Regulatory Analysis

Notice of Intended Action to be published: 481—Chapters 10 and 11
"Rules of Procedure and Practice Before the Administrative Hearings Division; Procedure for Contested Cases Involving Permits to Carry Weapons and Acquire Firearms"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 10A.104(5), 10A.801(7), and 724.21A(6)

State or federal law(s) implemented by the rulemaking: Iowa Code chapters 10A, 17A, and 724

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 18, 2025	6200 Park Avenue
3:30 to 4 p.m.	Des Moines, Iowa

Virtual participation information will be available on the Department of Inspections, Appeals, and Licensing website prior to the hearing.

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Department no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Jeremiah Junker
Department of Inspections, Appeals, and Licensing
6200 Park Avenue
Des Moines, Iowa 50321
Phone: 515.672.4745
Email: jeremiah.junker@dia.iowa.gov

Purpose and Summary

This proposed rulemaking repromulgates Chapters 10 and 11 and implements Iowa Code chapters 10A, 17A, and 724 in accordance with the goals and directives of Executive Order 10.

This proposed rulemaking establishes rules of procedure for the Department's Administrative Hearings Division (AHD), which hears contested cases for various State of Iowa agencies and disciplinary hearings for licensing boards. In fiscal year 2025, AHD's Central Panel Bureau (CPB), consisting of 17 administrative law judges, received a total of 11,021 cases and closed 11,334 cases pursuant to the rules of procedure established by the original chapter. Specifically, CPB received 6,769 cases and closed 6,807 cases from the Department of Health and Human Services; received 3,015 cases and closed 3,286 cases from the Department of Transportation; and received 1,237 cases and closed 1,241 cases from other State or local agencies.

Additionally, this proposed rulemaking consolidates the existing Chapter 11, "Procedure for Contested Cases Involving Permits to Carry Weapons and Acquire Firearms," with the general rules of procedure and practice in Chapter 10 into a unified chapter.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

Parties before the AHD may incur costs by the nature of needing to meet the procedural rules of this proposed rulemaking.

- **Classes of persons that will benefit from the proposed rulemaking:**

The AHD and parties before the AHD will benefit from this proposed rulemaking since having procedural rules improves efficiency, promotes fairness, and encourages consistency compared to a lack of procedural rules.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

Generally, there are no direct costs incurred to comply with this proposed rulemaking.

However, in contested cases involving permits to carry weapons and acquire firearms, persons who wish to appeal the denial, suspension, or revocation of an applicable permit incur a direct cost in the form of a $10 fee to file the appeal, but this fee is statutorily established by Iowa Code section 724.21A(2). Additionally, appellants and government parties to the appeal are potentially subject to direct costs in the form of court costs and reasonable attorney fees of the prevailing party, but this is also statutorily established by Iowa Code section 724.21A(8).

- **Qualitative description of impact:**

Parties may indirectly incur costs by the nature of needing to meet the requirements of this proposed rulemaking. However, the indirect costs of compliance can vary based on the size and/or complexity of the matter and are not easily quantifiable, and all parties are subject to the same rules of procedure and associated costs of compliance. Finally, compared to not having any costs of compliance (i.e., not having any procedural rules), having procedural rules improves efficiency, promotes fairness, and encourages consistency.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

There are not any identifiable costs to AHD or to the Department associated with this proposed rulemaking. Rather, because this proposed rulemaking provides consistent and defined procedures for proceedings before AHD, this proposed rulemaking improves efficiency for AHD and the Department when compared to a lack of procedural rules.

- **Anticipated effect on State revenues:**

This proposed rulemaking has no anticipated effect on State revenues.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

As for direct costs, as noted above, all direct costs are set by the Iowa Code and are not impacted by this proposed rulemaking. As for indirect costs of compliance, having procedural rules improves efficiency, promotes fairness, and encourages consistency in AHD proceedings compared to a lack of procedural rules.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

In AHD and the Department's opinion, this proposed rulemaking establishes fair and sound procedural guidelines, and making these proposed rules less restrictive would undermine that. Notably, these proposed rules apply equally to all parties in a proceeding.

