



Petition for Rulemaking

Iowa Code §17A.7(1)

Iowa Code §17A.7(1) creates a formal application process allowing any interested person to request that an agency adopt, amend, or repeal a rule. Any person can make such a request. There is no requirement that the petitioner have a real and direct interest or show that some legal right exists. Moreover, there is no requirement that a person use this process prior to seeking other judicial remedies. While an agency cannot be compelled to change a rule or adopt a new rule, the receiving agency is required to respond to the petition within 60 days. The petition process requires only that an agency give fair consideration to the request. This process requires an agency to reconsider its existing rules or consider adoption of a new rule. The process also requires the agency to provide a substantive response to a petition, even if the petition is denied. If a rule becomes obsolete, the petition process provides the ability to bring the issue to the attention of the agency and encourage that the rule be updated or repealed. Similarly, the petition process provides the ability to bring the lack of a possibly necessary or advisable rule to the agency's attention as well.

Petition Format and Agency Consideration

The Uniform Rules on Agency Procedure suggest a format for the petition process which has been largely adopted by executive branch agencies, although an agency's specific rules should be consulted before submitting a petition. The petition must include the actual text or a summary of the proposed change and the arguments and evidence that support the request. The petition must also include various background information specified in each agency's rules on the petition process.

Within 60 days of the request, the agency must either commence rulemaking or deny the petition in writing, stating its reasons for the denial. The agency is not required by statute to hold a formal hearing on the petition, but the uniform rules do call for the opportunity for an informal meeting to discuss the petition. The agency is free to decide the matter based on the information contained in the petition, but it is also free to supplement that information with any other source it chooses. Even if the agency commences rulemaking based on the petition, the agency is not required to complete rulemaking on the proposal. The agency is also not required to notice or adopt the exact language requested by the petitioner.

The agency must submit any petition for rulemaking it receives, and the disposition of the petition, to the Administrative Rules Review Committee.

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