report abortions. Objection based on the grounds that the chapter was beyond the statutory authority. NOT CORRECTED.

7) Rules 57.24, 58.27(4)&(5), 59.32(4)&(5) limited the authority of the care review committee. Objection based on the grounds that the limitation was beyond the authority. NOT CORRECTED.

8) Rule 58.31 banned scatter rugs in care facilities. Objection based on the grounds that the restriction was unreasonable. NOT CORRECTED.

#### Higher Education Facilities Commission

- 1) Rule 2.1(1) established application requirements for scholarships. Objection based on the grounds that the requirement was arbitrary. NOT CORRECTED.
- 2) Rule 2.1(4)a established criteria for awards. Objection based on the grounds the criteria were unreasonable. NOT CORRECTED.

#### General Services

- 1) Rule 10.6(4) established procedures for employee parking. Objection based on the grounds the procedure was unreasonable. NOT CORRECTED.
- 2) Rule 5.4(5) specified the cost of xerox copies. Objection based on the grounds that the rule was arbitrary. CORRECTED.

Library. Rule 1.21(2) forbade the public to check books out of the law library. Objection based on the grounds that the rule was arbitrary and unreasonable. NOT CORRECTED.

#### Pharmacy.

- 1) Rule 8.14(4) established darvon as a controlled drug. Objection based on the grounds that the rule was arbitrary. NOT CORRECTED.

Revenue. Chapter 75, equipment car tax, was filed emergency. Objection based on the grounds that such a filing was an abuse of the emergency procedures of Chapter 17A. CORRECTED.

#### Social Services

- 1) Rule 9.3(3) dealt with the use of evidence provided by unidentified 3rd parties. Objection on the grounds use of such evidence was arbitrary, capricious and unreasonable. NOT CORRECTED.
- 2) 78.9 dealt with home health agencies, filed emergency. Objection on the grounds that the filing abused the emergency procedures. CORRECTED.
- 3) Rule 141.3(2) allowed children in need of assistance to be placed in Eldora or Mitchellville. Objection on the grounds such a placement was unreasonable. NOT CORRECTED.
- 4) Rule 26.4(1)b banned the use of weapons by all parolees. Objection based on the grounds such a restriction was unreasonable. NOT CORRECTED.
- 5) Rule 78.1 was a rule adoption and rescission on abortions, both filed emergency. Struck down in court as an abuse of emergency procedures.
- 6) Rule 139.2(3)a & b established education requirements for a child placement investigator. Objection based on the grounds that the requirements were unreasonable. NOT CORRECTED.
- 7) Chapter 141 established a hearing procedure for children violating placement contract (parole). Objection based on the grounds that the hearing unreasonable lacked all procedural safeguards. NOT CORRECTED.
- 8) Rule 25.2 established an advisory panel for corrections Objection based on the grounds that there was no statutory authority to establish such a panel. NOT CORRECTED.
- 9) Rule 81.10(6) established payments for out of state nursing care. Objection based on the grounds that the requirements were beyond the authority, arbitrary and capricious. NOT CORRECTED.

Transportation. Rule 3.1(1)c(3) referred to the state transportation map. Objection on the grounds that the map did not have a date certain. CORRECTED,

Voter Registration. Rule 4.3(4) was filed emergency. Objection based on the grounds this was an abuse of the emergency procedures. CORRECTED.

### Synopsis

Rules Objected to in 1977

- 1) procedural objections
- 2) substantive objections

36

5 (all corrected or struck in court)  
31 ( 8 corrected or overcome  
by statute)