Finally, compared to the existing rules, these proposed rules have been streamlined, clarified, and made less restrictive when possible in accordance with the goals and directives of Executive Order 10. Additionally, this proposed rulemaking consolidates two existing chapters of the Iowa Administrative Code into this single proposed chapter.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The alternatives that were seriously considered by the Department (consolidation of Chapters 10 and 11 and conforming subpoena rules with those in the Iowa Rules of Civil Procedure) are included in this proposed rulemaking.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

See response in Sections 5 and 6.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

This proposed rulemaking does not have a substantial impact on small business. To the extent a small business is a party in a proceeding before AHD and is impacted by these proposed rules, the impact should not be substantial and the rules apply uniformly to all parties in the proceeding.

Text of Proposed Rulemaking

ITEM 1. Rescind 481—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
RULES OF PROCEDURE AND PRACTICE BEFORE
THE ADMINISTRATIVE HEARINGS DIVISION

481—10.1(10A) Scope and application. To the extent not otherwise provided by law of the transmitting agency or licensing board, this chapter applies to all contested case proceedings before the division or for which an ALJ is assisting another agency or board.

481—10.2(10A) Definitions.

"AEDMS" means the administrative electronic document management system, which is the division's electronic filing and case management system.

"Agency" means the same as defined in Iowa Code section 17A.2(1) or a governmental entity pursuant to Iowa Code section 10A.801(5), which has original subject matter jurisdiction in the contested case.

"ALJ" means the administrative law judge, who is the person who presides over or assists with contested cases and other proceedings.

"Board" means a licensing board as defined in Iowa Code section 272C.1(6).

"Division" means the division of administrative hearings in the department of inspections, appeals, and licensing (DIAL).

"Issuance" means the date of a decision or order, mailing of a decision or order, or date of delivery if service is by other means.

"Presiding officer" means any person or body who acts as a presiding officer of a contested case proceeding under the authority of Iowa Code section 17A.11(1).

"Proposed decision" means the ALJ's recommended findings of fact, conclusions of law, and decision and order in contested cases where the agency did not preside.

481—10.3(10A,17A) Time requirements. Time shall be computed as provided in Iowa Code section 4.1(34). For good cause, the presiding officer may extend or shorten the time to take any action, except as provided otherwise by rule or law.

481—10.4(10A) Requests for a contested case hearing. Requests for a contested case hearing are made to the agency with subject matter jurisdiction. That agency shall determine whether to initiate a contested case proceeding.

481—10.5(10A) Transmission of contested cases.

10.5(1) The agency shall transmit the matter either by creating a new case in AEDMS or by submitting a transmittal form. The following information is required:

a. The name of the transmitting agency;

b. The name, address, email address, and telephone number of the contact person in the transmitting agency;

c. The name or title of the proceeding;

d. Any agency docket or reference number;

e. A citation to the jurisdictional authority of the agency regarding the matter in controversy;

f. Any anticipated special features or requirements that may affect the hearing;

g. Whether the hearing should be held in person, by telephone, or by video conference call;

h. Any special legal or technical expertise needed to resolve the issues in the case;

i. The names, phone numbers, email addresses, and addresses of all parties and their attorneys or other representatives;

j. The date the request for a contested case hearing was received by the agency;

k. A statement of the issues involved and a reference to statutes and rules involved;

l. Any mandatory time limits that apply to the processing of the case;

m. Earliest appropriate hearing date; and

n. Whether a petition or answer is required.

10.5(2) The following documents shall be attached to the completed transmittal form or uploaded into AEDMS upon filing of a new case:

a. A copy of the document showing the agency action in controversy; and

b. A copy of any document requesting a contested case hearing.

481—10.6(17A) Notices of hearing and prehearing conference.

10.6(1) A contested case is commenced when the division or board issues a notice of hearing or notice of prehearing conference. Responsibility for issuance of the notice and the manner of service shall be resolved by agreement between the division and the transmitting agency or board.

10.6(2) Notices shall contain the information required by Iowa Code section 17A.12(2) and any additional information required by statute or rule. Notices shall be served by first-class mail or by AEDMS to all parties who are registered users unless otherwise required or permitted by statute or rule or agreed to pursuant to subrule 10.6(1).

10.6(3) Any party may request a prehearing conference, or it may be set upon the presiding officer's own motion. Prehearing conferences may provide an opportunity to be heard on the selection of date, time, manner of hearing, and any other matter set forth in the notice or raised by the parties or presiding officer.

481—10.7(10A,17A) Manner of proceedings. Unless otherwise provided by statute or rule, the presiding officer holds the discretion to conduct hearings by telephone conference, video conference, or in person. Upon request, the presiding officer may allow witnesses to testify remotely, either via phone or video, in an in-person hearing.

481—10.8(10A,17A) Scheduling. Contested case hearings are scheduled according to the following criteria.

10.8(1) *Agency hearings.* The division will promptly schedule hearings, with consideration of the availability of an ALJ, the requests of the parties or transmitting agency, and any special circumstances.

10.8(2) *Board hearings.* When a board requests an ALJ to assist with a contested case proceeding, the board shall consult with the division prior to scheduling hearings to determine the availability of an ALJ.

481—10.9(17A) Disqualification. An ALJ shall withdraw from a contested case under the circumstances listed in 481—subrule 15.2(11) or as otherwise required by law.

481—10.10(10A,17A) Consolidation—severance.

10.10(1) *Consolidation.* The presiding officer may, upon motion by any party or upon the presiding officer's own motion, consolidate any or all matters at issue in two or more proceedings docketed under these rules when:

a. There exist common parties or common questions of fact or law;

b. Consolidation would expedite and simplify consideration of the issues; and

c. Consolidation would not adversely affect the rights of parties engaged in otherwise separate proceedings.

10.10(2) *Severance.* The presiding officer may, upon motion by any party or upon the presiding officer's own motion, for good cause shown, order any proceeding or portion of the proceeding severed.

481—10.11(10A,17A) Pleadings. Pleadings may be required by the notice of hearing or by order of the presiding officer.

481—10.12(17A) Service and filing of documents.

10.12(1) *When service is required.* Except where otherwise specifically authorized by law, every pleading, motion, or other document filed in the contested case proceeding and every document relating to discovery in the proceeding shall be served upon each of the parties to the proceeding, including the originating agency. The party filing a document is responsible for service on all parties.

10.12(2) *Methods of performing service.* Service upon a party represented in the contested case proceeding by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by electronically filing in AEDMS or delivering, mailing, or transmitting by fax or by email a copy to the party or attorney at the party's or attorney's last-known mailing address, fax number, or email address. Service by first-class mail is complete upon mailing, except where otherwise specifically provided by statute, rule, or order.

10.12(3) *Filing with the division.* After a matter has been assigned to the division, and until a decision is issued, every pleading, motion, or other document shall be filed with the division, rather than the originating agency. All documents that are required to be served upon a party shall be filed simultaneously with the division.

Except where otherwise provided by law, a document is deemed filed with the division at the time it is:

a. Delivered to the division at 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321, and date-stamped received;

b. Mailed to the division by first-class mail or by state interoffice mail so long as there is adequate proof of mailing;

c. Transmitted by fax to 515.281.4477 or by email to adminhearings@dia.iowa.gov; or

d. File stamped in AEDMS.

10.12(4) *Proof of mailing.* Adequate proof of mailing includes the following:

a. A legible United States postal service postmark on the envelope;

b. A certificate of service;

c. A notarized affidavit; or

d. A certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Department of Inspections, Appeals, and Licensing, Administrative Hearings Division, 6200 Park Avenue, Des Moines, Iowa 50321, and to the names and addresses of the parties listed below by depositing the same in (a United States post office mailbox with correct postage properly affixed) or (state interoffice mail).

(date) (signature)

481—10.13(17A) Discovery.

10.13(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by rules of the agency or by order of the presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

10.13(2) Any motion relating to discovery shall allege that the moving party has made a good-faith attempt to resolve the issues raised by the motion with the opposing party.

481—10.14(10A,17A) Subpoenas.

10.14(1) *Form and contents.*

a. Requirements. Every subpoena must:

(1) State that the subpoena is issued by the division;

(2) State the title of the proceeding and its case number;

(3) Command each person to whom it is directed to do the following at a specified time and place: attend and testify; produce designated documents, electronically stored information, or tangible things in that person's possession, custody, or control; or permit the inspection of premises; and

(4) Set out the text of subrules 10.14(4) and 10.14(5).

b. Command to attend a deposition; notice of the recording method. A subpoena commanding attendance at a deposition must state the method for recording the testimony.

c. Combining or separating a command to produce or to permit inspection; specifying the form for electronically stored information. A command to produce documents, electronically stored information, or tangible things or to permit the inspection of premises may be included in a subpoena commanding attendance at a deposition, hearing, or trial, or may be set out in a separate subpoena. A subpoena may specify the form or forms in which electronically stored information is to be produced.

d. Command to produce; included obligations. A command in a subpoena to produce documents, electronically stored information, or tangible things requires the responding party to permit inspection, copying, testing, or sampling of the materials.

10.14(2) *Issuance.* The division will issue a subpoena, signed but otherwise in blank, to a party who requests it in writing. That party must complete it before service. An attorney licensed or otherwise authorized to practice law in Iowa also may issue and sign a subpoena as an officer of the court.

10.14(3) *Service.*

a. By whom; tendering fees; serving a copy of certain subpoenas. Any person who is at least 18 years old and not a party may serve a subpoena. Serving a subpoena requires delivering a copy to the named person and, if the subpoena requires that person's attendance and, if demanded, tendering the fees for one day's attendance and traveling fees to and from the court. If the subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, then before it is served, a notice must be served on each party.

b. Permissible place of service. A subpoena may be served at any place within the state of Iowa.

c. Proof of service. Proving service, when necessary, requires filing with the division a statement showing the date and manner of service and the names of persons served. The server must certify the statement in accordance with Iowa Code section 622.1.

10.14(4) *Protecting a person subject to a subpoena.*

a. Avoiding undue burden or expense. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena.

b. Command to produce materials or permit inspection.

(1) *Appearance not required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(2) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises, or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

1. At any time, on notice to the commanded person, the serving party may move the division for an order compelling production or inspection.

2. These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

c. Attendance. Any party shall be permitted to attend at the same time and place and for the same purposes specified in the subpoena. No prior notice of intent to attend is required.

d. Quashing or modifying a subpoena.

(1) *When required.* On timely motion, the division must quash or modify a subpoena that:

1. Fails to allow a reasonable time to comply;

2. Requires a person who is neither a party nor a party's officer to travel more than 50 miles from where that person resides, is employed, or regularly transacts business in person, except that a person may be ordered to attend trial anywhere within the state in which the person is served with a subpoena;

3. Requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

4. Subjects a person to undue burden.

(2) *When permitted.* To protect a person subject to or affected by a subpoena, the division may, on motion, quash or modify the subpoena if it requires:

1. Disclosing a trade secret or other confidential research, development, or commercial information; or

2. Disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

3. A person who is neither a party nor a party's officer to incur substantial expense to travel more than 50 miles to attend a hearing.

(3) *Specifying conditions as an alternative.* In the circumstances described in subparagraph 10.14(4)*"d"*(2), the division may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

1. Shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

2. Ensures that the subpoenaed person will be reasonably compensated.

10.14(5) *Duties in responding to a subpoena.*

a. Producing documents or electronically stored information. These procedures apply to producing documents or electronically stored information:

(1) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(2) *Form for producing electronically stored information not specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(3) *Electronically stored information produced in only one form.* The person responding need not produce the same electronically stored information in more than one form.

(4) *Inaccessible electronically stored information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the division may nonetheless order discovery from such sources if the requesting party shows good cause. The division may specify conditions for the discovery.

b. Claiming privilege or protection.

(1) *Information withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

1. Expressly make the claim; and

2. Describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(2) *Information produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for the claim. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

10.14(6) *Duties of issuer of subpoena; producing copies of materials obtained by subpoena.* When a party on whose behalf a subpoena has been issued thereby creates or obtains copies of designated electronically stored information, books, papers, documents or tangible things, that party shall make available a duplicate of such copies at the request of any other party, who shall be responsible for payment of the reasonable cost of making the copies.

481—10.15(10A,17A) Motions.

10.15(1) No technical form is required for motions. Any motion for summary judgment shall be filed in compliance with the requirements of Iowa Rules of Civil Procedure.

10.15(2) Any party may file a written resistance or response to a motion within 14 days after the motion is served unless the time period is extended or shortened by rules of the agency or by order of the division or the presiding officer.

10.15(3) The presiding officer may schedule oral argument on any motion upon the request of any party or upon the presiding officer's own motion.

10.15(4) Except for good cause, all motions pertaining to the hearing must be filed and served at least ten days prior to the hearing date unless the time period is shortened or lengthened by order of the presiding officer or the rules of the agency provide otherwise.

481—10.16(10A) Continuances.

10.16(1) A request for continuance shall be made at the earliest opportunity and state the specific reasons for the request.

10.16(2) No application for continuance will be made or granted ex parte except in an emergency where notice is not feasible. The agency may waive notice of requests for a case or a class of cases.

10.16(3) Except where otherwise provided, a continuance may be granted at the discretion of the presiding officer. Factors to consider include:

a. Any prior continuances;
b. The interests of all parties;
c. The likelihood of informal settlement;
d. Existence of emergency;
e. Objection to the continuance;
f. Any applicable state or federal statutes or regulations;
g. The existence of a conflict in the schedules of counsel or parties or witnesses;
h. The timeliness of the request; and
i. Other grounds stated in the motion or resistance.

481—10.17(10A,17A) Withdrawals. The party that requested the contested case may move to withdraw the party's request for a hearing at any time prior to the hearing. The ALJ may require the party to submit a written request after an oral request. Unless otherwise provided, a withdrawal shall be with prejudice.

481—10.18(10A,17A) Intervention.

10.18(1) *Motion.* A motion for leave to intervene must be filed as early in the proceeding as possible and must state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding.

10.18(2) *When filed.* Motion for leave to intervene shall be filed at least 20 days before the hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner.

10.18(3) *Grounds for intervention.* The movant must demonstrate that:

a. Intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties;
b. The movant will be aggrieved or adversely affected by a final order; and
c. The interests of the movant are not being adequately represented by existing parties; or that it is otherwise entitled to intervene.

10.18(4) *Effect of intervention.* A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues to be raised or otherwise condition the intervenor's participation in the proceeding.

481—10.19(17A) Hearing procedures.

10.19(1) When an ALJ has been appointed as the presiding officer in a contested case, the ALJ may:

a. Rule on motions;
b. Preside at the hearing;
c. Require the parties to submit briefs;
d. Ensure that the record is fully and fairly developed by inquiring into matters at issue; and
e. Issue orders and rulings to ensure the orderly conduct of the proceedings.

10.19(2) All objections to procedures, admission of evidence, or any other matter shall be timely made and stated on the record.

10.19(3) Parties in a contested case have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Agencies or partnerships, corporations or associations may be represented by any member, officer, director, or duly authorized agent. Any party may be represented by an attorney or as otherwise authorized by law.

10.19(4) Parties in a contested case have the right to introduce evidence on points at issue, to cross-examine witnesses, and to present evidence in rebuttal.

10.19(5) The ALJ shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly or disruptive.

10.19(6) Witnesses may be sequestered during the hearing.

10.19(7) The ALJ may allow the parties to make opening statements and closing arguments and may determine the order of presentation of evidence. Each witness shall be sworn or affirmed by the ALJ and be subject to examination.

481—10.20(17A) Evidence.

10.20(1) The presiding officer shall rule on admissibility of evidence and may take official notice of facts.

10.20(2) Stipulation of facts is encouraged.

10.20(3) Evidence shall be confined to the issues on which there has been fair notice prior to the hearing. The presiding officer may take testimony on a new issue if the parties waive the right to notice and no other objection is made. If there is objection, the presiding officer may refuse to hear the new issue and may make a decision on the original issue in the notice or may grant a continuance to allow the parties adequate time to amend pleadings and prepare their cases on the additional issue.

10.20(4) Exhibits and a list of witnesses must be submitted to all parties and the presiding officer prior to the hearing as set forth in the notice of hearing or other order.

10.20(5) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony on the record but need not actually examine that witness. If the evidence excluded consists of a document or exhibits, it shall be marked as part of an offer of proof and inserted in the record.

481—10.21(17A) Default.

10.21(1) If a party fails to appear in a contested case proceeding or prehearing conference after proper service of notice, the presiding officer may either find the party to be in default or, if no adjournment is granted, proceed with the hearing and render a decision in the absence of the party.

10.21(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested an evidentiary hearing to contest adverse agency action that has already occurred but has failed to file a required pleading after proper service.

10.21(3) A party against whom a default has been entered may move to vacate the default decision within 14 days following the issuance of the order. Good cause to vacate a default decision means mistake, inadvertence, surprise, excusable neglect, or unavoidable casualty as provided in Iowa Rule of Civil Procedure 1.977.

481—10.22(17A) Ex parte communication.

10.22(1) Ex parte communications are those communications, oral or written, to an ALJ or other decision-maker in a contested case without notice and an opportunity for all parties to be heard. Ex parte communication is prohibited except as provided in Iowa Code section 17A.17 or as otherwise provided by law.

10.22(2) Any presiding officer who receives prohibited communication shall submit the written communication or a summary of the oral communication for inclusion in the record.

481—10.23(10A,17A) ALJ decisions.

10.23(1) *Proposed decisions.* Except as otherwise provided by law, when the agency did not preside at the reception of evidence, the ALJ shall issue a proposed decision based on the record of the contested case that includes findings of fact and conclusions of law stated separately. A ruling dismissing all of a party's claims or a voluntary agency dismissal is a proposed decision.

10.23(2) *Record.* The record in a contested case shall include all materials specified in Iowa Code section 17A.12(6), any request for a contested case hearing, and other relevant procedural documents.

10.23(3) *Review of proposed decisions.* Request for review of a proposed decision shall be made to the agency in which the contested case originated in the manner and within the time specified by that agency's rules. In contested cases in which the director of DIAL has final decision-making authority, request for review shall be made as provided in rule 481—9.3(10A,17A).

10.23(4) *Final decisions.* If there is no appeal from or review of the proposed decision, the ALJ's proposed decision becomes the final decision of the agency.

481—10.24(10A,17A,272C) Board hearings. Boards may request an ALJ from the division to assist in conducting contested case hearings and other related prehearing matters.

10.24(1) In scheduling hearings, boards will consult with the division to determine the availability of an ALJ. The board will determine the time and place of hearing.

10.24(2) The ALJ only possesses such authority as delegated by the board.

10.24(3) The ALJ may assist in conducting the hearing for the board and may, when delegated by the board:

a. Open the record and receive appearances;
b. Administer oaths;
c. Issue subpoenas;
d. Receive testimony and exhibits presented by the parties;
e. Rule on objections and motions;
f. Close the hearing; and
g. Prepare decisions and orders as directed by the board.

481—10.25(10A) Recordings. The division shall record each hearing or other formal proceeding by any mechanized means. The division may provide a copy of the audio recording to any party to a pending proceeding upon request. Parties may arrange for a hearing to be recorded by certified shorthand reporters but shall bear the cost unless otherwise provided by law. Parties are to alert the division prior to the hearing if a reporter has been engaged.

481—10.26(10A) Agency reporting requirements. Agencies and boards shall notify and provide copies to the division of any final agency decision, petition for judicial review, and ruling on judicial review.

481—10.27(724) Appeals in cases involving permits to carry weapons and acquire firearms. An applicant or permittee may appeal a decision to deny an application for a permit to carry weapons or acquire firearms or to suspend or revoke a permit to carry weapons or acquire firearms pursuant to Iowa Code section 724.21A and this chapter. To the extent this rule is inconsistent with the other provisions of this chapter, this rule will govern such appeals.

10.27(1) *Definitions.* For purposes of this rule:

"Agency" means the commissioner of public safety or the sheriff of the county in which the aggrieved party resides.

"Applicant" means a person who has applied for a permit to carry weapons or acquire firearms.

"Permittee" means a person who has received a permit to carry weapons or acquire firearms.

10.27(2) *Filing of appeal.* Within 30 days of the applicant's or permittee's receipt of the agency's decision, the applicant or permittee shall file the written appeal, a copy of the agency's written decision, and a fee of $10 with the Iowa Department of Inspections, Appeals, and Licensing, Division of Administrative Hearings, 6200 Park Avenue, Suite 100, Des Moines, Iowa 50321, or electronically pursuant to 481—Chapter 16.

10.27(3) *Service on the agency.* At the time the appeal is filed with the division, the applicant or permittee shall serve a copy of the appeal on the agency that made the decision on the permit to carry weapons or acquire firearms.

10.27(4) *Denial of appeal.* The division may deny any appeal that does not meet the requirements in subrules 10.27(2) and 10.27(3).

10.27(5) *Agency record.* Upon receipt of a copy of the notice of hearing, the agency shall file with the division and send to the applicant or permittee:

a. A copy of all documents used by the agency in reaching the decision; and

b. A form identifying the name, address, email address, and telephone number of the agency's contact person or attorney representative.

10.27(6) *Notice of hearing.* In addition to the information set forth in Iowa Code section 17A.12(2) and rule 481—10.6(17A), the notice of hearing shall contain the following information:

a. Notification that failure to appear and participate in the contested case proceeding may result in the entry of a default judgment; and

b. Notification that court costs and reasonable attorney fees will be awarded pursuant to Iowa Code section 724.21A(8).

10.27(7) *Attorney fees, court costs, and contested case costs.* An applicant or permittee or an agency may be eligible for an award of reasonable attorney fees pursuant to Iowa Code section 724.21A(8).

a. Within 14 days of the date of the ALJ's decision, a party may seek an award of attorney fees by filing with the division a request and documentation supporting the request. A resistance to the request for attorney fees must be filed within seven days of the filing of the request. Upon request of either party or on the ALJ's own motion, a hearing may be scheduled on the request.

b. An award of attorney fees shall be paid within 30 days of the issuance of the order unless an interested party seeks rehearing or judicial review or the parties agree to an alternative payment schedule.

c. The ALJ's decision is not final for purposes of judicial review under Iowa Code chapter 17A until the ALJ has issued a written decision determining the amount of any attorney fees to be awarded under this subrule or determining that no attorney fees are to be awarded.

d. Costs of the division in conducting a contested case proceeding arising out of a decision of the commissioner of public safety shall be charged to the department of public safety pursuant to Iowa Code section 10A.801(9).

These rules are intended to implement Iowa Code chapters 10A, 17A, and 724.

ITEM 2. Rescind and reserve **481—Chapter 11**.